



# Regulatory Policy Discussion - August 28, 2020

## Public Meeting Packet

Microsoft Teams Live



## Public Meeting Packet: Regulatory Policy Discussion - August 28, 2020

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August 26, 2020

In accordance with Sections 18-25 of Chapter 30A of the Massachusetts General Laws and the [Governor's Order suspending certain provisions of the Open Meeting Law](#), M.G.L Ch. 30A §20, notice is hereby given of a meeting of the Cannabis Control Commission. The meeting will take place as noted below.

CANNABIS CONTROL COMMISSION

**August 28, 2020  
10:00AM**

**Remote Participation via [Microsoft Teams Live](#)\***

PUBLIC MEETING AGENDA

- 1) Call to Order
- 2) Chairman's Comments and Updates
- 3) Regulatory Policy Discussion\*\*
- 4) Next Meeting Date
- 5) Adjournment

\*Closed captions available

\*\*Please note that the policy topics discussed at this meeting are not an exhaustive list of proposed changes to the regulations.



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**TOPIC 1. DEFINITIONS: CITIZEN REVIEW COMMITTEE** *New*

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935 CMR 500.002

Policy Question(s):

- Q 1** Whether in response to feedback received from the Cannabis Advisory Board, to remove the definition of Citizen Review Committee?

ED's comments.

Existing Regulatory Language:

500.002: Definitions (Excerpted)

Citizen Review Committee means a nine-person advisory committee, the members of which will be appointed by the Commission or its designee and will serve two-year terms. The committee advises the Commission on the implementation of the Social Equity Program and the use of community reinvestment funds. The committee makes specific recommendations as to the use of community reinvestment funds in the areas of programming, restorative justice, jail diversion, workforce development, industry-specific technical assistance, and mentoring services, in areas of disproportionate impact.



**TOPIC 2.** DEFINITIONS: CLONE, VEGETATIVE/IMMATURE PLANT, FLOWERING/MATURE PLANT *New*

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935 CMR 500.002  
935 CMR 501.002

Policy Question(s):

**Q 1** Whether to clarify definition of Clone, Vegetative Plant, Immature Plant, Flowering Plant and Mature Plant to bring consistency between the regulations and the *Guidance on Seed-to-Sale Tracking*.

Note: Proposed language may be introduced at the meeting.

ED's comments.

Regulatory Language:

500.002: Definitions (Excerpted)

Clone means a clipping from a Cannabis or Marijuana plant that can be rooted and grown.

Flowering means the gametophytic or reproductive state of Cannabis or Marijuana in which the plant produces flowers, trichomes, and Cannabinoids characteristic of Marijuana.

Vegetation means the sporophytic state of the Cannabis or Marijuana plant, which is a form of asexual reproduction in plants during which plants do not produce resin or flowers and are bulking up to a desired production size for Flowering.

Definition in the Metrc Guidance:

*FLOWERING PLANTS Flowering is the gametophytic or reproductive state of cannabis in which the plant is in a designated flowering space within a cultivation facility with a light cycle intended to produce flowers, trichomes and cannabinoids characteristic of marijuana. The flowering space shall be clearly identified by signage and all marijuana shall be accounted for as inventory.*

*IMMATURE PLANTS A non-flowering Marijuana plant that is no taller than eight inches and no wider than eight inches produced from a cutting, clipping, or seedling and that is in a growing/cultivating container.*

*MATURE PLANTS Plants greater than 8" tall.*

*VEGETATIVE PLANTS The state of the Cannabis plant which is a form of asexual reproduction in plants during which plants do not produce resin or flowers and are bulking up to a desired production size for flowering.*

### TOPIC 3. DEFINITIONS: APPLICATION OF ECONOMIC EMPOWERMENT APPLICANT PRIORITY STATUS

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935 CMR 500.002

#### Policy Question(s):

- Q 1** Whether the regulations and guidance need to clarify that in order for an EEA to maintain its EEA status, the applicant must meet at least one majority equity ownership criteria even though the original certified individuals are no longer involved or no longer hold majority ownership?
- Q 2** The current regulations do not state that an individual originally certified as an EEA, either as an individual or in association with an entity, can now apply as a new entity with EEA status. Should the regulations make it clear that these individuals can apply as a new entity with EEA status so long as it continues to meet three or more of the six criteria, at least one of which shall be a majority-equity-ownership criterion?

#### ED's comments.

#### Regulatory Language:

##### 500.002: Definitions (Excerpted)

Economic Empowerment Priority Applicant means an applicant who was certified by the Commission as such in 2018, ~~demonstrated~~ and continues to meet ~~demonstrate~~ three or more of the following six criteria, at least one of which shall be a majority-equity-ownership criterion:

1. Majority-Equity-Ownership Criteria:

- a. A majority of ownership belongs to people who have lived for five of the preceding ten years in an Area of Disproportionate Impact, as determined by the Commission.
- b. A majority of ownership has held one or more previous positions where the primary population served were disproportionately impacted, or where primary responsibilities included economic education, resource provision or empowerment to disproportionately impacted individuals or communities.
- a-c. A majority of the ownership is made up of individuals from Black, African American, Hispanic or Latino descent.

2. Additional Criteria:-

- b-a. At least 51% of current employees or subcontractors reside in Areas of Disproportionate Impact and by the first day of business, the ratio will meet or exceed 75%.

~~e.b.~~At least 51% of employees or subcontractors have drug-related CORI and are otherwise legally employable in Cannabis enterprises.

~~d.c.~~Other significant articulable demonstration of past experience in or business practices that promote economic empowerment in Areas of Disproportionate Impact.

This applicant has priority for the purposes of the review of its license application.

#### TOPIC 4. APPLICATION PROCESS: MEASUREMENT OF BUFFER ZONE

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935 CMR 500.002 and 500.110(3)

935 CMR 501.002 and 501.110(3)

##### Policy Question(s):

- Q 1** Whether the Impassible Barrier definition should be revised.

Proposed Language:

Impassible Barrier means, for the purposes of determining the 500 feet buffer zone, a **highway**, public or private way or path, structure **or structures or row of buildings**, body of water, or other obstruction that renders any part of the 500-foot straight-line distance between a Marijuana Establishment and a school inaccessible by a pedestrian or automobile.

- Q 2** Whether School Entrance, as defined in the draft regulations, should be modified.

Proposed Language:

School Entrance shall **mean** the entrance that provides ingress and egress to the students of the pre-existing public or private school **providing education in kindergarten or any grades 1 through 12** at the time of **the newspaper publication of the proposed** Marijuana Establishment's **community outreach meeting as required by 935 CMR 500.101(1)(a)(9)(a)** license application;

- Q 3** Whether ME, and MTC, Entrance should be defined. *New*

Proposed Language:

Marijuana Establishment Entrance shall mean the entrance or entrances that provides ingress and egress to Consumers and Registered Qualifying Patients to the Marijuana Establishment.

##### ED's comments.

##### 500.110: Security Requirements for Marijuana Establishments

~~(3) Buffer Zone. The property where the proposed Marijuana Establishment is to be located, at the time the license application is received by the Commission, is not located within 500 feet of a preexisting public or private school providing education in kindergarten or any of grades one through 12, unless a city or town adopts an ordinance or bylaw that reduces the distance requirement. The distance under 935 CMR 500.110(3) shall be measured in a straight line from the nearest point of the~~

~~property line in question to the nearest point of the property line where the Marijuana Establishment is or will be located.~~ The nearest point of any property line on the lot where a Marijuana Establishment is located – excluding those property lines surrounding portions of irregularly-shaped lots that cannot sustain the main operational facilities required for the Marijuana Establishment, such as but not limited to property lines surrounding the “pole” of a flag lot – shall be 500 feet from the nearest entrance of any pre-existing public or private school providing education in kindergarten or any grades 1 through 12.

(a) For the purposes of 935 CMR 500.110(3): *Buffer Zone*, “entrance” shall be defined as the entrance that provides ingress and egress to the students of the pre-existing public or private school at the time of the Marijuana Establishment license application.

(b) The buffer zone distance of 500 feet shall be measured in a straight line from the approximate geometric center of the main entrance unless there is an ~~an generally and immediately impassable Bbarrier, such as but not limited to a highway or river, would otherwise block pedestrian travel~~ within those 500 feet; in these cases, the buffer zone distance shall be measured along the center of the shortest publicly-accessible pedestrian travel path from the approximate geometric center of the main entrance.

(c) The buffer zone distance of 500 feet may be reduced if a city or town adopts an ordinance or bylaw that reduces the distance requirement.

#### 501.110: Security Requirements for Medical Marijuana Treatment Centers

(3) **Buffer Zone.** ~~The property where the proposed MTC is to be located, at the time the License application is received by the Commission, is not located within 500 feet of a preexisting public or private school providing education in kindergarten or any of grades one through 12, unless a city or town adopts an ordinance or bylaw that reduces the distance requirement. The distance under 935 CMR 501.110(3) shall be measured in a straight line from the nearest point of the property line in question to the nearest point of the property line where the MTC is or will be located. The nearest point of any property line on the lot where an MTC is located – excluding those property lines surrounding portions of irregularly-shaped lots that cannot sustain the main operational facilities required for the MTC, such as but not limited to property lines surrounding the “pole” of a flag lot – shall be 500 feet from the nearest entrance of any pre-existing public or private school providing education in kindergarten or any grades 1 through 12.~~

(a) For the purposes of 935 CMR 500.110(3): *Buffer Zone*, “entrance” shall be defined as the entrance that provides ingress and egress to the students of the pre-existing public or private school at the time of the MTC license application.

~~(a)(b)~~ The buffer zone distance of 500 feet shall be measured in a straight line from the approximate geometric center of the main entrance unless ~~there is an Impassable Barrier with a generally and immediately impassable barrier, such as but not limited to a highway or river, would otherwise block pedestrian~~

~~travel~~ in those 500 feet; in these cases, the buffer zone distance shall be measured along the center of the shortest publicly-accessible pedestrian travel path from the approximate geometric center of the main entrance.

~~(b)~~(c) The buffer zone distance of 500 feet may be reduced if a city or town adopts an ordinance or bylaw that reduces the distance requirement.

**TOPIC 5. LICENSE TYPES: DELIVERY LICENSEES' ABILITY TO WHOLESALE AND WAREHOUSE** *New*

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935 CMR 500.145(1)(e) and (2)(a), (b), (e) and (j)

Policy Question(s):

- Q 1** Whether Delivery Licensees should be allowed to wholesale?
- Q 2** If the answer to Q 1 is yes, should the licensee also be required to warehouse?
- Q 3** Should the Commission preserve the current courier model for Delivery Licensees? If the answer is yes, the following questions should be considered:
- i. Should the Delivery Licensee that is a courier be allowed to warehouse?
  - ii. Should the Commission establish two different Delivery Licensee types:
    1. A courier; and
    2. A courier and wholesaler, which is allowed to warehouse.
- Q 4** If Delivery Licensees are permitted to engage in wholesaling activities, consider how Delivery operators will comply with regulatory requirements (e.g., collecting information about vape hardware, labeling of vapes and consumer notifications around vapes, safe handling, packing and labeling requirements) and whether Delivery Licensees should be limited in the type of product they can deliver?

ED's comments.

Regulatory Language:

500.145: Additional Operational Requirements for Delivery of Marijuana, ~~and~~ Marijuana Products, Marijuana Accessories, and Marijuana Establishment Branded Goods to Consumers (Excerpted)

(1) ~~(2)~~ General Requirements.

- ...
- (e) All Marijuana and Marijuana Products delivered by a Delivery Licensee shall be obtained from a licensed Marijuana Retailer. Delivery Licensees may deliver Marijuana Establishment Branded Goods carrying the Delivery Licensee's brand or that of a licensed Marijuana Retailer. Delivery Licensees may deliver Marijuana Accessories from a licensed Marijuana Retailer, or source and deliver their own Marijuana Accessories. Delivery Licensees may not source electronic vape devices, hardware or batteries utilized in products that vaporize concentrates and oils, other than from a licensed Marijuana Retailer.
1. Delivery Licensees shall only obtain Marijuana or Marijuana Products for delivery from a licensed Marijuana Retailer with which the



Delivery Licensee has a Delivery Agreement.

2. All agreements between a Delivery Licensee and a Marijuana Retailer shall be disclosed under the requirements of licensure in 935 CMR 500.101 and subject to limitations on control over Licenses under 935 CMR 500.050(1)(b).

The Commission shall be notified in writing of any substantial modification to a Delivery Agreement.

(2) Orders. All orders for deliveries made by Delivery Licensee or a Marijuana Establishment with a Delivery Endorsements shall comply with the following requirements:

(a) All Marijuana and Marijuana Products delivered by a Delivery Licensee shall be obtained from a licensed Marijuana Retailer with which the Delivery Licensee has a Delivery Agreement. Delivery Licensees and Marijuana Establishments with a Delivery Endorsement may deliver Marijuana Accessories and Marijuana Establishment Branded Goods provided directly from the Delivery Licensee.

(b) Orders for home delivery shall be received by a Marijuana Retailer and transmitted to a Delivery Licensee for delivery to a Residence.

(. . .)

(e) Delivery Licensees shall only deliver Delivery Items for which a specific order has been received by a licensed Marijuana Retailer with which the Delivery Licensee has a Delivery Agreement. Delivery Licensees are prohibited from delivering Delivery Items without a specific order destined for an identified Residence. An order may be generated directly through a Marijuana Retailer or through a Third-party Technology Platform identified to the Commission under 935 CMR 500.145(1)(e).

(j) “Any Marijuana or Marijuana Product that is undeliverable or is refused by the Consumer shall be transported back to the originating Marijuana Establishment that provided the product once all other deliveries included on a delivery manifest have been made. Delivery-only Licensees or Marijuana Establishments with a Delivery Endorsement are prohibited from maintaining custody of Marijuana or Marijuana Products intended for delivery overnight. It shall be the responsibility of the Delivery-only Licensee or Marijuana Establishment with a Delivery Endorsement to ensure that any undelivered product is returned to the appropriate Marijuana Retailer and not retained by the Delivery-only Licensee or Marijuana Establishment with a Delivery Endorsement.”

**TOPIC 6.** LICENSE TYPES: DURATION OF SOCIAL CONSUMPTION AND DELIVERY  
LICENSES EXCLUSIVITY PERIOD *New*

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935 CMR 500.050(10)

Policy Question(s):

- Q 1** Whether the Exclusivity Period for adult-use delivery and social consumption should be extended?

ED's comments.

Regulatory Language:

500.050: Marijuana Establishments (Excerpted)

(610) ~~Delivery-only~~ Delivery Licensee.

(a) A ~~Delivery-only~~ Delivery Licensee may deliver Marijuana or Marijuana Products directly to Consumers from a Marijuana Retailer or MTC with which the ~~Delivery-Only~~ Delivery Licensee has a Delivery Agreement. ~~A Delivery-only Licensee shall not have a retail location accessible to the public. A~~ Delivery Licensee may be an Owner of or have a controlling interest in a Cultivation, Product Manufacturing, Social Consumption Establishment, Research, Retail or Transportation license.

(b) ~~A Delivery-only~~ Delivery Licensees shall be limited on an exclusive basis to businesses controlled by and with majority ownership comprised of Economic Empowerment Priority Applicants or Social Equity Program Participants for a period of 24 months from the date the first ~~Delivery-only~~ Delivery Licensee receives a notice to commence operations, provided, however, that the Commission may vote to decide to extend that period following a determination that the goal of the exclusivity period to promote and encourage full participation in the regulated Marijuana industry by people from communities that have previously been disproportionately harmed by Marijuana prohibition and enforcement of the law has not been met; and the Commission may vote to expand eligibility for a Delivery License during the exclusivity period pursuant to 935 CMR 500.050(10)(b)4.

1. The Commission shall develop criteria for evaluating whether the goals of the exclusivity period are met, which shall include, but not be limited to:

- a. Overall rates of participation in the regulated marijuana industry by people from communities that have previously been disproportionately harmed by marijuana prohibition and enforcement of the law;
- b. Overall rates of participation in the regulated Marijuana industry

- by people of color;
  - c. Licenses granted to businesses with majority ownership comprised of Economic Empowerment Priority Applicants and Social Equity Program Participants;
  - d. Number of registered agents who are Social Equity Program Participants;
  - e. Number of ~~Delivery-only~~Delivery Licensees in operation and business performance relative to other Marijuana Establishments;
  - f. Financial feasibility of continued participation in the regulated Marijuana industry by communities that have previously been disproportionately harmed by Marijuana prohibition and enforcement of the law if exclusivity period ends; and
  - g. Any other information the Commission determines relevant.
2. The Commission shall collect and report on data measuring the criteria throughout the exclusivity period. The Commission shall begin evaluating whether the goals of the exclusivity period have been met at least eight months before the end of the 24-month period to provide adequate time to consider whether an extension of the 24-month period is necessary prior to the conclusion of that time period.
3. The licenses shall generally be available to applicants after the 24-month period unless the Commissioners affirmatively votes to extend the period of exclusivity by a period of 12 months after the first 24-month period. Any subsequent extension of the exclusivity period would require the Commission affirmatively to find that the goals and objectives of the exclusivity period as set forth in 935 CMR 500.050(10)(b)1. have not been met.
4. If data collected by the Commission demonstrates progress toward the goals and objectives of the exclusivity period as set forth in 935 CMR 500.050(10)(b)1. and that demand for consumer delivery is likely to exceed the supply that could be provided by businesses that meet the exclusivity requirements during the exclusivity period, the Commission may vote during the exclusivity period to allow the following additional businesses to own Delivery licenses:
- a. Worker-owned cooperatives organized to operate consistently with the Seven Cooperative Principles established by the International Cooperative Alliance in 1995; or
  - a.b. Massachusetts Minority Business Enterprises (MBE), Women Business Enterprises (WBE), and Veteran Business Enterprises (VBE) with valid certification from the Massachusetts Operational Services Division's SDO.
- (c) No person or entity other than those disclosed in the application shall be a Person or Entity Having Direct or Indirect Control in a ~~Delivery-only~~Delivery License.

**TOPIC 7. LICENSE TYPES: DELIVERY LICENSEES, DELIVERY ENDORSEMENTS, SCOPE OF DELIVERY**

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935 CMR 500.002 and 500.145

Policy Question(s):

- Q 1** Whether Microbusinesses should be allowed to apply for a Delivery License?  
*New*
- Q 2** Whether Delivery Licensees must be considered to be Marijuana Retailers under G.L. c. 94G, § 1 and the regulations?
- Q 3** Should delivery licensees be allowed to deliver to any municipality?  
i. If the answer is yes, should the Commission eliminate the requirements set forth in 935 CMR 500.145(1)(k), *cited below*, including the restriction that a licensee cannot deliver to a particular municipality unless the Commission receives notice from that municipality? *New*

ED's comments.

Relevant Statutory and Regulatory Language:

G.L. c. 94G, § 1.

“‘Marijuana retailer’, an entity licensed to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers.”

G.L. c. 94G, § 3.

(a) A city or town may adopt ordinances and by-laws that impose reasonable safeguards on the operation of marijuana establishments, provided they are not unreasonably impracticable and are not in conflict with this chapter or with regulations made pursuant to this chapter and that:

[...]

(2) limit the number of marijuana establishments in the city or town; provided, however, that in the case of a city or town in which the majority of voters voted in the affirmative for question 4 on the 2016 state election ballot, entitled "Legalization, Regulation, and Taxation of Marijuana", and after December 31, 2019 in the case of any other city or town, the city or town shall submit any by-law or ordinance for approval to the voters pursuant to the procedure in subsection (e) before adopting the by-law or ordinance if it would:

- (i) prohibit the operation of 1 or more types of marijuana establishments within the city or town;

[...]

(c) No city or town shall prohibit the transportation of marijuana or marijuana products or adopt an ordinance or by-law that makes the transportation of marijuana or marijuana products unreasonably impracticable.

500.002: Definitions (Excerpted)

Delivery Endorsement means authorization granted to Licensees in categories of Marijuana Establishments identified by the Commission to perform deliveries directly from the establishment to Consumers.

~~Delivery only~~Delivery Licensee means an entity that is authorized to deliver Marijuana or Marijuana Products directly to Consumers from a Marijuana Retailer or Registered Qualifying Patients or Caregivers from an MTC ~~and that does not provide a retail location accessible to the public.~~ The Delivery License shall be considered a Marijuana Retailer license in accordance with the provisions of M.G.L. c. 94G, § 1 and 935 CMR 500.000.

500.145: Additional Operational Requirements for Delivery of Marijuana, ~~and~~ Marijuana Products, Marijuana Accessories, and Marijuana Establishment Branded Goods to Consumers

(1) General Requirements.

[...]

- (k) Deliveries ~~of Marijuana or Marijuana Products~~ by a ~~Delivery only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement shall be geographically limited to:
  - 1. The municipality identified as the Marijuana Establishment License's place of business;
  - 2. Any municipality which allows for retail within its borders whether or not one is operational; or
  - 3. Any municipality which after receiving notice from the Commission, has notified the Commission that delivery may operate within its borders.
- (l) Limitations on the time for delivery shall comply with all municipal bylaws and ordinances, provided however, that all deliveries ~~of Marijuana or Marijuana Products must shall~~ be completed before 9:00 P.M. local time or the time determined by municipal bylaw or ordinance, whichever occurs first, and deliveries ~~of Marijuana or Marijuana Products may shall~~ not occur between the hours of 9:00 P.M. and 8:00 A.M., unless otherwise explicitly authorized by municipal bylaw or ordinance.
- (m) Every effort shall be made to minimize the amount of cash carried in a ~~Delivery only~~Delivery Retail vehicle at any one time. Marijuana Retailers

utilizing a ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement for Consumer transactions shall use best efforts to implement platforms for the electronic payment of funds. Where cash is carried by a ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement vehicle, cash shall be stored in a locked compartment.

(n) ~~Delivery-only~~Delivery Retail Licensees and Marijuana Establishments with a Delivery Endorsement shall comply with the requirements of 935 CMR 500.110(7) for purposes of cash transport to financial institutions.

(o) In addition to complying with 935 CMR 500.105-(4), a Delivery Licensee shall include on any website it operates or that operates on its behalf the license number issued by the Commission.

(~~n~~)(p) In addition to complying with 935 CMR 500.105-(4), a Marijuana Establishment with a Delivery Endorsement shall include on any website it operates or that operates on its behalf the endorsement number issued by the Commission.

(2) Orders. All orders for deliveries made by ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsements shall comply with the following requirements:

(k) All Marijuana and Marijuana Products delivered by a ~~Delivery-only~~Delivery Licensee shall be obtained from a licensed Marijuana Retailer with which the ~~Delivery-only~~Licensee has a Delivery Agreement. Delivery Licensees and Marijuana Establishments with a Delivery Endorsement may deliver Marijuana Accessories and Marijuana Establishment Branded Goods provided directly from the Delivery Licensee.

(l) Orders for home delivery shall be received by a Marijuana Retailer and transmitted to a ~~Delivery-only~~Delivery Licensee for delivery to a Residence.

(m) Only Marijuana Products that are Shelf-stable may be delivered. Products that are perishable or time and temperature controlled to prevent deterioration may shall not be allowed to be delivered by a ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement.

(n) ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsements shall deliver ~~Marijuana or Marijuana Products~~ only to the Residence address provided. A ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsements shall be prohibited from delivering to college or university dormitories; and federal public housing identified at <https://resources.hud.gov/>.

(o) ~~Delivery-only~~Delivery Licensees shall only deliver Delivery Items~~Marijuana or Marijuana Products~~ for which a specific order has been received by a licensed Marijuana Retailer with which the ~~Delivery-only~~Licensee has a Delivery Agreement. ~~Delivery-only~~Delivery Licensees are prohibited from delivering Delivery Items~~Marijuana or Marijuana Products~~ without a specific order destined for an identified Residence. An order may be generated directly through a Marijuana Retailer or through a Third-party Technology Platform identified to the Commission under 935 CMR 500.145(1)(e).

(p) Marijuana Establishments with a Delivery Endorsement shall only deliver ~~Delivery Items Marijuana or Marijuana Products~~ for which a specific order has been received. Marijuana Establishments with a Delivery Endorsement are prohibited from delivering ~~Delivery Items Marijuana or Marijuana Products~~ without a specific order destined for an identified Residence. An order may be generated directly through a Marijuana Establishments with a Delivery Endorsement or through a Third-party Technology Platform identified to the Commission under 935 CMR 500.145(1)(e).

(q) ~~Delivery-only~~ Licensees or a Marijuana Establishments with a Delivery Endorsements are prohibited from delivery of more Marijuana or Marijuana Products to an individual Consumer than the individual possession amounts authorized by M.G.L. c. 94G, § 7(a)(1). An Individual Order ~~may shall~~ not exceed one ounce of Marijuana or its dry-weight equivalent. The Individual Order shall only be delivered to the individual Consumer identified on the order after verification of the individual's identity consistent with the requirements of 935 CMR 500.140(2)(d) and 935 CMR 500.145(3). ~~Delivery-only~~ ~~Delivery~~ Licensee or a Marijuana Establishment with a Delivery Endorsements shall only deliver one Individual Order, per Consumer, during each delivery.

(r) A ~~Delivery-only~~ Licensee or a Marijuana Establishment with a Delivery Endorsement ~~may shall~~ not deliver to the same Consumer at the same Residence more than once each calendar day and only during authorized delivery hours.

(s) For home delivery, each order ~~must shall~~ be packaged and labeled in accordance with 935 CMR 500.105(5) and (6) originating the order prior to transportation by the ~~Delivery-only~~ ~~Delivery~~ Licensee or a Marijuana Establishment with a Delivery Endorsement to the Consumer.

(t) Any ~~Marijuana or Marijuana Product~~ ~~Delivery Item~~ that is undeliverable or is refused by the Consumer shall be transported back to the originating Marijuana Establishment that provided the product once all other deliveries included on a delivery manifest have been made. ~~Delivery-only~~ ~~Delivery~~ Licensees or Marijuana Establishments with a Delivery Endorsement are prohibited from maintaining custody overnight of Marijuana or Marijuana Products intended for delivery ~~overnight~~. It shall be the responsibility of the ~~Delivery-only~~ ~~Delivery~~ Licensee or Marijuana Establishment with a Delivery Endorsement to ensure that any undelivered product is returned to the appropriate Marijuana Retailer and not retained by the ~~Delivery-only~~ ~~Delivery~~ Licensee or Marijuana Establishment with a Delivery Endorsement.

(3) Consumer Age Verification.

(k) A Marijuana Retailer shall require any Consumer making a purchase for delivery by a ~~Delivery-only~~ ~~Delivery~~ Licensee or a Marijuana Establishment with a Delivery Endorsement ~~shall require any Consumer making a purchase for delivery~~ to have the valid government-issued ~~photo~~-identification card a Consumer intends to use to verify her or his age at the time of delivery examined and authenticated by the Marijuana Retailer prior to the first Individual Order.



- (l) Pre-verification of the Consumer's identification shall be performed prior to the initial delivery, by using one of the following Pre-verification methods:
1. In-person at the Marijuana Retailer's physical location or through a Commission approved electronic means and shall include examination of the Consumer's valid, unexpired government-issued photo identification that bears a date of birth in accordance with 935 CMR 500.140(2)(d). A ~~Delivery-only~~Delivery Licensee or Marijuana Establishment with a Delivery Endorsement is prohibited from performing a delivery to any Consumer who has not established an account for delivery through Pre-verification of the Consumer's government-issued identification card by the Marijuana Retailer; or-
  2. Pre-verification of the Consumer's identification shall be performed by a Marijuana Establishment with a Delivery Endorsement Through a Commission approved electronic means and shall include examination of the Consumer's valid, unexpired government-issued photo identification that bears a date of birth. A Marijuana Establishment with a Delivery Endorsement is prohibited from performing a delivery to any Consumer who has not established an account for delivery through Pre-verification of the Consumer's government-issued identification card.
- (m) A ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement may shall not deliver Delivery Items~~Marijuana or Marijuana Products~~ to any Person other than the Consumer who ordered the Delivery Items~~Marijuana or Marijuana Products~~.
- (n) A ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement shall verify the age and identity of the Consumer at the time at which the Delivery Items~~Marijuana or Marijuana Products~~ are delivered to the Consumer at a Residence to ensure that Marijuana and Marijuana Products are not delivered to individuals younger than 21 years old. Prior to relinquishing custody of the Marijuana or Marijuana Products to the Consumer, the Marijuana Establishment Agent conducting the delivery shall verify that the government-issued identification card of the Consumer receiving the Marijuana or Marijuana Products matches the pre-verified government-issued identification card of the Consumer who placed the order for delivery by:
1. Viewing the ~~valid~~-government-issued ~~photo~~-identification as provided for Pre- verification under 935 CMR 500.145(3)(a);
  2. Viewing proof of order generated at the time of order; and
  3. Receiving the signature of the Consumer who ordered the Marijuana or Marijuana Products on the manifest for the Marijuana or Marijuana Products~~Delivery Items~~ and verifying that the signature matches the government-issued photo identification card presented.
- (4) Vehicle and Transport Requirements for Home Delivery.
- (k) Vehicles used for home delivery by a ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement shall be owned or leased by the ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement, shall be properly registered as commercial



vehicles, and inspected and insured in the Commonwealth of Massachusetts.

(l) Vehicles used for home delivery by a ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement may be parked overnight at the address identified as the Licensee's place of business or another location, provided that keeping the vehicle at the identified location complies with all general and special bylaws of the municipality.

(m) Vehicles used for delivery by a ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement shall carry liability insurance in an amount not less than \$1,000,000 combined single limit.

(n) Vehicles used for delivery by a ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement ~~vehicles~~ shall have no external markings, words or symbols that indicate the vehicle is being used for home delivery of ~~Marijuana or Marijuana Products~~Delivery Items.

(o) A ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsements transporting Marijuana and Marijuana Products for home delivery shall ensure that all vehicles used for deliveries are staffed with a minimum of two Marijuana Establishment Agents. At least one Marijuana Establishment Agent shall remain with the vehicle at all times that the vehicle contains Marijuana or Marijuana Products.

(p) ~~Marijuana and Marijuana Products~~Delivery Items ~~must~~may not be visible from outside the vehicle.

(q) A ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement shall transport Marijuana and Marijuana Products in a secure, locked storage compartment that is a part of the vehicle and complies with the requirements of 935 CMR 500.110(8): Security Requirements for Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement Operations.

(r) A ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement shall maintain, in each vehicle used for deliveries ~~of Marijuana and Marijuana Products~~, a secure, locked storage compartment for the purpose of transporting and securing cash used as payment. This compartment shall be separate from compartments required under 935 CMR 500.145(4)(h) for the transport of Marijuana and Marijuana Products.

(s) In the case of an emergency stop during the transportation of Delivery Items~~Marijuana or Marijuana Products~~, a log ~~must~~shall be maintained describing the reason for the stop, the duration, the location, and any activities of personnel exiting the vehicle. The Marijuana Establishment Agents in the vehicle shall provide notice of the location of the stop and employ best efforts to remain in contact with the ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement.

(t) The Marijuana Establishment Agents transporting Delivery Items~~Marijuana or Marijuana Products~~ for home delivery shall contact the ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement fixed location when arriving at and leaving any delivery, and regularly throughout the trip, at least every 30 minutes.

(u) The ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a

Delivery Endorsement shall maintain a separate log for each vehicle in use for home deliveries. For each delivery, the ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement shall record:

1. The location of the originating Marijuana Establishment and date and time the vehicle leaves the location;
  2. The mileage of the transporting vehicle at departure from the Marijuana Establishment mileage on arrival at each Consumer destination, and mileage on return to the Marijuana Establishment;
  3. The date and time of departure from the Marijuana Establishment and arrival at each Consumer destination for each delivery; and
  4. An entry indicating the date and time of the last delivery in an order.
- (v) A ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement shall ensure that all delivery routes remain within the Commonwealth of Massachusetts at all times.
- (w) A ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement shall make every effort to randomize its delivery routes.
- (x) A ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsements ~~may shall~~ not transport products other than ~~Delivery Items~~Marijuana and Marijuana Products during times when ~~the Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsements are performing home deliveries.
- (y) Firearms are strictly prohibited from ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement vehicles and from Marijuana Establishment Agents performing home deliveries.

(5) Manifests.

- (k) Every home delivery shall have a manifest produced by the originating Marijuana Establishment and provided to the ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement. A manifest shall be completed in duplicate, with the original manifest remaining with the originating Marijuana Retailer, and a copy to be kept with the ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement during the delivery. The manifest shall be signed by the Consumer receiving the Marijuana or Marijuana Products and the Marijuana Establishment Agent acting on behalf of the ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement. A signed manifest shall serve as the written record of the completion of the delivery. A manifest does not need to include Marijuana Accessories or Marijuana Establishment Branded Goods; however, the Delivery Licensee or Marijuana Establishment with a Delivery Endorsement shall maintain a record of the sale of all Delivery Goods.
- (l) The manifest ~~must~~shall, at a minimum, include:
1. The originating Marijuana Retailer name, address, and License number;
  2. The name and License number of the ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement performing the home delivery;

3. The names and Marijuana Establishment Agent numbers of the Marijuana Establishment Agents performing the delivery;
  4. The Consumer's name and address;
  5. A description of the Marijuana or Marijuana Products being transported, including the weight and form or type of product;
  6. Signature lines for the agents who transported the Marijuana or Marijuana Products;
  7. A signature line for Consumer who receives the Marijuana or Marijuana Products; and
  8. The ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement vehicle make, model, and license plate number.
- (m) The manifest shall be maintained within the vehicle during the entire transportation process, until all the deliveries are completed.
- (n) A Marijuana Establishment shall retain all transportation manifests for no less than one year and make them available to the Commission on request.

## TOPIC 8. LICENSE TYPES: DELIVERY LICENSEES' SCOPE OF PREMISES *New*

[PowerPoint: Slides []]

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### 935 CMR 500.110

#### Policy Question(s):

- Q 1** Whether security and associated regulatory requirements for Premises should be relaxed for Delivery Licensees operating under only a “courier-style” model? Whether to adopt similar requirements applicable to courier businesses in other industries?

#### ED's comments.

#### Regulatory Language:

##### 500.110: Security Requirements for Marijuana Establishments

- (1) General Requirements. A Marijuana Establishment shall implement sufficient security measures to deter theft of Marijuana and Marijuana Products, prevent unauthorized entrance into areas containing Marijuana and Marijuana Products and ensure the safety of Marijuana Establishment employees, Consumers and the general public. Security measures taken by the Licensee to protect the Premises, employees, Marijuana Establishment Agents, Consumers and general public shall include, but not be limited to, the following:
  - (a) Positively identifying individuals seeking access to the Premises of the Marijuana Establishment or to whom or Marijuana Products are being transported pursuant to 935 CMR 500.105(14): Access to the Commission, Emergency Responders and Law Enforcement to limit access solely to individuals 21 years of age or older;
  - (b) Adopting procedures to prevent loitering and ensure that only individuals engaging in activity expressly or by necessary implication permitted by 935 CMR 500.000: Adult Use of Marijuana and its enabling statute are allowed to remain on the Premises;
  - (c) Disposing of Marijuana in accordance with 935 CMR 500.105(12): Waste Disposal in excess of the quantity required for normal, efficient operation as established within 935 CMR 500.105: General Operational Requirements for Marijuana Establishments;
  - (d) Securing all entrances to the Marijuana Establishment to prevent unauthorized access;
  - (e) Establishing Limited Access Areas pursuant to 935 CMR 500.110(4): Limited Access Areas, which, after receipt of a final License, shall be accessible only to specifically authorized personnel, limited to include only the minimum number of employees essential for efficient operation;
  - (f) Storing all Finished Marijuana Products in a secure, locked safe or vault

in such a manner as to prevent diversion, theft and loss;

(g) Keeping all safes, vaults, and any other equipment or areas used for the production, cultivation, harvesting, Processing or storage, including prior to disposal, of Marijuana or Marijuana Products securely locked and protected from entry, except for the actual time required to remove or replace Marijuana;

(h) Keeping all locks and security equipment in good working order;

(i) Prohibiting keys, if any, from being left in the locks or stored or placed in a location accessible to persons other than specifically authorized personnel;

(j) Prohibiting accessibility of security measures, such as combination numbers, passwords or electronic or biometric security systems, to persons other than specifically authorized personnel;

(k) Ensuring that the outside perimeter of the Marijuana Establishment is sufficiently lit to facilitate surveillance, where applicable;

(l) Ensuring that all Marijuana Products are kept out of plain sight and are not visible from a public place, outside of the Marijuana Establishment, without the use of binoculars, optical aids or aircraft;

(m) Developing emergency policies and procedures for securing all product following any instance of diversion, theft or loss of Marijuana, and conduct an assessment to determine whether additional safeguards are necessary;

(n) Developing sufficient additional safeguards as required by the Commission for Marijuana Establishments that present special security concerns;

(o) At Marijuana Establishments where transactions are conducted in cash, establishing procedures for safe cash handling and cash transportation to financial institutions to prevent theft, loss and associated risks to the safety of employees, customers and the general public;

(p) Sharing the Marijuana Establishment's floor plan or layout of the facility with Law Enforcement Authorities, and in a manner and scope as required by the municipality and identifying when the use of flammable or combustible solvents, chemicals or other materials are in use at the Marijuana Establishment; and

(q) Sharing the Marijuana Establishment's security plan and procedures with Law Enforcement Authorities, including police and fire departments, in the municipality where the Marijuana Establishment is located and periodically updating Law Enforcement Authorities, police and fire departments, if the plans or procedures are modified in a material way.

(2) Alternate Security Provisions.

(a) Notwithstanding the requirements specified in 935 CMR 500.110(1), (5), (6) and (7), if a Marijuana Establishment has provided other, specific safeguards that may be regarded as an adequate substitute for those requirements, such measures may be taken into account by the Commission in evaluating the overall required security measures. For purposes of cash handling and cash transportation, only alternative safeguards that comply with

the requirements of 935 CMR 500.110(7)(b) shall be considered to be adequate substitutes.

(b) The applicant or Licensee shall submit a request for an alternative security provision to the Commission on a form as determined and made available by the Commission. On receipt of the form, the Commission shall submit the request to the chief law enforcement officer in the municipality where the Marijuana Establishment is located or will be located. The Commission shall request that the chief law enforcement officer review the request and alternative security provision requested and, within 30 days,

1. certify the sufficiency of the requested alternate security provision; or
2. provide the Commission with a statement of reasons why the alternative security provision is not sufficient in the opinion of the chief law enforcement officer.

(c) The Commission shall take the chief law enforcement officer's opinion under consideration in determining whether to grant the alternative security provision, provided that it shall not be determinative. If no response is received from the chief law enforcement officer or a delegatee within 30 days of submitting the request to the chief law enforcement officer, the Commission shall proceed with a determination.

- (3) Buffer Zone. The property where the proposed Marijuana Establishment is to be located, at the time the license application is received by the Commission, is not located within 500 feet of a preexisting public or private school providing education in kindergarten or any of grades one through 12, unless a city or town adopts an ordinance or bylaw that reduces the distance requirement. The distance under 935 CMR 500.110(3) shall be measured in a straight line from the nearest point of the property line in question to the nearest point of the property line where the Marijuana Establishment is or will be located. The nearest point of any property line on the lot where a Marijuana Establishment is located – excluding those property lines surrounding portions of irregularly-shaped lots that cannot sustain the main operational facilities required for the Marijuana Establishment, such as but not limited to property lines surrounding the “pole” of a flag lot – shall be 500 feet from the nearest entrance of any pre-existing public or private school providing education in kindergarten or any grades 1 through 12.

(a) For the purposes of 935 CMR 500.110(3): Buffer Zone, “entrance” shall be defined as the entrance that provides ingress and egress to the students of the pre-existing public or private school at the time of the Marijuana Establishment license application.

(b) The buffer zone distance of 500 feet shall be measured in a straight line from the approximate geometric center of the main entrance unless there is an generally and immediately impassable barrier, such as but not limited to a highway or river, would otherwise block pedestrian travel within those 500 feet; in these cases, the buffer zone distance shall be measured along the center of the shortest publicly-accessible pedestrian travel path from the approximate geometric center of the main entrance.

(c) The buffer zone distance of 500 feet may be reduced if a city or town

adopts an ordinance or bylaw that reduces the distance requirement.

(4) Limited Access Areas.

(a) All Limited Access Areas ~~must~~ shall be identified by the posting of a sign that shall be a minimum of 12" x 12" and which states: "Do Not Enter - Limited Access Area - Access Limited to Authorized Personnel Only" in lettering no smaller than one inch in height.

(b) All Limited Access Areas shall be clearly described by the filing of a diagram of the licensed Premises, in the form and manner determined by the Commission, reflecting entrances and exits, walls, partitions, counters, Propagation, Vegetation, Flowering, Processing, production, storage, disposal and retail sales areas.

(c) At all times following receipt of a final License, Aaccess to Limited Access Areas shall be restricted to employees, agents, or volunteers specifically permitted by the Marijuana Establishment, agents of the Commission, Commission Delegees, and state and local Law Enforcement Authorities acting within their lawful jurisdictions, police and fire departments, and emergency medical services acting in the course of their official capacity.

(d) Employees of the Marijuana Establishment shall visibly display an employee identification badge issued by the Marijuana Establishment at all times while at the Marijuana Establishment or transporting Marijuana.

(e) Following receipt of a final License, Aall outside vendors, contractors, and Visitors shall obtain a Visitor Identification Badge prior to entering a Limited Access Area and shall be escorted at all times by a Marijuana Establishment Agent authorized to enter the Limited Access Area. The Visitor Identification Badge shall be visibly displayed at all times while the Visitor is in any Limited Access Area. All Visitors ~~must~~ shall be logged in and out and that log shall be available for inspection by the Commission at all times. All Visitor Identification Badges shall be returned to the Marijuana Establishment on exit.

(f) A Marijuana Establishment conducting operations under multiple license types on a single Premise may establish Limited Access Areas for each licensed activity that overlap in shared hallways and access points, provided that operations under each license type are segregated and a Marijuana Establishment Agent has access only to the areas where activities are conducted pursuant to the license under which the Marijuana Establishment Agent is registered.

(5) Security and Alarm Requirements for Marijuana Establishments Operating Enclosed Areas.

(a) A Marijuana Establishment located, in whole or in part, in a building, Greenhouse or other Enclosed Area shall have an adequate security system to prevent and detect diversion, theft or loss of Marijuana or unauthorized intrusion, utilizing commercial grade equipment which shall, at a minimum, include:



1. A perimeter alarm on all building entry and exit points and perimeter windows, if any;
2. A failure notification system that provides an audible, text or visual notification of any failure in the security system. The failure notification system shall provide an alert to designated employees of the Marijuana Establishment within five minutes after the failure, either by telephone, email or text message;
3. A Duress Alarm, Panic Alarm or Holdup Alarm connected to local public safety or Law Enforcement Authorities;
4. Video cameras in all areas that may contain Marijuana or vaults or safes for the purpose of securing cash, at all points of entry and exit and in any parking lot which shall be appropriate for the normal lighting conditions of the area under surveillance. The cameras shall be directed at all safes, vaults, sales areas and areas where Marijuana is cultivated, harvested, Processed, prepared, stored, handled or dispensed, or where cash is kept and processed. Cameras shall be angled so as to allow for the capture of clear and certain identification of any Person entering or exiting the Marijuana Establishment or area;
5. Recordings from all video cameras which shall be enabled to record 24 hours each day and be available for immediate viewing by the Commission on request for at least the preceding 90 calendar days or the duration of a request to preserve the recordings for a specified period of time made by the Commission, whichever is longer. Video cameras may use motion detection sensors to begin recording, so long as the motion detection sensor system provides an alert to designated employees of the Marijuana Establishment in a manner established in the Marijuana Establishment's written security procedures and approved by the Commission or a Commission Delegee. If a Marijuana Establishment receives notice that the motion detection sensor is not working correctly, it ~~must~~shall take prompt action to make corrections and document those actions. Recordings ~~shall~~may not be destroyed or altered, and shall be retained as long as necessary if the Marijuana Establishment is aware of a pending criminal, civil or administrative investigation or legal proceeding for which the recording may contain relevant information;
6. The ability to immediately produce a clear, color still image whether live or recorded;
7. A date and time stamp embedded in all recordings, which shall be synchronized and set correctly at all times and ~~shall~~may not significantly obscure the picture;
8. The ability to remain operational during a power outage for a minimum of four hours and, if it appears likely that the outage will last for more than four hours, the Marijuana Establishment takes sufficient steps to ensure security on the Premises in consultation with the Commission; and
9. A video recording that allows for the exporting of still images in an industry standard image format, including .jpg, .bmp and .gif. Exported video shall have the ability to be archived in a proprietary format that



ensures authentication of the video and guarantees that no alteration of the recorded image has taken place. Exported video shall also have the ability to be saved in an industry standard file format that may be played on a standard computer operating system. All recordings shall be erased or destroyed prior to disposal.

(b) All security system equipment and recordings shall be maintained in a secure location so as to prevent theft, loss, destruction and alterations.

(c) In addition to the requirements listed in 935 CMR 500.110(5)(a) and (b), the Marijuana Establishment shall have a back-up alarm system, with all the capabilities of the primary system, provided by a company supplying commercial grade equipment, which ~~shall~~may not be the same company supplying the primary security system, or shall demonstrate to the Commission's satisfaction alternate safeguards to ensure continuous operation of a security system.

(d) Access to surveillance areas shall be limited to Persons that are essential to surveillance operations, Law Enforcement Authorities acting within their lawful jurisdictions, security system service personnel and the Commission.

(e) A current list of authorized employees and service personnel that have access to the surveillance room ~~must~~shall be available to the Commission on request. If the surveillance room is on-site of the Marijuana Establishment, it shall remain locked and ~~shall~~may not be used for any other function.

(f) All security equipment shall be in good working order and shall be inspected and tested at regular intervals, not to exceed 30 calendar days from the previous inspection and test.

(g) Trees, bushes and other foliage outside of the Marijuana Establishment shall be maintained so as to prevent a Person or Persons from concealing themselves from sight.

(6) Security and Alarm Requirements for Marijuana Establishments Operating Outdoors.

(a) A Marijuana Establishment that is outdoors shall implement adequate security measures to ensure that outdoor areas are not readily accessible to unauthorized individuals and to prevent and detect diversion, theft or loss of Marijuana which shall, at a minimum, include:

1. A perimeter security fence designed to prevent unauthorized entry to the cultivation facility with signs notifying observers that it is a Limited Access Area;
2. Commercial-grade, nonresidential locks;
3. A security alarm system that shall:
  - a. be continuously monitored, whether electronically, by a monitoring company or other means determined to be adequate by the Commission; and
  - b. provide an alert to designated employees of the Marijuana Establishment within five minutes after a notification of an alarm or a system failure, either by telephone, email or text message.
5. Video cameras at all points of entry and exit and in any parking lot

which shall be appropriate for the normal lighting conditions of the area under surveillance. The cameras shall be directed at all safes, vaults, sales areas, and areas where Marijuana is cultivated, harvested, Processed, prepared, stored, handled, Transferred or dispensed and for the purpose of securing cash. Cameras shall be angled so as to allow for the capture of clear and certain identification of any Person entering or exiting the Marijuana Establishment or area;

6. 24-hour recordings from all video cameras that are available immediate viewing by the Commission on request and that are retained for at least 90 calendar days. Recordings ~~shall~~may not be destroyed or altered, and shall be retained as long as necessary if the Marijuana Establishment is aware of a pending criminal, civil or administrative investigation or legal proceeding for which the recording may contain relevant information;

7. The ability to immediately produce a clear, color still image whether live or recorded;

8. A date and time stamp embedded in all recordings, which shall be synchronized and set correctly at all times and ~~shall~~may not significantly obscure the picture;

9. The ability to remain operational during a power outage; and

10. A video recording that allows for the exporting of still images in an industry standard image format, including .jpg, .bmp and .gif. Exported video shall have the ability to be archived in a proprietary format that ensures authentication of the video and guarantees that no alteration of the recorded image has taken place. Exported video shall also have the ability to be saved in an industry standard file format that may be played on a standard computer operating system. All recordings shall be erased or destroyed prior to disposal.

(b) All security system equipment and recordings shall be maintained in a secure location so as to prevent theft, loss, destruction and alterations.

(c) In addition to the requirements listed in 935 CMR 500.110(4)(a) and (b), the Marijuana Establishment shall have a back-up alarm system, with all capabilities of the primary system, provided by a company supplying commercial grade equipment, which ~~shall~~may not be the same company supplying the primary security system, or shall demonstrate to the Commission's satisfaction alternate safeguards to ensure continuous operation of a security system.

(d) Access to surveillance areas shall be limited to Persons that are essential to surveillance operations, Law Enforcement Authorities acting within their lawful jurisdiction, police and fire departments, security system service personnel and the Commission. A current list of authorized employees and service personnel that have access to the surveillance room ~~must~~shall be available to the Commission on request. If the surveillance room is on-site of the Marijuana Establishment, it shall remain locked and ~~shall~~may not be used for any other function.

(e) All security equipment shall be in good working order and shall be inspected and tested at regular intervals, not to exceed 30 calendar days from

the previous inspection and test.

(f) Security plans and procedures shared with Law Enforcement Authorities pursuant to 935 CMR 500.110(1)(o) shall include:

1. A description of the location and operation of the security system, including the location of the central control on the Premises;
2. A schematic of security zones;
3. the name of the security alarm company and monitoring company, if any;
4. A floor plan or layout of the facility in a manner and scope as required by the municipality; and
5. A safety plan for the Manufacture and production of Marijuana Products as required pursuant to 935 CMR 500.101(~~34~~)(~~c~~~~d~~)3.e.

(7) Cash Handling and Transportation Requirements.

(a) A Marijuana Establishment with a contract to deposit funds with a financial institution that conducts any transaction in cash shall establish and implement adequate security measures and procedures for safe cash handling and cash transportation to financial institutions or DOR facilities to prevent theft and loss, and to mitigate associated risks to the safety of employees, customers and the general public. Adequate security measures shall include:

1. An on-site secure locked safe or vault maintained in an area separate from retail sales areas used exclusively for the purpose of securing cash;
2. Video cameras directed to provide images of areas where cash is kept, handled and packaged for transport to financial institutions or DOR facilities, provided that the cameras may be motion-sensor activated cameras and provided, further, that all cameras be able to produce a clear, still image whether live or recorded;
3. A written process for securing cash and ensuring transfers of deposits to the Marijuana Establishment's financial institutions and DOR facilities on an incremental basis consistent with the requirements for deposit by the financial institution or DOR facilities; and
4. Use of an armored transport provider that is licensed pursuant to M.G.L. c. 147, § 25 (watch, guard or patrol agency) and has been approved by the financial institution or DOR facility.

(b) Notwithstanding the requirement of 935 CMR 500.110(7)(a)(4), a Marijuana Establishment may request an alternative security provision under 935 CMR 500.110(2): Alternate Security Provisions for purposes of cash transportation to financial institutions and DOR facilities. Any approved alternative security provision shall be included in the security plan shared with law enforcement in the municipality in which the Marijuana Establishment is licensed and periodically updated as required under 935 CMR 500.110(1)(q). To be determined to provide a sufficient alternative, any such alternative safeguard shall include, but may not be limited to:

1. Requiring the use of a locked bag for the transportation of cash from a Marijuana Establishment to a financial institution or DOR facility;
2. Requiring any transportation of cash be conducted in an unmarked vehicle;

3. Requiring two registered Marijuana Establishment Agents employed by the Licensee to be present in the vehicle at all times during transportation of deposits;
4. Requiring real-time GPS tracking of the vehicle at all times when transporting cash;
5. Requiring access to two-way communications between the transportation vehicle and the Marijuana Establishment;
6. Prohibiting the transportation of Marijuana or Marijuana Products at the same time that cash is being transported for deposit to a financial institution or DOR facility; and
7. Approval of the alternative safeguard by the financial institution or DOR facility.

(c) All written safety and security measures developed under 935 CMR 500.105(7): *Packaging and Labeling Pre-Approval* shall be treated as security planning documents, the public disclosure of which would jeopardize public safety.

(8) Security Requirements for ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement Operations.

(a) A Marijuana Establishment licensed as a ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement shall implement adequate security measures to ensure that each vehicle used for transportation of Marijuana and Marijuana Products is not readily accessible to unauthorized individuals and to prevent and detect diversion, theft or loss of Marijuana. Security measures shall, at a minimum, include for each operational delivery vehicle:

1. A vehicle security system that includes an exterior alarm;
2. A secure, locked storage compartment in each vehicle and not easily removable for the purpose of transporting the Marijuana or Marijuana Products;
3. A secure, locked storage compartment in each vehicle and not easily removable for the purpose of transporting and securing cash used as payment for deliveries of Marijuana or Marijuana Products;
4. A means of secure communication between each vehicle and the Marijuana Establishment's dispatching location which shall be capable of being monitored at all times that a vehicle is performing a delivery route.

Means of communication shall include:

- a. Two-way digital or analog radio (UHF or VHF);
- b. Cellular phone; or
- c. Satellite phone.
5. A global positioning system (GPS) monitoring device that is:
  - a. Not a mobile device and that is attached to the vehicle at all times that the vehicle contains Marijuana or Marijuana Products; and
  - b. Monitored by the ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement at a fixed location during the transportation of Marijuana or Marijuana Products for the purpose

of home delivery with location checks occurring at least every 30 minutes. The ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement may delegate monitoring of the GPS to the Third-party Technology Platform Provider with which the ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement has a contract, provided that the ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement shall be responsible for ensuring that monitoring occurs as required under 935 CMR 500.000: *Adult Use of Marijuana*.

6. A video system that includes one or more video cameras in the storage area of the vehicle and one or more video cameras in the driver area of the vehicle and which shall remain operational at all times during the entire transportation process and which shall have:

- a. The ability to produce a clear color still photo whether live or recorded; and
- b. A date and time stamp embedded in all recordings which shall be synchronized and set correctly at all times and ~~shall~~may not significantly obscure the picture.

7. All security equipment in each vehicle shall be in good working order and shall be inspected and tested at regular intervals, not to exceed 30 calendar days from the previous inspection and test.

(b) ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement Agents engaged in the delivery of Marijuana or Marijuana Products to a Consumer shall have on their person an operational body camera during all times that the Marijuana Establishment Agent is outside of the delivery vehicle for the purpose of transacting a delivery

1. The body camera shall record all deliveries.
2. Consumers shall be notified of the use of body cameras to record delivery transactions at the time of order, on the proof of order and by the Marijuana Establishment agent on arrival at the Residence.
3. In addition to providing notice, body cameras shall be displayed conspicuously on the Marijuana Establishment Agent's person.
4. A ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement shall maintain video from body cameras confidentially and protected from disclosure to the full extent allowed by law. The Licensee shall implement data security, records retention, and record destruction policies for body camera video in compliance with applicable federal and state privacy laws, including but not limited to the Driver Privacy Protection Act, 18 USC § 2721, the Massachusetts Identify Theft Act, M.G.L. c. 93H, 201 CMR 17.00: *Standards for the Protection of Personal Information of Residents of the Commonwealth*, and the Fair Information Practices Act, M.G.L. c. 66A.

5. Video of deliveries shall be retained for a minimum of 30 days, or, with notice to the ~~Delivery-only~~Delivery Licensee or Marijuana Establishment with a Delivery Endorsement, for the duration of an investigation by the Commission or by law enforcement, whichever is longer. To obtain video

from a Licensee as part of an investigation, Commission staff shall consult with the Executive Director and to the extent possible, view the video at the place of storage.

6. A ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement ~~shall~~may not share or disclose any portion of the information or video footage collected as the result of the use of a body camera pursuant to 935 CMR 500.110(8)(b) to any third- party not explicitly authorized by 935 CMR 500.000: Adult Use of Marijuana to have access to that video footage, subject to the exceptions in 935 CMR 500.110(8)(b) 6.a. and b.

a. A Licensee or Marijuana Establishment shall make video footage available to law enforcement officers acting in his or her official capacity pursuant to a validly issued court order or search warrant demonstrating probable cause.

b. Nothing in 935 CMR 500.110(8)6. shall prohibit law enforcement from performing a constitutionally valid search or seizure including, but not limited to, circumstances that present an imminent danger to safety, and other exceptional or emergency circumstances where time or opportunity to apply for a warrant is lacking.

7. Unless retained for investigative purposes, the Licensee shall erase or otherwise destroy videos after the 30-day retention period.

(c) ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsements transporting Marijuana and Marijuana Products for home delivery shall ensure that all vehicles used for deliveries are staffed with a minimum of two Marijuana Establishment Agents. At least one Marijuana Establishment Agent shall remain with the vehicle at all times that the vehicle contains Marijuana or Marijuana Products.

(d) All Marijuana Establishment Agents acting as delivery employees of a ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement ~~shall~~must have attended and successfully completed Responsible Vendor Training Basic Core Curriculum and Delivery Core Curriculum courses in accordance with 935 CMR 500.105(2)(b) prior to making a delivery, ~~which shall include, but may not be limited to, training on:~~

~~(a) Safely conducting deliveries;~~

~~(b) Safe cash handling practices;~~

~~(c) Strategies for de-escalating potentially dangerous situations;~~

~~(d) Collecting and communicating information to assist in investigations;~~

~~(e) Procedures for checking identification;~~

~~(f) Indications of impairment;~~

~~(g) Notification to Consumers of use of mandatory recording devices; and~~

~~(h) Such other areas of training determined by the Commission to be included in a Responsible Vendor Training Program.~~

(e) A Marijuana Establishment Agent shall document and report any unusual discrepancy in inventory to the Commission and the local Law Enforcement



Authorities in which the establishment is licensed within 24 hours of the discovery of such discrepancy.

(f) A ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement shall report to the Commission and local law enforcement any vehicle accidents, diversions, losses, or other reportable incidents that occur during transport immediately and, under no circumstances, more than 24 hours of becoming aware of any accidents, diversions, losses, or other reportable incidents.

(g) The following individuals shall have access to ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement operations and vehicles, including video recordings:

1. Representatives of the Commission in the course of responsibilities authorized by
2. M.G.L. c. 94G or 935 CMR 500.000: Adult Use of Marijuana;
3. Representatives of other state agencies acting within their jurisdiction; and
4. Law enforcement, police and fire departments, and emergency medical services in the course of responding to an emergency.

(h) 935 CMR 500.000: Adult Use of Marijuana shall not be construed to prohibit access to authorized state or local Law Enforcement Authorities or public health, inspectional services, or other permit-granting agents acting within their lawful jurisdiction.

(i) All vehicles used by the ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement for home delivery are subject to inspection and approval by the Commission prior being put into use. It shall be the ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsements responsibility to make the Commission aware of its intent to introduce a new vehicle into operation and ensure an inspection of the vehicle prior to commencing operation.

(j) Firearms are strictly prohibited from ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement vehicles and from Marijuana Establishment Agents performing home deliveries.

(9) Incident Reporting.

(k) A Marijuana Establishment shall notify appropriate Law Enforcement Authorities and the Commission of any breach of security or other reportable incident defined in 935 CMR 500.110(9): Incident Reporting immediately and, in no instance, more than 24 hours following discovery of the breach or incident. Notification shall occur, but not be limited to, during the following occasions:

1. Discovery of inventory discrepancies;
2. Diversion, theft or loss of any Marijuana Product;
3. Any criminal action involving or occurring on or in the Marijuana Establishment Premises or Licensee or agent;
4. Any suspicious act involving the sale, cultivation, distribution, Processing or production of Marijuana by any Person;

5. Unauthorized destruction of Marijuana;
6. Any loss or unauthorized alteration of records related to Marijuana;
7. An alarm activation or other event that requires response by public safety personnel, including but not limited to local law enforcement, police and fire departments, public works or municipal sanitation departments, and municipal inspectional services departments, or security personnel privately engaged by the Marijuana Establishment;
8. The failure of any security alarm system due to a loss of electrical power or mechanical malfunction that is expected to last more than eight hours; or
9. Any other breach of security.

(l) A Marijuana Establishment shall, within ten calendar days, provide notice to the Commission of any incident described in 935 CMR 500.110(9)(a) by submitting an incident report in the form and manner determined by the Commission which details the circumstances of the event, any corrective action taken, and confirmation that the appropriate Law Enforcement Authorities were notified.

(m) All documentation related to an incident that is reportable pursuant to 935 CMR 500.110(9)(a) shall be maintained by a Marijuana Establishment for not less than one year or the duration of an open investigation, whichever is longer, and made available to the Commission and Law Enforcement Authorities within their lawful jurisdiction on request.

- (10) Security Audits. A Marijuana Establishment ~~must~~shall, on an annual basis, obtain at its own expense, a security system audit by a vendor approved by the Commission. A report of such audit ~~must~~shall be submitted, in a form and manner determined by the Commission, no later than 30 calendar days after the audit is conducted. If the audit identifies concerns related to the establishment's security system, the Marijuana Establishment ~~must~~shall also submit a plan to mitigate those concerns within ten business days of submitting the audit



## TOPIC 9. LICENSE TYPES: ALL LICENSE TYPES' ABILITY TO SHARE SPACE *New*

[PowerPoint: Slides []]

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935 CMR 500.110

935 CMR 501.110

### Policy Question(s):

- Q 1** Whether all license types, including delivery licenses, should be allowed to share space?

### ED's comments.

### Regulatory Language:

#### 500.110: Security Requirements for Marijuana Establishments

- (1) General Requirements. A Marijuana Establishment shall implement sufficient security measures to deter theft of Marijuana and Marijuana Products, prevent unauthorized entrance into areas containing Marijuana and Marijuana Products and ensure the safety of Marijuana Establishment employees, Consumers and the general public. Security measures taken by the Licensee to protect the Premises, employees, Marijuana Establishment Agents, Consumers and general public shall include, but not be limited to, the following:
  - (a) Positively identifying individuals seeking access to the Premises of the Marijuana Establishment or to whom or Marijuana Products are being transported pursuant to 935 CMR 500.105(14): *Access to the Commission, Emergency Responders and Law Enforcement* to limit access solely to individuals 21 years of age or older;
  - (b) Adopting procedures to prevent loitering and ensure that only individuals engaging in activity expressly or by necessary implication permitted by 935 CMR 500.000: *Adult Use of Marijuana* and its enabling statute are allowed to remain on the Premises;
  - (c) Disposing of Marijuana in accordance with 935 CMR 500.105(12): *Waste Disposal* in excess of the quantity required for normal, efficient operation as established within 935 CMR 500.105: *General Operational Requirements for Marijuana Establishments*;
  - (d) Securing all entrances to the Marijuana Establishment to prevent unauthorized access;
  - (e) Establishing Limited Access Areas pursuant to 935 CMR 500.110(4): *Limited Access Areas*, which, after receipt of a final License, shall be accessible only to specifically authorized personnel, limited to include only the minimum number of employees essential for efficient operation;
  - (f) Storing all Finished Marijuana Products in a secure, locked safe or vault in such a manner as to prevent diversion, theft and loss;
  - (g) Keeping all safes, vaults, and any other equipment or areas used for the

production, cultivation, harvesting, Processing or storage, including prior to disposal, of Marijuana or Marijuana Products securely locked and protected from entry, except for the actual time required to remove or replace Marijuana;

(h) Keeping all locks and security equipment in good working order;

(i) Prohibiting keys, if any, from being left in the locks or stored or placed in a location accessible to persons other than specifically authorized personnel;

(j) Prohibiting accessibility of security measures, such as combination numbers, passwords or electronic or biometric security systems, to persons other than specifically authorized personnel;

(k) Ensuring that the outside perimeter of the Marijuana Establishment is sufficiently lit to facilitate surveillance, where applicable;

(l) Ensuring that all Marijuana Products are kept out of plain sight and are not visible from a public place, outside of the Marijuana Establishment, without the use of binoculars, optical aids or aircraft;

(m) Developing emergency policies and procedures for securing all product following any instance of diversion, theft or loss of Marijuana, and conduct an assessment to determine whether additional safeguards are necessary;

(n) Developing sufficient additional safeguards as required by the Commission for Marijuana Establishments that present special security concerns;

(o) At Marijuana Establishments where transactions are conducted in cash, establishing procedures for safe cash handling and cash transportation to financial institutions to prevent theft, loss and associated risks to the safety of employees, customers and the general public;

(p) Sharing the Marijuana Establishment's floor plan or layout of the facility with Law Enforcement Authorities, and in a manner and scope as required by the municipality and identifying when the use of flammable or combustible solvents, chemicals or other materials are in use at the Marijuana Establishment; and

(q) Sharing the Marijuana Establishment's security plan and procedures with Law Enforcement Authorities, including police and fire departments, in the municipality where the Marijuana Establishment is located and periodically updating Law Enforcement Authorities, police and fire departments, if the plans or procedures are modified in a material way.

(2) Alternate Security Provisions.

(a) Notwithstanding the requirements specified in 935 CMR 500.110(1), (5), (6) and (7), if a Marijuana Establishment has provided other, specific safeguards that may be regarded as an adequate substitute for those requirements, such measures may be taken into account by the Commission in evaluating the overall required security measures. For purposes of cash handling and cash transportation, only alternative safeguards that comply with the requirements of 935 CMR 500.110(7)(b) shall be considered to be adequate substitutes.

(b) The applicant or Licensee shall submit a request for an alternative security provision to the Commission on a form as determined and made available by the Commission. On receipt of the form, the Commission shall submit the request to the chief law enforcement officer in the municipality where the Marijuana Establishment is located or will be located. The Commission shall request that the chief law enforcement officer review the request and alternative security provision requested and, within 30 days,

1. certify the sufficiency of the requested alternate security provision; or
2. provide the Commission with a statement of reasons why the alternative security provision is not sufficient in the opinion of the chief law enforcement officer.

(c) The Commission shall take the chief law enforcement officer's opinion under consideration in determining whether to grant the alternative security provision, provided that it shall not be determinative. If no response is received from the chief law enforcement officer or a delegee within 30 days of submitting the request to the chief law enforcement officer, the Commission shall proceed with a determination.

- (3) Buffer Zone. ~~The property where the proposed Marijuana Establishment is to be located, at the time the license application is received by the Commission, is not located within 500 feet of a preexisting public or private school providing education in kindergarten or any of grades one through 12, unless a city or town adopts an ordinance or bylaw that reduces the distance requirement. The distance under 935 CMR 500.110(3) shall be measured in a straight line from the nearest point of the property line in question to the nearest point of the property line where the Marijuana Establishment is or will be located. The nearest point of any property line on the lot where a Marijuana Establishment is located – excluding those property lines surrounding portions of irregularly-shaped lots that cannot sustain the main operational facilities required for the Marijuana Establishment, such as but not limited to property lines surrounding the “pole” of a flag lot – shall be 500 feet from the nearest entrance of any pre-existing public or private school providing education in kindergarten or any grades 1 through 12.~~

(a) For the purposes of 935 CMR 500.110(3): Buffer Zone, “entrance” shall be defined as the entrance that provides ingress and egress to the students of the pre-existing public or private school at the time of the Marijuana Establishment license application.

(b) The buffer zone distance of 500 feet shall be measured in a straight line from the approximate geometric center of the main entrance unless there is an generally and immediately Impassable Bbarrier, such as but not limited to a highway or river, would otherwise block pedestrian travel- within those 500 feet; in these cases, the buffer zone distance shall be measured along the center of the shortest publicly-accessible pedestrian travel path from the approximate geometric center of the main entrance.

(c) The buffer zone distance of 500 feet may be reduced if a city or town adopts an ordinance or bylaw that reduces the distance requirement.

(4) Limited Access Areas.

(a) All Limited Access Areas ~~must~~shall be identified by the posting of a sign that shall be a minimum of 12" x 12" and which states: "Do Not Enter - Limited Access Area - Access Limited to Authorized Personnel Only" in lettering no smaller than one inch in height.

(b) All Limited Access Areas shall be clearly described by the filing of a diagram of the licensed Premises, in the form and manner determined by the Commission, reflecting entrances and exits, walls, partitions, counters, Propagation, Vegetation, Flowering, Processing, production, storage, disposal and retail sales areas.

(c) At all times following receipt of a final License, Aaccess to Limited Access Areas shall be restricted to employees, agents, or volunteers specifically permitted by the Marijuana Establishment, agents of the Commission, Commission Delegees, and state and local Law Enforcement Authorities acting within their lawful jurisdictions, police and fire departments, and emergency medical services acting in the course of their official capacity.

(d) Employees of the Marijuana Establishment shall visibly display an employee identification badge issued by the Marijuana Establishment at all times while at the Marijuana Establishment or transporting Marijuana.

(e) Following receipt of a final License, Aall outside vendors, contractors, and Visitors shall obtain a Visitor Identification Badge prior to entering a Limited Access Area and shall be escorted at all times by a Marijuana Establishment Agent authorized to enter the Limited Access Area. The Visitor Identification Badge shall be visibly displayed at all times while the Visitor is in any Limited Access Area. All Visitors ~~must~~shall be logged in and out and that log shall be available for inspection by the Commission at all times. All Visitor Identification Badges shall be returned to the Marijuana Establishment on exit.

(f) A Marijuana Establishment conducting operations under multiple license types on a single Premise may establish Limited Access Areas for each licensed activity that overlap in shared hallways and access points, provided that operations under each license type are segregated and a Marijuana Establishment Agent has access only to the areas where activities are conducted pursuant to the license under which the Marijuana Establishment Agent is registered.

(5) Security and Alarm Requirements for Marijuana Establishments Operating Enclosed Areas.

(a) A Marijuana Establishment located, in whole or in part, in a building, Greenhouse or other Enclosed Area shall have an adequate security system to prevent and detect diversion, theft or loss of Marijuana or unauthorized intrusion, utilizing commercial grade equipment which shall, at a minimum, include:

1. A perimeter alarm on all building entry and exit points and perimeter windows, if any;

2. A failure notification system that provides an audible, text or visual notification of any failure in the security system. The failure notification system shall provide an alert to designated employees of the Marijuana Establishment within five minutes after the failure, either by telephone, email or text message;
3. A Duress Alarm, Panic Alarm or Holdup Alarm connected to local public safety or Law Enforcement Authorities;
4. Video cameras in all areas that may contain Marijuana or vaults or safes for the purpose of securing cash, at all points of entry and exit and in any parking lot which shall be appropriate for the normal lighting conditions of the area under surveillance. The cameras shall be directed at all safes, vaults, sales areas and areas where Marijuana is cultivated, harvested, Processed, prepared, stored, handled or dispensed, or where cash is kept and processed. Cameras shall be angled so as to allow for the capture of clear and certain identification of any Person entering or exiting the Marijuana Establishment or area;
5. Recordings from all video cameras which shall be enabled to record 24 hours each day and be available for immediate viewing by the Commission on request for at least the preceding 90 calendar days or the duration of a request to preserve the recordings for a specified period of time made by the Commission, whichever is longer. Video cameras may use motion detection sensors to begin recording, so long as the motion detection sensor system provides an alert to designated employees of the Marijuana Establishment in a manner established in the Marijuana Establishment's written security procedures and approved by the Commission or a Commission Delegee. If a Marijuana Establishment receives notice that the motion detection sensor is not working correctly, it ~~must~~ shall take prompt action to make corrections and document those actions. Recordings ~~shall~~ may not be destroyed or altered, and shall be retained as long as necessary if the Marijuana Establishment is aware of a pending criminal, civil or administrative investigation or legal proceeding for which the recording may contain relevant information;
6. The ability to immediately produce a clear, color still image whether live or recorded;
7. A date and time stamp embedded in all recordings, which shall be synchronized and set correctly at all times and ~~shall~~ may not significantly obscure the picture;
8. The ability to remain operational during a power outage for a minimum of four hours and, if it appears likely that the outage will last for more than four hours, the Marijuana Establishment takes sufficient steps to ensure security on the Premises in consultation with the Commission; and
9. A video recording that allows for the exporting of still images in an industry standard image format, including .jpg, .bmp and .gif. Exported video shall have the ability to be archived in a proprietary format that ensures authentication of the video and guarantees that no alteration of the recorded image has taken place. Exported video shall also have the ability

to be saved in an industry standard file format that may be played on a standard computer operating system. All recordings shall be erased or destroyed prior to disposal.

(b) All security system equipment and recordings shall be maintained in a secure location so as to prevent theft, loss, destruction and alterations.

(c) In addition to the requirements listed in 935 CMR 500.110(5)(a) and (b), the Marijuana Establishment shall have a back-up alarm system, with all the capabilities of the primary system, provided by a company supplying commercial grade equipment, which ~~shall~~may not be the same company supplying the primary security system, or shall demonstrate to the Commission's satisfaction alternate safeguards to ensure continuous operation of a security system.

(d) Access to surveillance areas shall be limited to Persons that are essential to surveillance operations, Law Enforcement Authorities acting within their lawful jurisdictions, security system service personnel and the Commission.

(e) A current list of authorized employees and service personnel that have access to the surveillance room ~~must~~shall be available to the Commission on request. If the surveillance room is on-site of the Marijuana Establishment, it shall remain locked and ~~shall~~may not be used for any other function.

(f) All security equipment shall be in good working order and shall be inspected and tested at regular intervals, not to exceed 30 calendar days from the previous inspection and test.

(g) Trees, bushes and other foliage outside of the Marijuana Establishment shall be maintained so as to prevent a Person or Persons from concealing themselves from sight.

(6) Security and Alarm Requirements for Marijuana Establishments Operating Outdoors.

(a) A Marijuana Establishment that is outdoors shall implement adequate security measures to ensure that outdoor areas are not readily accessible to unauthorized individuals and to prevent and detect diversion, theft or loss of Marijuana which shall, at a minimum, include:

1. A perimeter security fence designed to prevent unauthorized entry to the cultivation facility with signs notifying observers that it is a Limited Access Area;
2. Commercial-grade, nonresidential locks;
3. A security alarm system that shall:
  - a. be continuously monitored, whether electronically, by a monitoring company or other means determined to be adequate by the Commission; and
  - b. provide an alert to designated employees of the Marijuana Establishment within five minutes after a notification of an alarm or a system failure, either by telephone, email or text message.
4. Video cameras at all points of entry and exit and in any parking lot which shall be appropriate for the normal lighting conditions of the area under surveillance. The cameras shall be directed at all safes, vaults, sales

areas, and areas where Marijuana is cultivated, harvested, Processed, prepared, stored, handled, Transferred or dispensed and for the purpose of securing cash. Cameras shall be angled so as to allow for the capture of clear and certain identification of any Person entering or exiting the Marijuana Establishment or area;

5. 24-hour recordings from all video cameras that are available immediate viewing by the Commission on request and that are retained for at least 90 calendar days. Recordings ~~shall~~may not be destroyed or altered, and shall be retained as long as necessary if the Marijuana Establishment is aware of a pending criminal, civil or administrative investigation or legal proceeding for which the recording may contain relevant information;

6. The ability to immediately produce a clear, color still image whether live or recorded;

7. A date and time stamp embedded in all recordings, which shall be synchronized and set correctly at all times and ~~shall~~may not significantly obscure the picture;

8. The ability to remain operational during a power outage; and

9. A video recording that allows for the exporting of still images in an industry standard image format, including .jpg, .bmp and .gif. Exported video shall have the ability to be archived in a proprietary format that ensures authentication of the video and guarantees that no alteration of the recorded image has taken place. Exported video shall also have the ability to be saved in an industry standard file format that may be played on a standard computer operating system. All recordings shall be erased or destroyed prior to disposal.

(b) All security system equipment and recordings shall be maintained in a secure location so as to prevent theft, loss, destruction and alterations.

(c) In addition to the requirements listed in 935 CMR 500.110(4)(a) and (b), the Marijuana Establishment shall have a back-up alarm system, with all capabilities of the primary system, provided by a company supplying commercial grade equipment, which ~~shall~~may not be the same company supplying the primary security system, or shall demonstrate to the Commission's satisfaction alternate safeguards to ensure continuous operation of a security system.

(d) Access to surveillance areas shall be limited to Persons that are essential to surveillance operations, Law Enforcement Authorities acting within their lawful jurisdiction, police and fire departments, security system service personnel and the Commission. A current list of authorized employees and service personnel that have access to the surveillance room ~~must~~shall be available to the Commission on request. If the surveillance room is on-site of the Marijuana Establishment, it shall remain locked and ~~shall~~may not be used for any other function.

(e) All security equipment shall be in good working order and shall be inspected and tested at regular intervals, not to exceed 30 calendar days from the previous inspection and test.

(f) Security plans and procedures shared with Law Enforcement Authorities



pursuant to 935 CMR 500.110(1)(o) shall include:

1. A description of the location and operation of the security system, including the location of the central control on the Premises;
2. A schematic of security zones;
3. the name of the security alarm company and monitoring company, if any;
4. A floor plan or layout of the facility in a manner and scope as required by the municipality; and
5. A safety plan for the Manufacture and production of Marijuana Products as required pursuant to 935 CMR 500.101(34)(c~~d~~)3.e.

(7) Cash Handling and Transportation Requirements.

(a) A Marijuana Establishment with a contract to deposit funds with a financial institution that conducts any transaction in cash shall establish and implement adequate security measures and procedures for safe cash handling and cash transportation to financial institutions or DOR facilities to prevent theft and loss, and to mitigate associated risks to the safety of employees, customers and the general public. Adequate security measures shall include:

1. An on-site secure locked safe or vault maintained in an area separate from retail sales areas used exclusively for the purpose of securing cash;
2. Video cameras directed to provide images of areas where cash is kept, handled and packaged for transport to financial institutions or DOR facilities, provided that the cameras may be motion-sensor activated cameras and provided, further, that all cameras be able to produce a clear, still image whether live or recorded;
3. A written process for securing cash and ensuring transfers of deposits to the Marijuana Establishment's financial institutions and DOR facilities on an incremental basis consistent with the requirements for deposit by the financial institution or DOR facilities; and
4. Use of an armored transport provider that is licensed pursuant to M.G.L. c. 147, § 25 (watch, guard or patrol agency) and has been approved by the financial institution or DOR facility.

(b) Notwithstanding the requirement of 935 CMR 500.110(7)(a)(4), a Marijuana Establishment may request an alternative security provision under 935 CMR 500.110(2): Alternate Security Provisions for purposes of cash transportation to financial institutions and DOR facilities. Any approved alternative security provision shall be included in the security plan shared with law enforcement in the municipality in which the Marijuana Establishment is licensed and periodically updated as required under 935 CMR 500.110(1)(q). To be determined to provide a sufficient alternative, any such alternative safeguard shall include, but may not be limited to:

1. Requiring the use of a locked bag for the transportation of cash from a Marijuana Establishment to a financial institution or DOR facility;
2. Requiring any transportation of cash be conducted in an unmarked vehicle;
3. Requiring two registered Marijuana Establishment Agents employed by the Licensee to be present in the vehicle at all times during transportation



of deposits;

4. Requiring real-time GPS tracking of the vehicle at all times when transporting cash;

5. Requiring access to two-way communications between the transportation vehicle and the Marijuana Establishment;

6. Prohibiting the transportation of Marijuana or Marijuana Products at the same time that cash is being transported for deposit to a financial institution or DOR facility; and

7. Approval of the alternative safeguard by the financial institution or DOR facility.

(c) All written safety and security measures developed under 935 CMR 500.105(7): *Packaging and Labeling Pre-Approval* shall be treated as security planning documents, the public disclosure of which would jeopardize public safety.

(8) Security Requirements for ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement Operations.

(a) A Marijuana Establishment licensed as a ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement shall implement adequate security measures to ensure that each vehicle used for transportation of Marijuana and Marijuana Products is not readily accessible to unauthorized individuals and to prevent and detect diversion, theft or loss of Marijuana. Security measures shall, at a minimum, include for each operational delivery vehicle:

1. A vehicle security system that includes an exterior alarm;

2. A secure, locked storage compartment in each vehicle and not easily removable for the purpose of transporting the Marijuana or Marijuana Products;

3. A secure, locked storage compartment in each vehicle and not easily removable for the purpose of transporting and securing cash used as payment for deliveries of Marijuana or Marijuana Products;

4. A means of secure communication between each vehicle and the Marijuana Establishment's dispatching location which shall be capable of being monitored at all times that a vehicle is performing a delivery route.

Means of communication shall include:

a. Two-way digital or analog radio (UHF or VHF);

b. Cellular phone; or

c. Satellite phone.

5. A global positioning system (GPS) monitoring device that is:

c. Not a mobile device and that is attached to the vehicle at all times that the vehicle contains Marijuana or Marijuana Products; and

d. Monitored by the ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement at a fixed location during the transportation of Marijuana or Marijuana Products for the purpose of home delivery with location checks occurring at least every 30 minutes. The ~~Delivery-only~~Delivery Licensee or a Marijuana

Establishment with a Delivery Endorsement may delegate monitoring of the GPS to the Third-party Technology Platform Provider with which the ~~Delivery-only~~ Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement has a contract, provided that the ~~Delivery-only~~ Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement shall be responsible for ensuring that monitoring occurs as required under 935 CMR 500.000: *Adult Use of Marijuana*.

6. A video system that includes one or more video cameras in the storage area of the vehicle and one or more video cameras in the driver area of the vehicle and which shall remain operational at all times during the entire transportation process and which shall have:

- a. The ability to produce a clear color still photo whether live or recorded; and
- b. A date and time stamp embedded in all recordings which shall be synchronized and set correctly at all times and ~~shall~~ may not significantly obscure the picture.

7. All security equipment in each vehicle shall be in good working order and shall be inspected and tested at regular intervals, not to exceed 30 calendar days from the previous inspection and test.

(b) ~~Delivery-only~~ Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement Agents engaged in the delivery of Marijuana or Marijuana Products to a Consumer shall have on their person an operational body camera during all times that the Marijuana Establishment Agent is outside of the delivery vehicle for the purpose of transacting a delivery

1. The body camera shall record all deliveries.
2. Consumers shall be notified of the use of body cameras to record delivery transactions at the time of order, on the proof of order and by the Marijuana Establishment agent on arrival at the Residence.
3. In addition to providing notice, body cameras shall be displayed conspicuously on the Marijuana Establishment Agent's person.
4. A ~~Delivery-only~~ Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement shall maintain video from body cameras confidentially and protected from disclosure to the full extent allowed by law. The Licensee shall implement data security, records retention, and record destruction policies for body camera video in compliance with applicable federal and state privacy laws, including but not limited to the Driver Privacy Protection Act, 18 USC § 2721, the Massachusetts Identify Theft Act, M.G.L. c. 93H, 201 CMR 17.00: *Standards for the Protection of Personal Information of Residents of the Commonwealth*, and the Fair Information Practices Act, M.G.L. c. 66A.
5. Video of deliveries shall be retained for a minimum of 30 days, or, with notice to the ~~Delivery-only~~ Delivery Licensee or Marijuana Establishment with a Delivery Endorsement, for the duration of an investigation by the Commission or by law enforcement, whichever is longer. To obtain video from a Licensee as part of an investigation, Commission staff shall consult with the Executive Director and to the extent possible, view the video at the

place of storage.

6. A ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement ~~shall-may~~ not share or disclose any portion of the information or video footage collected as the result of the use of a body camera pursuant to 935 CMR 500.110(8)(b) to any third- party not explicitly authorized by 935 CMR 500.000: Adult Use of Marijuana to have access to that video footage, subject to the exceptions in 935 CMR 500.110(8)(b)6.a. and b.

a. A Licensee or Marijuana Establishment shall make video footage available to law enforcement officers acting in his or her official capacity pursuant to a validly issued court order or search warrant demonstrating probable cause.

b. Nothing in 935 CMR 500.110(8)6. shall prohibit law enforcement from performing a constitutionally valid search or seizure including, but not limited to, circumstances that present an imminent danger to safety, and other exceptional or emergency circumstances where time or opportunity to apply for a warrant is lacking.

7. Unless retained for investigative purposes, the Licensee shall erase or otherwise destroy videos after the 30-day retention period.

(c) ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsements transporting Marijuana and Marijuana Products for home delivery shall ensure that all vehicles used for deliveries are staffed with a minimum of two Marijuana Establishment Agents. At least one Marijuana Establishment Agent shall remain with the vehicle at all times that the vehicle contains Marijuana or Marijuana Products.

(d) All Marijuana Establishment Agents acting as delivery employees of a ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement ~~shall-must~~ have attended and successfully completed Responsible Vendor Training Basic Core Curriculum and Delivery Core Curriculum courses in accordance with 935 CMR 500.105(2)(b) prior to making a delivery, ~~which shall include, but may not be limited to, training on:~~

~~(a) Safely conducting deliveries;~~

~~(b) Safe cash handling practices;~~

~~(c) Strategies for de-escalating potentially dangerous situations;~~

~~(d) Collecting and communicating information to assist in investigations;~~

~~(e) Procedures for checking identification;~~

~~(f) Indications of impairment;~~

~~(g) Notification to Consumers of use of mandatory recording devices; and~~

~~(h) Such other areas of training determined by the Commission to be included in a Responsible Vendor Training Program.~~

(e) A Marijuana Establishment Agent shall document and report any unusual discrepancy in inventory to the Commission and the local Law Enforcement Authorities in which the establishment is licensed within 24 hours of the discovery of such a discrepancy.

(f) A ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement shall report to the Commission and local law enforcement any vehicle accidents, diversions, losses, or other reportable incidents that occur during transport immediately and, under no circumstances, more than 24 hours of becoming aware of any accidents, diversions, losses, or other reportable incidents.

(g) The following individuals shall have access to ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement operations and vehicles, including video recordings:

1. Representatives of the Commission in the course of responsibilities authorized by
2. M.G.L. c. 94G or 935 CMR 500.000: *Adult Use of Marijuana*;
3. Representatives of other state agencies acting within their jurisdiction; and
4. Law enforcement, police and fire departments, and emergency medical services in the course of responding to an emergency.

(h) 935 CMR 500.000: *Adult Use of Marijuana* shall not be construed to prohibit access to authorized state or local Law Enforcement Authorities or public health, inspectional services, or other permit-granting agents acting within their lawful jurisdiction.

(i) All vehicles used by the ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement for home delivery are subject to inspection and approval by the Commission prior being put into use. It shall be the ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsements responsibility to make the Commission aware of its intent to introduce a new vehicle into operation and ensure an inspection of the vehicle prior to commencing operation.

(j) Firearms are strictly prohibited from ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement vehicles and from Marijuana Establishment Agents performing home deliveries.

(9) Incident Reporting.

(a) A Marijuana Establishment shall notify appropriate Law Enforcement Authorities and the Commission of any breach of security or other reportable incident defined in 935 CMR 500.110(9): *Incident Reporting* immediately and, in no instance, more than 24 hours following discovery of the breach or incident. Notification shall occur, but not be limited to, during the following occasions:

1. Discovery of inventory discrepancies;
2. Diversion, theft or loss of any Marijuana Product;
3. Any criminal action involving or occurring on or in the Marijuana Establishment Premises or Licensee or agent;
4. Any suspicious act involving the sale, cultivation, distribution, Processing or production of Marijuana by any Person;
5. Unauthorized destruction of Marijuana;
6. Any loss or unauthorized alteration of records related to Marijuana;

7. An alarm activation or other event that requires response by public safety personnel, including but not limited to local law enforcement, police and fire departments, public works or municipal sanitation departments, and municipal inspectional services departments, or security personnel privately engaged by the Marijuana Establishment;

8. The failure of any security alarm system due to a loss of electrical power or mechanical malfunction that is expected to last more than eight hours; or

9. Any other breach of security.

(b) A Marijuana Establishment shall, within ten calendar days, provide notice to the Commission of any incident described in 935 CMR 500.110(9)(a) by submitting an incident report in the form and manner determined by the Commission which details the circumstances of the event, any corrective action taken, and confirmation that the appropriate Law Enforcement Authorities were notified.

(c) All documentation related to an incident that is reportable pursuant to 935 CMR 500.110(9)(a) shall be maintained by a Marijuana Establishment for not less than one year or the duration of an open investigation, whichever is longer, and made available to the Commission and Law Enforcement Authorities within their lawful jurisdiction on request.

(10) Security Audits. A Marijuana Establishment ~~must~~shall, on an annual basis, obtain at its own expense, a security system audit by a vendor approved by the Commission. A report of such audit ~~must~~shall be submitted, in a form and manner determined by the Commission, no later than 30 calendar days after the audit is conducted. If the audit identifies concerns related to the establishment's security system, the Marijuana Establishment ~~must~~shall also submit a plan to mitigate those concerns within ten business days of submitting the audit

#### 501.110: Security Requirements for Medical Marijuana Treatment Centers

(1) General Requirements. An MTC shall implement sufficient security measures to deter and prevent unauthorized entrance into areas containing Marijuana, theft of Marijuana and ensure the safety of MTC employees, Qualifying Patients and the general public. Security measures to protect the Premises, Registered Qualifying Patients, Personal Caregivers, and MTC agents of the MTC ~~shall~~must include, but are not limited to, the following:

(a) Allow only Registered Qualifying Patients, Personal Caregivers, MTC agents and, subject to the requirements of 935 CMR 501.110(4)(e), outside vendors, contractors, and Visitors, access to the MTC;

(b) Prevent individuals from remaining on the Premises of the MTC if they are not engaging in activity expressly or by necessary implication permitted by M.G.L. c. 94I, and 935 CMR 501.000: Medical Marijuana Treatment Center;

(c) Disposing of Marijuana in accordance with 935 CMR 501.105(12): Waste Disposal, in excess of the quantity required for normal, efficient operation as

established within 935 CMR 501.105: *General Operational Requirements for Medical Marijuana Treatment Centers*;

- (d) Securing all entrances to the MTC to prevent unauthorized access;
- (e) Establishing Limited Access Areas which, after receipt of a final License, shall be accessible only to specifically authorized personnel limited to include only the minimum number of employees essential for efficient operation;
- (f) Storing all finished Marijuana in a secure, locked safe or vault and in such a manner as to prevent diversion, theft, and loss;
- (g) Keeping all safes, vaults, and any other equipment or areas used for the production, cultivation, harvesting, Processing, or storage, including prior to disposal, of Marijuana and MIPs securely locked and protected from entry, except for the actual time required to remove or replace Marijuana;
- (h) Keeping all locks and security equipment in good working order;
- (i) Prohibiting keys, if any, from being left in the locks, or stored or placed in a location accessible to persons other than specifically authorized personnel;
- (j) Prohibit accessibility of security measures, such as combination numbers, passwords, or electronic or biometric security systems, to persons other than specifically authorized personnel;
- (k) Ensure that the outside perimeter of the MTC is sufficiently lit to facilitate surveillance;
- (l) Ensuring that all Marijuana Products are kept out of plain sight and are not visible from a public place, outside of the MTC, without the use of binoculars, optical aids or aircraft;
- (m) Develop emergency policies and procedures for securing all product following any instance of diversion, theft, or loss of Marijuana, and conduct an assessment to determine whether additional safeguards are necessary;
- (n) Develop sufficient additional safeguards as required by the Commission for MTCs that present special security concerns;
- (o) At MTCs where transactions are conducted in cash, establishing procedures for safe cash handling and cash transportation to financial institutions to prevent theft, loss and associated risks to the safety of employees, customers and the general public;
- (p) Sharing the MTC's floor plan or layout of the facility with Law Enforcement Authorities in a manner and scope as required by the municipality and identifying when the use of flammable or combustible solvents, chemicals or other materials are in use at the MTC;
- (q) Sharing the MTC's security plan and procedures with Law Enforcement Authorities, in the municipality where the MTC is located and periodically updating Law Enforcement Authorities if the plans or procedures are modified in a material way; and
- (r) Inside the MTC, all Marijuana shall be kept in a Limited Access Area inaccessible to any persons other than MTC agents, except for displays allowable under 935 CMR 501.105(4)(a)~~43~~. Inside the MTC, all Marijuana shall be stored in a locked, access-controlled space in a Limited Access Area during nonbusiness hours.



(2) Alternative Security Provisions.

(a) Notwithstanding the requirements specified in 935 CMR 501.110(1) and (4) through (6), if an MTC has provided other, specific safeguards that may be regarded as an adequate substitute for those requirements, such measures may be taken into account by the Commission in evaluating the overall required security measures. For purposes of cash handling and cash transportation, only alternative safeguards that comply with the requirements of 935 CMR 501.110(6)(b) shall be considered to be adequate substitutes.

(b) The applicant or Licensee shall submit a request for an alternative security provision to the Commission on a form as determined and made available by the Commission. Upon receipt of the form, the Commission shall submit the request to the chief law enforcement officer in the municipality where the MTC is located or will be located. The Commission shall request that the chief law enforcement officer review the request and alternative security provision requested and, within 30 days;

1. Certify the sufficiency of the requested alternate security provision; or
2. Provide the Commission with a statement of reasons why the alternative security provision is not sufficient in the opinion of the chief law enforcement officer.

(c) The Commission shall take the chief law enforcement officer's opinion under consideration in determining whether to grant the alternative security provision, provided that it ~~shall~~ may not be determinative. If no response is received from the chief law enforcement officer or a delegatee within 30 days of submitting the request to the chief law enforcement officer, the Commission shall proceed with a determination.

~~(3) Buffer Zone. The property where the proposed MTC is to be located, at the time the License application is received by the Commission, is not located within 500 feet of a preexisting public or private school providing education in kindergarten or any of grades one through 12, unless a city or town adopts an ordinance or bylaw that reduces the distance requirement. The distance under 935 CMR 501.110(3) shall be measured in a straight line from the nearest point of the property line in question to the nearest point of the property line where the MTC is or will be located. The nearest point of any property line on the lot where an MTC is located – excluding those property lines surrounding portions of irregularly-shaped lots that cannot sustain the main operational facilities required for the MTC, such as but not limited to property lines surrounding the “pole” of a flag lot – shall be 500 feet from the nearest entrance of any pre-existing public or private school providing education in kindergarten or any grades 1 through 12.~~

~~(d)~~ For the purposes of 935 CMR 500.110(3): Buffer Zone, “entrance” shall be defined as the entrance that provides ingress and egress to the students of the pre-existing public or private school at the time of the MTC license application.

~~(e)~~(e) The buffer zone distance of 500 feet shall be measured in a straight line from the approximate geometric center of the main entrance unless there is an Impassable Barrier with a generally and immediately impassable barrier.

~~such as but not limited to a highway or river, would otherwise block pedestrian travel~~ in those 500 feet; in these cases, the buffer zone distance shall be measured along the center of the shortest publicly-accessible pedestrian travel path from the approximate geometric center of the main entrance.

~~(d)(f)~~ The buffer zone distance of 500 feet may be reduced if a city or town adopts an ordinance or bylaw that reduces the distance requirement.

~~(3)~~(4) Limited Access Areas.

(a) All Limited Access Areas ~~shall~~**must** be identified by the posting of a sign that shall be a minimum of 12" x 12" and which states: "Do Not Enter - Limited Access - Area Access Limited to Authorized Personnel Only" in lettering no smaller than one inch in height.

(b) All Limited Access Areas shall be clearly described by the filing of a diagram of the licensed Premises, in the form and manner determined by the Commission, reflecting walls, partitions, counters, and all areas of entry and exit. Said diagram shall also show all Propagation, Vegetation, Flowering, Processing, production, storage, disposal, and retail sales areas.

(c) ~~At all times following receipt of a final License, A~~access to Limited Access Areas shall be limited to persons that are essential to operations in these areas and specifically permitted by the MTC, representatives of the Commission acting in accordance with their authority under the adult use, medical use and ~~collocated-CMO operations~~ laws; Commission Delegee(s); and local law enforcement authorities, fire safety personnel and emergency medical services acting within their lawful jurisdiction and official capacity.

(d) An MTC agent shall visibly display an identification badge issued by the MTC or the Commission at all times while at the MTC or transporting Marijuana.

(e) ~~Following receipt of a final License, A~~all outside vendors, contractors, and Visitors ~~shall~~**must** obtain a Visitor Identification Badge prior to entering a Limited Access Area, and shall be escorted at all times by an MTC agent authorized to enter the Limited Access Area. The Visitor Identification Badge ~~shall~~**must** be visibly displayed at all times while the Visitor is in any Limited Access Area. All Visitors ~~shall~~**must** be logged in and out, and that log shall be available for inspection by the Commission at all times. All Visitor Identification Badges shall be returned to the MTC upon exit.

~~(4)~~(5) Security and Alarm Systems.

(a) An MTC shall have an adequate security system to prevent and detect diversion, theft, or loss of Marijuana or unauthorized intrusion, utilizing commercial grade equipment, which shall, at a minimum, include:

1. A perimeter alarm on all entry and exit points and perimeter windows;
2. A failure notification system that provides an audible, text, or visual notification of any failure in the surveillance system. The failure notification system shall provide an alert to designated employees of the MTC within five minutes after the failure, either by telephone, email, or text message;
3. A Duress Alarm, Panic Alarm, or Holdup Alarm connected to local



public safety or law enforcement authorities;

4. Video cameras in all areas that may contain Marijuana, vaults or safes for the purpose of securing cash, at all points of entry and exit, and in any parking lot, which shall be appropriate for the normal lighting conditions of the area under surveillance. The cameras shall be directed at all safes, vaults, sales areas, and areas where Marijuana is cultivated, harvested, Processed, prepared, stored, handled, Transferred or dispensed, or where cash is kept and Processed. Cameras shall be angled to allow for the capture of clear and certain identification of any individual entering or exiting the MTC or area;

5. 24 hour recordings from all video cameras that are available for immediate viewing by the Commission upon request and that are retained for at least 90 calendar days. Recordings ~~shall~~may not be destroyed or altered, and shall be retained as long as necessary if the MTC is aware of a pending criminal, civil, or administrative investigation, or legal proceeding for which the recording may contain relevant information;

6. The ability to immediately produce a clear, color, still image (live or recorded);

7. A date and time stamp embedded on all recordings. The date and time shall be synchronized and set correctly and ~~shall~~may not significantly obscure the picture;

8. The ability to remain operational during a power outage for a minimum of four hours and, if it appears likely that the outage will last for more than four hours, the MTC takes sufficient steps to ensure security on the premises in consultation with the Commission; and

9. A video recording that allows for the exporting of still images in an industry standard image format, including .jpg, .bmp, and .gif. Exported video shall have the ability to be archived in a proprietary format that ensures authentication of the video and guarantees that no alteration of the recorded image has taken place. Exported video shall be able to be saved in an industry standard file format that can be played on a standard computer operating system. All recordings shall be erased or destroyed prior to disposal.

(b) All security system equipment and recordings shall be maintained in a secure location to prevent theft, loss, destruction, and alterations.

(c) In addition to the requirements listed in 935 CMR 501.110(5): *Security Alarm Systems*, the MTC shall have a back-up alarm system, with all capabilities of the primary system, provided by a company supplying commercial grade equipment, which ~~may~~shall not be the same company supplying the primary security system, or shall demonstrate to the Commission's satisfaction alternate safeguards to ensure continuous operation of a security system.

(d) Access to surveillance areas shall be limited to persons that are essential to surveillance operations, law enforcement authorities acting within their lawful jurisdiction, fire safety personnel, security system service personnel, representatives of the Commission as authorized by M.G.L. c. 94I, and 935 CMR 501.000: *Medical Use of Marijuana*, and Commission Delegee(s).

(e) A current list of authorized employees and service personnel that have access to the surveillance room ~~shall~~must be available to the Commission upon

request. If on-site, surveillance rooms shall remain locked and ~~shall may~~ not be used for any other function.

(f) All security equipment shall be in good working order and shall be inspected and tested at regular intervals, not to exceed 30 calendar days from the previous inspection and test.

(g) Trees, bushes and other foliage outside of the MTC shall be maintained so as to prevent a person or persons from concealing themselves from sight.

(5)(6) Security and Alarm Requirements for MTCs Operating Outdoors.

(a) An MTC that is an operating outdoors shall implement adequate security measures to ensure that outdoor areas are not readily accessible to unauthorized individuals and to prevent and detect diversion, theft or loss of Marijuana which shall, at a minimum, include:

1. A perimeter security fence designed to prevent unauthorized entry to the cultivation facility with signs notifying observers that it is a Limited Access Area;
2. Commercial-grade, nonresidential locks;
3. A security alarm system that shall:
  - a. Be continuously monitored, whether electronically, by a monitoring company or other means determined to be adequate by the Commission; and
  - b. Provide an alert to designated employees of the MTC within five minutes after a notification of an alarm or a system failure, either by telephone, email or text message.
4. Video cameras at all points of entry and exit and in any parking lot which shall be appropriate for the normal lighting conditions of the area under surveillance. The cameras shall be directed at all safes, vaults, sales areas, and areas where Marijuana is cultivated, harvested, Processed, prepared, stored, handled, Transferred or dispensed and for the purpose of securing cash. Cameras shall be angled so as to allow for the capture of clear and certain identification of any person entering or exiting the MTC or area;
5. Recordings from all video cameras which shall be enabled to record 24 hours each day and be available for immediate viewing by the Commission on request for at least the preceding 90 calendar days or the duration of a request to preserve the recordings for a specified period of time made by the Commission, whichever is longer. Video cameras may use motion detection sensors to begin recording, so long as the motion detection sensor system provides an alert to designated employees of the MTC in a manner established in the MTC's written security procedures and approved by the Commission or a Commission Delegee. If an MTC receives notice that the motion detection sensor is not working correctly, it ~~shall must~~ take prompt action to make corrections and document those actions. Recordings ~~shall may~~ not be destroyed or altered, and shall be retained as long as necessary if the MTC is aware of a pending criminal, civil or administrative investigation or legal proceeding for which the recording may contain relevant information;

6. The ability to immediately produce a clear, color still image whether live or recorded;
  7. A date and time stamp embedded in all recordings, which shall be synchronized and set correctly at all times and ~~shall may~~ not significantly obscure the picture;
  8. The ability to remain operational during a power outage for a minimum of four hours and, if it appears likely that the outage will last for more than four hours, the MTC takes sufficient steps to ensure security on the premises in consultation with the Commission; and
  9. A video recording that allows for the exporting of still images in an industry standard image format, including .jpg, .bmp and .gif. Exported video shall have the ability to be archived in a proprietary format that ensures authentication of the video and guarantees that no alteration of the recorded image has taken place. Exported video shall also have the ability to be saved in an industry standard file format that may be played on a standard computer operating system. All recordings shall be erased or destroyed prior to disposal.
- (b) All security system equipment and recordings shall be maintained in a secure location so as to prevent theft, loss, destruction and alterations.
- (c) In addition to the requirements listed in 935 CMR 501.110(5): *Security and Alarm Systems*, the MTC shall have a back-up alarm system, with all capabilities of the primary system, provided by a company supplying commercial grade equipment, which ~~shall may~~ not be the same company supplying the primary security system, or shall demonstrate to the Commission's satisfaction alternate safeguards to ensure continuous operation of a security system.
- (d) Access to surveillance areas shall be limited to persons that are essential to surveillance operations, law enforcement authorities acting within their lawful jurisdiction, fire safety personnel, security system service personnel and the Commission. A current list of authorized employees and service personnel that have access to the surveillance room ~~shall must~~ be available to the Commission on request. If the surveillance room is on-site of the MTC, it shall remain locked and ~~shall may~~ not be used for any other function.
- (e) All security equipment shall be in good working order and shall be inspected and tested at regular intervals, not to exceed 30 calendar days from the previous inspection and test.
- (f) Security plans and procedures shared with law enforcement authorities pursuant to 935 CMR 501.110(1)(q) shall include:
1. A description of the location and operation of the security system, including the location of the central control on the Premises;
  2. A schematic of security zones;
  3. The name of the security alarm company and monitoring company, if any;
  4. A floor plan or layout of the facility in a manner and scope as required by the municipality; and
  5. A safety plan for the manufacture and production of Marijuana Products as required pursuant to 935 CMR 501.101(1)(c)145.c..

~~(6)~~(7) Cash Handling and Transportation Requirements.

(a) An MTC with a contract to deposit funds with a financial institution that conducts any transaction in cash shall establish and implement adequate security measures and procedures for safe cash handling and cash transportation to financial institutions or Massachusetts Department of Revenue (DOR) facilities to prevent theft and loss, and to mitigate associated risks to the safety of employees, customers and the general public. Adequate security measures shall include:

1. An on-site secure locked safe or vault maintained in an area separate from retail sales areas used exclusively for the purpose of securing cash;
2. Video cameras directed to provide images of areas where cash is kept, handled and packaged for transport to financial institutions or DOR facilities, provided that the cameras may be motion-sensor activated cameras and provided, further, that all cameras be able to produce a clear, still image whether live or recorded;
3. A written process for securing cash and ensuring transfers of deposits to the MTC's financial institutions and DOR facilities on an incremental basis consistent with the requirements for deposit by the financial institution or DOR facilities;
4. Use of an armored transport provider that is licensed pursuant to M.G.L. c. 147, § 25 (watch, guard or patrol agency) and has been approved by the financial institution or DOR facility.

(b) Notwithstanding the requirement of 935 CMR 501.110(8)(a)4., an MTC may request an alternative security provision under 935 CMR 501.110(2): Alternative Security Provisions for purposes of cash transportation to financial institutions and DOR facilities. Any approved alternative security provision shall be included in the security plan shared with law enforcement in the municipality in which the MTC is licensed and periodically updated as required under 935 CMR 501.110(1)(q). To be determined to provide a sufficient alternative, any such alternative safeguard shall include, but may not be limited to:

1. Requiring the use of a locked bag for the transportation of cash from an MTC to a financial institution or DOR facility;
2. Requiring any transportation of cash be conducted in an unmarked vehicle;
3. Requiring two registered MTC Agents employed by the Licensee to be present in the vehicle at all times during transportation of deposits;
4. Requiring real-time GPS tracking of the vehicle at all times when transporting cash;
5. Requiring access to two-way communications between the transportation vehicle and the MTC;
6. Prohibiting the transportation of Marijuana or Marijuana Products at the same time that cash is being transported for deposit to a financial institution or DOR facility; and
7. Approval of the alternative safeguard by the financial institution or DOR facility.

(c) All written safety and security measures developed under this section shall be treated as security planning documents, the public disclosure of which would jeopardize public safety.

(7)(8) Security Requirements for MTC Home Delivery Operations.

(a) An MTC authorized to perform home delivery (MTC) shall implement adequate security measures to ensure that each vehicle used for transportation of Marijuana and Marijuana Products are not readily accessible to unauthorized individuals and to prevent and detect diversion, theft or loss of Marijuana. Security measures shall, at a minimum, include for each operational delivery vehicle:

1. A vehicle security system that includes an exterior alarm;
2. A secure, locked storage compartment that is a part of the vehicle and not easily removable for the purpose of transporting the Marijuana or Marijuana Products.
3. A secure, locked storage compartment that is secured to the vehicle and not easily removable for the purpose of transporting and securing cash used as payment for deliveries of Marijuana or Marijuana Products.
4. A means of secure communication between each vehicle and the MTC's dispatching location which shall be capable of being monitored at all times that a vehicle is performing a delivery route. Means of communication shall include:
  - a. Two-way digital or analog radio (UHF or VHF);
  - b. Cellular phone; or
  - c. Satellite phone.
5. A global positioning system (GPS) monitoring device that is:
  - a. Not a mobile device and that is attached to the vehicle at all times that the vehicle contains Marijuana or Marijuana Products; and
  - b. Monitored by the MTC at a fixed location during the transportation of Marijuana or Marijuana Products for the purpose of home delivery with location checks occurring at least every 30 minutes. The MTC may delegate monitoring of the GPS to the Third-party Technology Platform Provider with which the MTC has a contract, provided that the MTC Licensee shall be responsible for ensuring that monitoring occurs as required 935 CMR 501.000: *Medical Use of Marijuana* and the contract is made available for inspection and on request, submitted to the Commission.
6. A video system that includes one or more video cameras in the storage area of the vehicle and one or more video cameras in the driver area of the vehicle and which shall remain operational at all times during the entire transportation process and which shall have:
  - a. The ability to produce a clear color still photo whether live or recorded; and
  - b. A date and time stamp embedded in all recordings which shall be synchronized and set correctly at all times and ~~shall~~may not significantly obscure the picture.

7. All security equipment on vehicles shall be in good working order and shall be inspected and tested at regular intervals, no to exceed 30 calendar days from the previous inspection and test.
- (b) An MTC transporting Marijuana and Marijuana Products for home delivery shall ensure that all vehicles used for deliveries are staffed with a minimum of two MTC Agents. At least one MTC Agent shall remain with the vehicle at all times that the vehicle contains Marijuana or Marijuana Products.
- (c) The Commission may establish required training programs for MTC Agents that ~~shall~~~~must~~ be completed within a reasonable period of time and at the expense of the MTC. Trainings shall include, but may not be limited to, training on:
1. Safely conducting deliveries;
  2. Safe cash handling practices;
  3. Strategies for de-escalating potentially dangerous situations;
  4. Collecting and communicating information to assist in investigations;
  5. Procedures for checking identification;
  6. Indications of impairment;
  7. Notification to Qualifying Patients of use of mandatory recording devices; and
  8. Such other areas of training determined by the Commission to be included in a training program.
- (d) An MTC agent shall document and report any unusual discrepancy in inventory to the Commission and local law enforcement within 24 hours of the discovery of such a discrepancy.
- (e) An MTC shall report to the Commission and local law enforcement any vehicle accidents, diversions, losses, or other reportable incidents that occur during transport immediately and, under no circumstances, more than 24 hours of becoming aware of any accidents, diversions, losses, or other reportable incidents.
- (f) The following individuals shall have access to MTC operations and vehicles, including video recordings:
1. Representatives of the Commission in the course of responsibilities authorized by 935 CMR 501.000: *Medical Use of Marijuana*;
  2. Representatives of other state agencies of the Commonwealth of Massachusetts acting within their jurisdiction; and
  3. Law Enforcement Authorities and emergency medical services in the course of responding to an emergency.
- (g) 935 CMR 501.000: *Medical use of Marijuana* ~~shall~~~~may~~ not be construed to prohibit access to authorized law enforcement personnel or local public health, inspectional services, or other permit-granting agents acting within their lawful jurisdiction.
- (h) All vehicles used by the MTC for home delivery are subject to inspection and approval by the Commission prior being put into use. It shall be the MTCs responsibility to make the Commission aware of its intent to introduce a new vehicle into operation and ensure an inspection of the vehicle prior to commencing operation.



(i) Firearms are strictly prohibited from MTC vehicles and from MTC agents performing home deliveries.

(8)(9) Incident Reporting.

(a) An MTC shall immediately notify appropriate Law Enforcement Authorities and the Commission any breach of security or other reportable incident defined herein immediately and, in no instance, more than 24 hours following discovery of the breach or incident. Notification shall occur, but not be limited to, during the following occasions:

1. Discovery of inventory discrepancies;
2. Diversion, theft, or loss of any Marijuana Product;
3. Any criminal action involving the MTC or an MTC Agent or occurring on or in the MTC Premises;
4. Any suspicious act involving the sale, cultivation, distribution, Processing, or production of Marijuana by any person;
5. Unauthorized destruction of Marijuana;
6. Any loss or unauthorized alteration of records related to Marijuana, Registered Qualifying Patients, Personal Caregivers, or MTC Agents;
7. An alarm activation or other event that requires response by public safety personnel including, but not limited to, local law enforcement, municipal fire departments, public works or municipal sanitation departments, and municipal inspectional services department, or security personnel privately engaged by the MTC;
8. The failure of any security alarm system due to a loss of electrical power or mechanical malfunction that is expected to last longer than eight hours; or
9. Any other breach of security.

(b) An MTC shall, within ten calendar days, provide notice to the Commission of any incident described in 935 CMR 501.110(9)(a), by submitting an incident report in the form and manner determined by the Commission which details the circumstances of the event, any corrective actions taken, and confirmation that the appropriate Law Enforcement Authorities were notified.

(c) All documentation related to an incident that is reportable pursuant to 935 CMR 501.110(9)(a) shall be maintained by an MTC for no less than one year or the duration of an open investigation, whichever is longer, and made available to the Commission and to Law Enforcement Authorities acting within their lawful jurisdiction upon request.

(9)(10) Security Audits. An MTC ~~shall~~**must**, on an annual basis, obtain at its own expense a security system audit by a vendor approved by the Commission. A report of such audit ~~shall~~**must** be submitted, in a form and manner determined by the Commission, no later than 30 calendar days after the audit is conducted. If the audit identifies concerns related to the MTC's security system, the MTC ~~shall~~**must** also submit a plan to mitigate those concerns within ten business days of submitting the audit.

## TOPIC 10. OPERATIONS: SCOPE OF SAMPLING *New*

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935 CMR 500.120(13) and (14)  
935 CMR 500.130(8) and (9)  
935 CMR 500.140(12)

### Policy Question(s):

**Q 1** Whether Vendor and Quality Control Sample size should be increased? If so, how much?

### ED's comments.

### Regulatory Language:

500.120: Additional Operational Requirements for Indoor and Outdoor Marijuana Cultivators (Excerpted)

#### (13) Vendor Samples.

- (a) A Marijuana Cultivator may provide a Vendor Sample of Marijuana flower to a Marijuana Product Manufacturer or to a Marijuana Retailer. Provision of a Vendor Sample under this subsection shall not be considered a prohibited practice under 935 CMR 500.105(4)(b)6.
- (b) Vendor Samples provided under this subsection:
  - 1. May not be consumed on any licensed Premises;
  - 2. May not be sold to another licensee or Consumer;
  - 3. Shall be tested in accordance with 935 CMR 500.160: *Testing of Marijuana and Marijuana Products*; and
  - 4. Shall be transported in accordance with 935 CMR 500.105(13): *Transportation Between Marijuana Establishments*. A Marijuana Cultivator may include Vendor Samples with other Marijuana flower intended for transportation to an individual Marijuana Product Manufacturer or an individual Marijuana Retailer;
- (c) Vendor Sample limits. A Marijuana Cultivator is limited to providing the following aggregate amount of Vendor Samples to an individual Marijuana Product Manufacturer or an individual Marijuana Retailer in a calendar month period:
  - 1. Four grams per strain of Marijuana flower and no more than seven strains of Marijuana flower.
- (d) All Vendor Samples provided by a Marijuana Cultivator under 935 CMR 500.120(13): *Vendor Samples* shall be assigned a unique, sequential alphanumeric identifier and entered into the Seed-to-sale SOR in a form and manner to be determined by the Commission, and further, shall be designated as "Vendor Sample."



(e) Vendor Samples provided under this subsection shall have a legible, firmly Affixed label on which the wording is no less than 1/16 inch in size containing at minimum the following information:

1. A statement that reads: “VENDOR SAMPLE NOT FOR RESALE”;
2. The name and registration number of the Marijuana Cultivator;
3. The quantity, net weight, and type of Marijuana flower contained within the package; and
4. A unique sequential, alphanumeric identifier assigned to the Cultivation Batch associated with the Vendor Sample that is traceable in the Seed-to-sale SOR.

(14) Quality Control Samples.

(a) A Marijuana Cultivator may provide a Quality Control Sample of Marijuana flower to its employees for the purpose of ensuring product quality and determining whether to make the product available to sell. Provision of a Quality Control Sample under this subsection shall not be considered a prohibited practice under 935 CMR 500.105(4)(b)6.

(b) Quality Control Samples provided to employees under this section:

1. May not be consumed on the licensed Premises;
2. May not be sold to another licensee or Consumer; and
3. Shall be tested in accordance with 935 CMR 500.160: *Testing of Marijuana and Marijuana Products.*

(c) Quality Control Sample limits. A Marijuana Cultivator is limited to providing the following aggregate amount of Quality Control Samples to all employees in a calendar month period:

1. Four grams per strain of Marijuana flower and no more than seven strains of Marijuana flower.

(d) All Quality Control Samples provided by a Marijuana Cultivator under 935 CMR 500.120(14): *Quality Control Samples* shall be assigned a unique, sequential alphanumeric identifier and entered into the Seed-to-sale SOR in a form and manner to be determined by the Commission, and further, shall be designated as “Quality Control Sample.”

(e) Quality Control Samples provided under this subsection shall have a legible, firmly Affixed label on which the wording is no less than 1/16 inch in size containing at minimum the following information:

1. A statement that reads: “QUALITY CONTROL SAMPLE NOT FOR RESALE”;
2. The name and registration number of the Marijuana Cultivator;
3. The quantity, net weight, and type of Marijuana flower contained within the package; and
4. A unique sequential, alphanumeric identifier assigned to the Cultivation Batch associated with the Quality Control Sample that is traceable in the Seed-to-sale SOR.

(f) Upon providing a Quality Control Sample to an employee, the Marijuana Cultivator shall record:

1. The reduction in quantity of the total weight or item count under the unique alphanumeric identifier associated with the Quality Control Sample;
2. The date and time the Quality Control Sample was provided to the employee;
3. The agent registration number of the employee receiving the Quality Control Sample; and
4. The name of the employee as it appears on their agent registration card.

See also 500.130: Additional Operational Requirements for Marijuana Product Manufacturers subsection (8) and (9) and 500.140: Additional Operational Requirements for Retail Sale subsection (12).

## TOPIC 11. OPERATIONS: DISABILITY ACCESS *New*

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935 CMR 501.105(2) and (9)(d)(3)

### Policy Question(s):

- Q 1** Whether Responsible Vendor Training should include MTC agent and employee training for working with disabled populations?
- Q 2** Whether MEs and MTCs should be required to provide an agent and employee handbook that addresses disability accommodations?

### ED's comments.

### Regulatory Language:

#### 501.105: General Operational Requirements for Medical Marijuana Treatment Centers

~~(1)(2) MTC Agent Training. MTCs shall ensure that all MTC Agents complete training prior to performing job functions. Training shall be tailored to the roles and responsibilities of the job function of each MTC Agent, and at a minimum must include training on confidentiality, privacy, security and other topics as specified by the Commission. MTC Agents responsible for tracking and entering product into the Seed-to-sale SOR must receive training in a form and manner determined by the Commission. At a minimum, staff shall receive eight hours of ongoing training annually.~~

~~(a) MTCs shall ensure that all MTC Agents complete minimum training requirements prior to performing job functions.~~

~~1. At a minimum, MTC Agents shall receive a total of eight hours of training annually. The eight-hour total training requirement shall be tailored to the roles and responsibilities of the job function of each MTC Agent.~~

~~2. A minimum of four hours of training shall be from Responsible Vendor Training Program courses established under 935 CMR 501.105(2)(b). Any additional RVT hours over the four-hour RVT requirement may count toward the eight-hour total training requirement.~~

~~3. Non-RVT training may be conducted in-house by the MTC or by a third-party vendor engaged by the MTC. Basic on-the-job training MTCs provide in the ordinary course of business may be counted toward the eight-hour total training requirement.~~

~~4. Agents responsible for tracking and entering product into the Seed-to-sale SOR shall receive training in a form and manner determined by~~

the Commission. At a minimum, staff shall receive eight hours of on-going training annually.

5. MTCs shall maintain records of compliance with all training requirements noted above. Such records shall be maintained for four years and MTCs shall make such records available for inspection on request.

6. An individual who is both a Marijuana Establishment Agent and MTC Agent at a CMO location shall receive the training required for each license under which the agent is registered, including, without limitation, with respect to patient privacy and confidentiality requirements, which may result in instances that would require such an agent to participate in more than 8 hours of training.

(b) Responsible Vendor Training.

1. All current MTC Agents involved in the handling and sale of Marijuana for medical use at the time of licensure or renewal of licensure, as applicable, shall have attended and successfully completed a Responsible Vendor Training Program to be designated a "Responsible Vendor."

a. MTC Agents shall first take the Basic Core Curriculum.

b. On completing the Basic Core Curriculum, an MTC Agent is eligible to take the Advanced Core Curriculum.

c. Exception for Administrative Employees. MTC Agents who serve as administrative employees and do not handle or sell Marijuana are exempt from the four-hour RVT requirement but may take a Responsible Vendor Training Program course on a voluntary basis as part of fulfilling the eight-hour total training requirement.

2. Once an MTC is designated a Responsible Vendor, all MTC Agents employed by the MTC that are involved in the handling and sale of Marijuana for medical use shall successfully complete the Basic Core Curriculum within 90 days of hire.

3. After successful completion of the Basic Core Curriculum, each MTC Agent involved in the handling and sale of Marijuana for medical use shall fulfill the four-hour RVT requirement every year thereafter for the MTC to maintain designation as a Responsible Vendor. Failure to maintain Responsible Vendor status is grounds for action by the Commission.

4. Responsible Vendor Trainer Certification.

a. No owner, manager or employee of a Responsible Vendor Trainer may be a Person Or Entity Having Direct Or Indirect Ownership or Control of an MTC.

b. Responsible Vendor Trainers shall submit their program materials to the Commission prior to offering courses, every two years following for Commission certification of the Responsible Vendor Trainer and Responsible Vendor Training Program curriculum, and on request. The process for certification will be in a form and manner determined by the Commission.

c. Responsible Vendor Training Program courses shall consist of at least two hours of instruction time.

d. Except as provided in 935 CMR 501.105(2)(b)(4)(e),

Responsible Vendor Training Program courses shall be taught in a real-time, interactive, virtual or in-person classroom setting in which the instructor is able to verify the identification of each individual attending the program and certify completion of the program by the individual.

e. Responsible Vendor Training Program courses may be presented in a virtual format that is not taught in a real-time, provided that the Responsible Vendor Trainer, as part of its application for certification, can demonstrate means:

i. To verify the identification of each trainee participating in the program course and certify completion by the individual.

ii. To track trainees' time needed to complete the course training;

iii. To allow for the trainees to ask questions of the Responsible Vendor Trainer, for example, by email, virtual discussion board, or group/class discussion; and

iv. To evaluate each trainee's proficiency with course material.

f. Responsible Vendor Trainers shall seek certification for each Basic Core Curriculum and Advanced Core Curriculum. Applications for Advanced Core Curriculum certification will be open on or before July 1, 2022.

g. Responsible Vendor Trainers shall maintain its training records at its principal place of business for four years.

h. Responsible Vendor Trainers shall make the records available for inspection by the Commission and any other applicable licensing authority on request during normal business hours.

i. Responsible Vendor Trainers shall provide to the appropriate MTC and MTC Agent written documentation of attendance and successful evaluation of proficiency, such as passage of a test on the knowledge of the required curriculum for each attendee.

j. Trainees who can speak and write English fluently shall successfully demonstrate proficiency, such as passing a written test with a score of 70% or better.

k. MTC Agents who cannot speak or write English may be offered a verbal evaluation or test, provided that the same questions are given as are on the written test and the results of the verbal test are documented with a passing score of 70% or better.

l. Responsible Vendor Trainers shall solicit effectiveness evaluations from MTC Agents who have completed their program(s).

5. Basic Core Curriculum. The Basic Core Curriculum shall cover the following subject matter:

a. Marijuana's effect on the human body, including:

i. Scientifically based evidence on the physical and mental health effects based on the type of Marijuana Product;

ii. The amount of time to feel impairment;

iii. Visible signs of impairment; and

iv. Recognizing the signs of impairment.

- b. Diversion prevention and prevention of sales to minors, including best practices.
- c. Compliance with all tracking requirements.
- d. Acceptable forms of identification. Training shall include:
  - i. How to check identification;
  - ii. Spotting and confiscating fraudulent identification;
  - iii. Patient registration cards currently and validly issued by the Commission;
  - iv. Common mistakes made in identification verification.
  - v. Prohibited purchases and practices, including purchases by persons under the age of twenty-one in violation of M.G.L. c. 94G, § 13.
- e. Other key state laws and rules affecting MTC Agents, which shall include:
  - i. Conduct of MTC Agents;
  - ii. Permitting inspections by state and local licensing and enforcement authorities;
  - iii. Local and state licensing and enforcement, including registration and license sanctions;
  - iv. Incident and notification requirements;
  - v. Administrative, civil, and criminal liability;
  - vi. Health and safety standards, including waste disposal;
  - vii. Patrons prohibited from bringing marijuana and marijuana products onto licensed premises;
  - viii. Permitted hours of sale;
  - ix. Licensee responsibilities for activities occurring within licensed premises;
  - x. Maintenance of records, including confidentiality and privacy; and
- f. Such other areas of training determined by the Commission to be included in a Responsible Vendor Training Program.
- 6. Advanced Core Curriculum.
  - a. Each Advanced Core Curriculum class shall be approved by the Commission prior to being offered. The curriculum shall build on the knowledge, skills, and practices covered in the Basic Core Curriculum.
  - b. An Advanced Core Curriculum class shall include standard and best practices in one or more of the following areas
    - i. Cultivation;
    - ii. Product Manufacturing;
    - iii. Retail;
    - iv. Transportation
    - v. Social Consumption;
    - vi. Laboratory Science;
    - vii. Energy and Environmental Best Practices;
    - viii. Social Justice and Economically Reparative Practices;
    - ix. Implicit Bias and Diversity Training;
    - x. Worker Safety;

- xi. Food Safety and Sanitation;
- xii. Confidentiality and Privacy;
- xiii. In dept coverage of any topic(s) taught in the Basic Core Curriculum; or
- xiv. Such other topic as the Commission may approve in its sole discretion.

(9) Recordkeeping. Records of an MTC ~~shall~~must be available for inspection by the Commission, on request. The financial records of an MTC shall be maintained in accordance with generally accepted accounting principles. Written records that are required and are subject to inspection include, but are not limited to, all records required in any section of 935 CMR 501.000: Medical Use of Marijuana in addition to the following:

- (a) Operating procedures as required by 935 CMR 501.105(1): Written Operating Procedures;
- (b) Inventory records as required by 935 CMR 501.105(8)(e);
- (c) Seed-to-sale Electronic Tracking System records for all Marijuana and MIPs as required by 501.105(8)-(e);
- (d) The following personnel records:
  - (. . .)
  - 3. A staffing plan that will demonstrate accessible business hours and safe cultivation conditions;
  - Personnel policies and procedures, including, at a minimum, the following:
    - a. Code of ethics
    - b. Whistle-blower policy; and

**TOPIC 12.** MEDICAL: MTCs' COMPLIANCE WITH PRODUCT DATABASE REQUIREMENT *New*

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935 CMR 500.002  
935 CMR 500.130(6)  
935 CMR 500.140(10)

Policy Question(s):

**Q 1** Should MTCs be required to comply with the Product Database requirement?

ED's comments.

Regulatory Language:

501.002: Definitions (Excerpted)

Product Database means a Commission-operated technology platform displaying information about Marijuana Products produced by licensed Marijuana Product Manufacturers and sold by licensed Marijuana Retailer pursuant to 935 CMR 500.000 and 935 CMR 501.000.

500.130: Additional Operational Requirements for Marijuana Product Manufacturers (Excerpted)

...

(6) Product Database. In addition to the requirement to establish policies and procedures for maintaining a product catalogue under 935 CMR 500.130(5)(h), a Marijuana Product Manufacturer, after receiving a Provisional License but prior to receiving a Certificate to Commence Operations, shall provide the following information about the finished Marijuana Products it intends to produce and make available at wholesale to a Marijuana Retailer prior to commencement of operations. This information may be used by the Commission for its Product Database.

(a) The Marijuana Product Manufacturer shall provide the following:

1. Marijuana Product type;
2. Marijuana Product brand name;
3. List of direct ingredients;
4. List of indirect ingredients;
5. Serving size, including a description of what constitutes a serving size for a product that is not already a single serving;
6. Potency;
7. A photograph of a finished Marijuana Product outside of but next to the Marijuana Product's packaging, including any external or internal



packaging, provided however that where single servings of a multi-serving product are unable to be easily identified because of its form, a description of what constitutes a single serving shall be provided (e.g. a single serving is a 1" x 1" square), and where an Edible cannot be stamped, for example, due to size or a coating, the photograph of the Edible outside of but next to its external and internal packaging, such as the wrapper, and labeling information for the Edible;

8. A photograph of the Marijuana Product inside the packaging; and

9. A list of Marijuana Products to be sold based on anticipated or executed agreements between the Marijuana Product Manufacturer and Marijuana Retailer.

(b) Photographs submitted pursuant to 935 CMR 500.130(6): *Product Database* shall be electronic files in a JPEG format with a minimum photo resolution of 640 x 480 and print resolution of 300 DPI. Photographs shall be against a white background.

(c) A Marijuana Product Manufacturer shall provide the information required under 935 CMR 500.130(6)(a) for each Marijuana Product that it produces prior to the product being made available for sale through a licensed Marijuana Retailer or MTC and shall update the information whenever a substantial change to the product information occurs. Substantial changes, including changes to information listed in 935 CMR 500.130(6)(a)1.-9., shall be submitted to the Commission for inclusion in the Product Database prior to the transfer of- the Marijuana Product.

#### 500.140: Additional Operational Requirements for Retail Sale (Excerpted)

(10) Product Database. A Marijuana Retailer that purchases wholesale Marijuana Products from a licensed Marijuana Product Manufacturer for the purpose of Repackaging Marijuana Products for sale to consumers shall provide the Commission with the following information. This information may be used by the Commission for its Product Database.

(a) The Marijuana Retailer shall provide the following:

1. A photograph of a finished Marijuana Product outside of but next to the Marijuana Product's packaging, provided however that where single servings of a multi-serving product are unable to be easily identified because of its form, a description of what constitutes a single serving shall be provided (e.g. a single serving is a 1" x 1" square);
2. A photograph of the Marijuana Product inside packaging; and
3. The name of the Product Manufacturer that produced the Marijuana Product.

(b) Photographs submitted shall be electronic files in a JPEG format with a minimum photo resolution of 640 x 480 and print resolution of 300 DPI. Photographs shall be against a white background.

(c) Marijuana Retailers shall provide the information required under 935 CMR 500.140(8)(a) for each Marijuana Product it Repackages for sale prior to the product being made available for sale and shall update the information whenever a substantial change to packaging or label of the

Marijuana Product occurs. For purposes of this section, a substantial change shall be a change to the physical attributes or content of the package or label.

(11) In addition to the written operating policies required under 935 CMR 500.105(1):  
*Written Operating Procedures*, a Marijuana Retailer shall maintain written policies and procedures which shall include:

(a) Policies and procedures for adequately tracking, recording, and documenting all Vendor Samples that the Marijuana Retailer receives from a Marijuana Cultivator or a Marijuana Product Manufacturer; and

(b) Policies and procedures for adequately tracking, recording, and documenting all Vendor Samples that the Marijuana Retailer provides to employees for the purpose of assessing product quality and determining whether to make the product available to sell, in compliance with 935 CMR 500.140(15): *Patient Supply*.

## TOPIC 13. MEDICAL: CAREGIVERS

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935 CMR 501.002  
935 CMR 501.020(5)-(7)  
935 CMR 501.105(4)

### Policy Question(s):

**Q 1** Should Personal Caregivers be able to care for up to 10 Patients?

- i. Note Question on Next Slide: If Caregivers are allowed to cultivate for Patients, and Patients can cultivate 12 Flowering plants and 12 immature or vegetative plants, are Personal Caregivers allowed to cultivate that amount for each Patient so long as it is not in excess of 500 feet of Canopy?

**Q 2** Should Personal or Institutional Caregivers be restricted from participating in paid advertising?

### ED's comments.

### Regulatory Language:

#### 501.002: Definitions (Excerpted)

Institutional Caregiver means an employee of a hospice program, long-term care facility, or hospital providing care to a Registered Qualifying Patient on the Premises of a long-term care facility, hospital, or through a hospice program.

Personal Caregiver means a person, registered by the Commission, who is 21 years of age or older, who has agreed to assist with a Registered Qualifying Patient's medical use of Marijuana, and is not the Registered Qualifying Patient's Certifying Healthcare Provider. A visiting nurse, personal care attendant, or home health aide providing care to a Registered Qualifying Patient may serve as a Personal Caregiver, including as a second Personal Caregiver to patients younger than 18 years old.

#### 501.020: Temporary and Annual Registration of Personal Caregivers (Excerpted)

- (5) Except in the case of a visiting nurse, home health aide, personal care attendant, or immediate family member of more than one Registered Qualifying Patient, an individual may not serve as a Personal Caregiver for more than ~~one~~ten Registered Qualifying Patient at one time.
- (6) A Registered Qualifying Patient may designate up to two Personal Caregivers. If

the Registered Qualifying Patient has been granted a Hardship Cultivation Registration, the Personal Caregiver(s) may cultivate Marijuana on behalf of the Registered Qualifying Patient at only one location. Cultivation pursuant to a Hardship Cultivation Registration by a Personal Caregiver constitutes agreement to comply with the requirements of Hardship Cultivation Registration under 935 CMR 501.027: Hardship Cultivation Registration~~consent for such inspection of the cultivation site.~~

- (7) If a Registered Qualifying Patient has been granted a Hardship Cultivation Registration, the Personal Caregiver may cultivate a limited number of plants sufficient to maintain a 60-day supply of marijuana for each Registered Qualifying Patient solely for that patient's use, except that under no circumstances may a Personal Caregiver cultivate plants in excess of 500 square feet of Canopy.

501.105: General Operational Requirements for Medical Marijuana Treatment Centers  
(Excerpted)

...  
(4) ~~Marketing and~~ Advertising Requirements.

(a) Permitted Practices.

1. A Marijuana Establishment may develop a Brand Name~~business name and logo~~ to be used in labeling, signage, and other materials; provided however, that use of medical symbols, images of Marijuana or Marijuana Products, or related Paraphernalia images, that are appealing to persons younger than 21 years old, and colloquial references to Marijuana and Cannabis~~and Marijuana~~ are prohibited from use in ~~this business name and logo~~the Brand Name;

2. Brand Name Sponsorship of a charitable, sporting or similar event, so long as the following conditions are met:

- a. Sponsorship of the event is limited to the Brand Name.
- b. Any advertising at or in connection with such an event is prohibited, unless such advertising is targeted to entrants or participants reasonably expected to be 21 years of age or older, as determined by reliable, current audience composition data, and reasonable safeguards have been employed to prohibit advertising from targeting or otherwise reaching entrants or participants reasonably expected to be under 21 years of age, as determined by reliable, current audience composition data; unless such advertising is targeted to entrants or participants reasonably expected to be 21 years of age or older, as determined by reliable, current audience composition data, and reasonable safeguards have been employed to prohibit advertising from targeting or otherwise reaching entrants or participants reasonably expected to be under 21 years of age, as determined by reliable, current audience composition data; except that advertising, marketing, and branding at or in connection with such an event is prohibited, unless at least 85% of the audience is reasonably expected to be either 21 years of age or older or

~~individuals with a debilitating condition, as determined by reliable, current audience composition data;~~

~~2.3.~~ An MTC engaging in Brand Name Sponsorship under 935 CMR 501.105(4)(a)2. shall retain documentation of reliable, reasonable audience composition data that is the basis for allowing any such advertising or branding for a period of one (1) year, or longer if otherwise required by the Commission, or a court or agency with jurisdiction.

~~3.4.~~ An MTC may display, in secure, locked cases, samples of each product offered for sale and subject to the requirements of 935 CMR 501.110: *Security Requirements for Marijuana Treatment Centers*. These display cases may be transparent. An authorized MTC Agent may remove a sample of Marijuana from the case and provide it to the Registered Qualifying Patient for inspection, provided the Registered Qualifying Patient may not consume or otherwise use the sample, unless otherwise authorized in 935 CMR 501.000: *Medical Use of Marijuana*.

~~4.5.~~ The MTC may post prices in the store and may respond to questions about pricing. The MTC shall provide a catalogue or a printed list of the prices and strains of Marijuana available at the MTC to Registered Qualifying Patients and may post the same catalogue or printed list on its website and in the retail store.

~~5.6.~~ An MTC may engage in ~~reasonable marketing, advertising~~reasonable advertising and branding practices that are not otherwise prohibited in 935 CMR 501.105(4)(b) that do not jeopardize the public health, welfare or safety of the general public or promote the diversion of Marijuana or Marijuana use in individuals younger than 21 years old or otherwise promote practices inconsistent with the purposes of M.G.L. c. 94G or 94I. Any such ~~marketing, advertising~~ and branding created for viewing by the public shall include the statement "Please Consume Responsibly", in a conspicuous manner on the face of the advertisement and shall include a minimum of two of the following warnings in their entirety in a conspicuous manner on the face of the advertisement:

- a. "This product may cause impairment and may be habit forming";
- b. "Marijuana can impair concentration, coordination and judgment. Do not operate a vehicle or machinery under the influence of this drug";
- c. "There may be health risks associated with consumption of this product"; or
- ~~d. "For use only by adults 21 years of age or older. Keep out of the reach of children";~~ or
- d. "Marijuana should not be used by women who are pregnant or breastfeeding".

~~6.7.~~ An MTC may provide Brand Name take-away bags for the benefit of patients after a retail purchase is completed;

~~7. All marketing, advertising and branding produced by or on behalf of an MTC shall include the following warning, including capitalization, in accordance with~~

8. ~~M.G.L. c. 94G, § 4(a½)(xxvi):~~

~~“This product has not been analyzed or approved by the Food and Drug Administration (FDA). There is limited information on the side effects of using this product, and there may be associated health risks. Marijuana use during pregnancy and breast feeding may pose potential harms. It is against the law to drive or operate machinery when under the influence of this product. KEEP THIS PRODUCT AWAY FROM CHILDREN. There may be health risks associated with consumption of this product. Marijuana can impair concentration, coordination, and judgment. The impairment effects of Edible Marijuana Products may be delayed by two hours or more. In case of accidental ingestion, contact poison control hotline 1-800-222-1222 or 911. This product may be illegal outside of MA.”~~

(b) Prohibited Practices. The following advertising activities are prohibited:

1. ~~Advertising, marketing, and branding~~ in such a manner that is deemed to be is deceptive, misleading, false or fraudulent, or that tends to deceive or create a misleading impression, whether directly or by omission or ambiguity;

1.2. ~~Advertising, marketing and branding~~ by means of television, radio, internet, mobile applications, social media, or other electronic communication, billboard or other outdoor advertising, or print publication, unless at least 85% of the audience is reasonably expected to be 21 years of age or older or comprised of individuals with debilitating conditions, as determined by reliable and current audience composition data;

~~2.—Advertising, marketing, and branding that utilizes statements, designs, representations, pictures or illustrations that portray anyone younger than 21 years old.~~

~~Advertising, marketing, and branding including, but not limited to, mascots, cartoons, brand sponsorships and celebrity endorsements, that is deemed to appeal to a person younger than 21 years old.~~

~~3.—~~

4.3. ~~Advertising, marketing, and branding~~, including statements by a Licensee, that makes any false or statements concerning other Licensees and the conduct and products of such other Licensees that is deceptive, misleading, false or fraudulent, or that tends to deceive or create a misleading impression, whether directly or by omission or ambiguity;

~~5.—Advertising, marketing, and branding by a Licensee that asserts that its products are safe, or represent that its products have curative or therapeutic effects, other than labeling required pursuant to M.G.L. c. 94G, § 4(a½)(xxvi), unless supported by substantial evidence or substantial clinical data with reasonable scientific rigor as determined by the Commission;~~

6.4. Advertising on any billboards or any other public signage which fails to comply with all state laws and local ordinances ~~and requirements~~;

~~7.5.~~ Installation of any illuminated ~~neon~~ signage or external signage beyond the period of 30 minutes before sundown until closing, provided however, that the Commission may further specify minimum signage requirements;

~~8.6.~~ The use of vehicles equipped with radio or loudspeakers for the advertising of Marijuana or Marijuana Products;

~~9.7.~~ The use of radio or loudspeaker equipment in any MTC for the purpose of attracting attention to the sale of Marijuana or Marijuana Products;

~~10.~~ Advertising, marketing, and branding at, or in connection with, a charitable, sporting or similar event, unless at least 85% of the audience is reasonably expected to be 21 years of age or older, as determined by reliable, current audience composition data;

~~11.8.~~ Operation of any website of an MTC that fails to verify that the entrant is a Qualifying Patient or Caregiver ~~21 years of age or older~~ or the entrant is 21 years of age or older;

~~12.9.~~ Use of unsolicited pop-up advertisements on the internet or text message; unless the advertisement is a mobile device application installed on the device by the owner of the device who is a Qualifying Patient or Caregiver or 21 years of age or older and includes a permanent and easy opt-out feature;

~~13.10.~~ Any advertising, including the use of Brand Names, of an improper or objectionable nature including, but not limited to, ~~the use of recipe books or pamphlets for Marijuana Products which contain obscene or suggestive statements~~ the use or language or images offensive or disparaging to certain groups;

~~14.11.~~ Any Advertising, marketing or branding ~~advertising solely for the promotion of Marijuana or Marijuana Products on MTC Branded Goods, including but not limited to~~ clothing, cups, drink holders, apparel accessories, electronic equipment or accessories, sporting equipment, novelty items and similar portable promotional items;

~~15.12.~~ Advertising, ~~marketing or branding~~ on or in public or private vehicles and at bus stops, taxi stands, transportation waiting areas, train stations, airports, or other similar transportation venues including, but not limited to, vinyl-wrapped vehicles or signs or logos on transportation vehicles not owned by the MTC or company cars;

~~16.13.~~ ~~Advertising, marketing, branding,~~ The display of signs or other printed material advertising any brand or kind of Marijuana or Marijuana Products that are displayed on the exterior ~~or interior~~ of any licensed Premises; ~~where Marijuana Products are not regularly and usually kept for sale~~;

~~17.14.~~ Advertising ~~or marketing of the~~ price of Marijuana or Marijuana Products, except as permitted above pursuant to 935 CMR 501.105(4)(a) 5.;

~~18.15.~~ Display of Marijuana or Marijuana Products so as to be clearly visible to a person from the exterior of an MTC;



~~19.16.~~ Advertising, marketing or branding including any statement, design, representation, picture, or illustration that encourages or represents the use of Marijuana for any purpose other than to treat a Debilitating Medical Condition or related symptoms;

~~20. Advertising, marketing or branding, including any statement, design, representation, picture, or illustration that encourages or represents the recreational use of Marijuana; and~~

~~21. An MTC shall not display on the exterior of the facility advertisements for Marijuana or any brand name, and may only identify the building by the registered name.~~

(c) The Commission shall maintain and make available a list of all MTCs, their dispensing location, and their contact information.

(d) Nothing in 935 CMR 501.105(4): Advertising Requirements prohibits an MTC from using a mark provided by the Commission which uses images of Marijuana.

(e) CMOs shall comply with the requirements of each 935 CMR 500.105(4): Advertising Requirements and 935 CMR 500.105(4): Advertising Requirements with respect to the applicable license. A CMO may develop a single marketing campaign, provided, however, it shall apply the most restrictive requirements applicable under either license.



## TOPIC 14. MEDICAL: HARDSHIP CULTIVATION

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935 CMR 501.002  
935 CMR 501.020(5)-(7)  
935 CMR 501.027

### Policy Question(s):

- Q 1** Whether Patients and Personal Caregivers engaging in Hardship Cultivation should be required to notify municipalities or comply with municipal or state requirements for electrical usage or fire safety, and document its fire safety plan and electrical and fire inspections? *New*
- Q 2** Whether Personal Caregivers should be required to provide Patients with notice of cultivation conditions? *New*
- Q 3** Should Personal Caregivers be able to continue to cultivate for up to one Qualifying Patient who does not have a hardship cultivation registration, i.e., is a codification and continuation of the current practice/policy?
- Q 4** If Caregivers are allowed to cultivate for Patients, and Patients can cultivate 12 Flowering plants and 12 immature or vegetative plants, are Personal Caregivers allowed to cultivate that amount for each Patient so long as it is not in excess of 500 feet of Canopy? If yes, no regulatory change needed.
- Q 5** Where the Commission may inspect the hardship cultivation site of a Patient or Personal Caregiver, should the Commission further clarify its ability to perform inspections? For example: Whether the Commission must have a basis for the inspection? Whether the Commission may inspect at any time? Whether the Commission shall provide notice before an inspection? Clarify or define terms “reasonable notice” and “suspected diversion” in 501.027(12)? *New*

### ED’s comments.

### Regulatory Language:

#### 501.002: Definitions (Excerpted)

Hardship Cultivation Registration means a registration issued to a Registered Qualifying Patient under the requirements of 935 CMR 501.027: Hardship Cultivation Registration.

#### 501.020: Temporary and Annual Registration of Personal Caregivers (Excerpted)

- ...
- (5) Except in the case of a visiting nurse, home health aide, personal care attendant, or immediate family member of more than one Registered Qualifying Patient, an individual may not serve as a Personal Caregiver for more than ~~one~~ten Registered Qualifying Patient at one time.
  - (6) A Registered Qualifying Patient may designate up to two Personal Caregivers. If the Registered Qualifying Patient has been granted a Hardship Cultivation Registration, the Personal Caregiver(s) may cultivate Marijuana on behalf of the Registered Qualifying Patient at only one location. Cultivation pursuant to a Hardship Cultivation Registration by a Personal Caregiver constitutes agreement to comply with the requirements of Hardship Cultivation Registration under 935 CMR 501.027: Hardship Cultivation Registration~~consent for such inspection of the cultivation site.~~
  - (7) If a Registered Qualifying Patient has been granted a Hardship Cultivation Registration, the Personal Caregiver may cultivate a limited number of plants sufficient to maintain a 60-day supply of marijuana for each Registered Qualifying Patient solely for that patient's use, except that under no circumstances may a Personal Caregiver cultivate plants in excess of 500 square feet of Canopy.

#### 501.027: Hardship Cultivation Registration

- (1) A Qualifying Patient registered with the Commission pursuant to 935 CMR 501.015: Temporary and Annual Registration of Qualifying Patients may apply for a Hardship Cultivation Registration if such patient can demonstrate that his or her access to an MTC is limited by:
  - (a) Verified financial hardship;
  - (b) Physical incapacity to access reasonable transportation, as demonstrated by an inability to use public transportation or drive oneself, lack of a Personal Caregiver with a reliable source of transportation, and lack of an MTC that will deliver Marijuana to the patient's or Personal Caregiver's primary address; or
  - (c) Lack of an MTC within a reasonable distance of the patient's primary residence and lack of an MTC that will deliver Marijuana to the patient's or Personal Caregiver's primary address.
  - (d) Lack of access to a medicine essential for the Qualifying Patient's treatment plan.
- (2) To obtain a Hardship Cultivation Registration, a Registered Qualifying Patient shall, in a form and manner determined by the Commission, submit the following:
  - ~~(e) A nonrefundable registration fee, unless waived pursuant to 935 CMR 501.015(1)(g);~~
  - (d)(e) Information supporting a claim that access is limited due to one or more of the circumstances listed in 935 CMR 501.027(1);

~~(e)~~(f) \_\_\_\_\_ An explanation, including lack of feasible alternatives, to mitigate the limitation claimed under 935 CMR 501.027(1);

~~(f)~~(g) \_\_\_\_\_ A description and address of the single location that shall be used for the cultivation of Marijuana, which shall be either the Registered Qualifying Patient's or one Personal Caregiver's primary residence;

~~(g)~~(h) \_\_\_\_\_ A written explanation of how the Registered Qualifying Patient will cultivate Marijuana in accordance with the requirements of 935 CMR 501.027: Hardship Cultivation Registration;

~~(h)~~(i) \_\_\_\_\_ A description of the device or system that will be used to ensure security and prevent diversion of the Marijuana plants being cultivated;

~~(i)~~(j) \_\_\_\_\_ Written acknowledgment of the limitations on their authorization to cultivate, possess, and use Marijuana for medical purposes in the Commonwealth; and

~~(j)~~(k) \_\_\_\_\_ Any other information required by the Commission.

(3) The Commission shall review and approve or deny an application for a Hardship Cultivation Registration within 30 calendar days of receipt of a completed application.

(4) A Registered Qualifying Patient with a Hardship Cultivation Registration, or their Personal Caregiver(s), may cultivate only at the location specified in the application approved by the Commission.

~~(2) — At any given location, cultivation may occur pursuant to only one Hardship Cultivation Registration, absent proof that more than one Registered Qualifying Patient resides at the location.~~

(5) A Hardship Cultivation Registration will be valid for one year from the date of issue. The Commission will accept certificates of registration validly issued prior to the Program Transfer. A certificate will remain valid until a new certificate is issued by the Commission. On the issuance of a new certificate, the holder of the certificate shall destroy any previously issued certificate in a responsible manner that would prevent it from being used as a certificate.

(6) A Hardship Cultivation Registration may be renewed, in a form and manner determined by the Commission, on an annual basis, which includes, but is not limited to, meeting the requirements in 935 CMR 501.027(2).

(7) A Hardship Cultivation Registration shall allow the Registered Qualifying Patient or their Personal Caregiver(s) to cultivate a limited number of plants sufficient to maintain a 60-day Supply of Marijuana solely for that patient's use.

(8) A Registered Qualifying Patient is prohibited from possessing or cultivating more than 12 Flowering plants and 12 immature or vegetative plants, excluding Clones and cuttings, without a Hardship Cultivation Registration.

(9) Cultivation and storage of Marijuana shall be in an enclosed, locked area

accessible only to the Registered Qualifying Patient or their Personal Caregiver(s), subject to 935 CMR 501.840: Non-conflict with Other Laws. Marijuana may shall not be visible from the street or other public areas.

(10) A Registered Qualifying Patient or their Personal Caregiver(s) cultivating Marijuana pursuant to a Hardship Cultivation Registration shall adhere to industry best practices in the cultivation of Marijuana plants and storage of finished product, and any standards specified by the Commission.

(11) A Registered Qualifying Patient and their Personal Caregiver(s) are prohibited from selling, bartering, giving away or distributing in any manner Marijuana ~~or Paraphernalia~~ cultivated pursuant to a Hardship Cultivation Registration.

(12) The Commission may inspect the cultivation site of a Registered Qualifying Patient with a Hardship Cultivation Registration, or the cultivation site of their Personal Caregiver(s), at a reasonable time, with reasonable notice, taking into consideration the circumstances of the Registered Qualifying Patient. Acceptance of a Hardship Cultivation Registration by a Registered Qualifying Patient constitutes consent for such inspection of the cultivation site. The Commission may not provide notice in cases of suspected diversion, where the Commission is working with Law Enforcement Authorities.

(13) Registration for hardship cultivation may be available in a form and manner determined by the Commission. If, prior to the Program Transfer, a Registered Qualifying Patient received Written Certification of a Debilitating Medical Condition from a physician and used that Written Certification as a limited cultivation registration, the initial limited cultivation registration will remain valid until the application for the Hardship Cultivation Registration card is approved or denied by the Commission.

(14) After obtaining a Hardship Cultivation Registration, a Registered Qualifying Patient is responsible for notifying the Commission, in a form and manner determined by the Commission, within five business days after any change to the information that they or their Personal Caregiver(s) was previously required to submit to the Commission.

(15) A Registered Qualifying Patient with a Hardship Cultivation Registration, or their Personal Caregiver(s) if applicable, shall must have the registration available at the site of cultivation. The Commission may make such registration available on request of the Registered Qualifying Patient or other government agency acting within their lawful authority.

~~(3) — A Registered Qualifying Patient with a Hardship Cultivation Registration, or~~

~~their Personal Caregiver(s) if applicable, is prohibited from purchasing Marijuana from an MTC, provided however, that such individuals may purchase seeds.~~

## TOPIC 15. MEDICAL: OUT-OF-STATE PATIENTS

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[Primary Regulatory Sections]

935 CMR 500.002

935 CMR 501.002

### Policy Question(s):

**Q 1** Should out-of-state residents with “severe” conditions be allowed to register as a Patient?

### ED’s comments.

### Regulatory Language:

#### 501.002: Definitions (Excerpted)

Qualifying Patient means (i) a Massachusetts Resident or a non-Massachusetts Resident receiving end-of-life or palliative care or cancer treatment in Massachusetts, who is 18 years of age or older who has been diagnosed by a Certifying Healthcare Provider as having a Debilitating Medical Condition; or (ii) a Massachusetts Resident, or a non-Massachusetts Resident receiving end-of-life or palliative care or cancer treatment in Massachusetts, who is younger than 18 years old who has been diagnosed by two Massachusetts licensed Certifying Physicians, at least one of whom is a board-certified pediatrician, ~~or board-certified~~ pediatric subspecialist, oncologist, neurologist, or family physician as having a Debilitating Medical Condition that is also a Life-limiting Illness, subject to 935 CMR 501.010(10).

Registered Qualifying Patient means a Qualifying Patient who ~~was formerly and validly issued a Registration Card by the DPH or~~ is currently and validly issued a temporary or an annual Registration Card by the Commission.

**TOPIC 16. MEDICAL: VERTICAL INTEGRATION** *New*

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935 CMR 501.000

Policy Question(s):

**Q 1** Should the Commission exercise its authority to dismantle vertical integration?

- i. Whether the Commission has the authority under G.L. c. 94 and c. 94I, to dismantle vertical integration?
- ii. If the Commission concludes it has authority, whether the Commission should adopt a regulatory scheme that allows MTCs to apply for licenses and endorsements? See Excerpt from Former Commissioner Doyle Memo. Whether the proposed regulatory scheme is consistent with the licensing scheme set forth in G.L. c. 94 and c. 94I, and licensing limits established in G.L. c. 94G, § 16?

**Q 2** If “endorsements” are implemented for medical licenses, should the option exclusively be offered to equity, economic empowerment, co-ops, and women/minority/veteran owned businesses for 5 years?

ED’s comments.

Relevant Statutory Language:

G.L. c. 94I, § 1.

“‘Medical marijuana treatment center’, the premises approved under a medical use marijuana license.”

“‘Medical use marijuana license’, a license issued by the commission that permits the licensee to operate a medical marijuana treatment center.”

G.L. c. 94G, § 4(a)(x).

“The commission shall have all the powers necessary or convenient to carry out and effectuate its purposes including, but not limited to, the power to . . . “determine which applicants shall be awarded licenses.”

G.L. c. 94G, § 16.

“No licensee shall be granted more than 3 marijuana retailer licenses, 3 medical marijuana treatment center licenses, 3 marijuana product manufacturer licenses or 3 marijuana cultivator licenses; provided, however, that a licensee may hold 3 marijuana



retailer licenses, 3 medical marijuana treatment center licenses, 3 marijuana product manufacturer licenses and 3 marijuana cultivator licenses.”

G.L. c. 94I, § 7.

“The commission shall promulgate rules and regulations for the implementation of this chapter under the procedures of chapter 30A. The commission shall set application fees for medical marijuana treatment centers so as to defray the administrative costs of the medical marijuana program and ensure the medical marijuana program is revenue neutral. No regulation of the commission regarding the medical use of marijuana shall be more restrictive than any rule or regulation promulgated by the department of public health pursuant to chapter 369 of the acts of 2012 and in effect on July 1, 2017.”

G.L. c. 94I, § 1.

“‘Medical marijuana treatment center’, the premises approved under a medical use marijuana license.”

“‘Medical use marijuana license’, a license issued by the commission that permits the licensee to operate a medical marijuana treatment center.”

G.L. c. 94I, § 2(c).

“A medical marijuana treatment center and its employees registered with the commission shall not be penalized or arrested for acquiring, possessing, cultivating, processing, transferring, transporting, selling, distributing or dispensing medical use marijuana and related supplies and educational materials to qualifying patients or their personal caregivers.”

Former Commissioner Doyle proposed a regulatory scheme that allows MTCs to apply for licenses and endorsements as follows:

“Option #2: The Commission may choose to proceed with a regulatory solution that respects the statutory cap of 3 medical marijuana treatment centers, but stratifies the authorization of different parts of the operations into endorsements. Under such a solution, an operator would have a base medical marijuana treatment center license for a nominal fee, but would separately request a cultivation endorsement, marijuana product manufacturing endorsement or a retail endorsement for fees parallel to the adult fee for a similar license. Similar to the cap on licenses, endorsements would also be capped at 3 of each endorsement type per entity. The concept of license endorsement is already utilized in other industries as well as the adult use regulations (delivery endorsement for microbusinesses).”

Excerpt from Former Commissioner Doyle Memo submitted on behalf of writing group, dated April 30, 2020 (footnote omitted).

**TOPIC 17.** OTHER TOPICS NOT PREVIOUSLY RAISED

Note: *Receivership will be considered at the September public meeting.*

## **OTHER TOPICS NOT INCLUDED ON THE AGENDA**

DEFINITIONS: CRAFT MARIJUANA COOPERATIVE *New*

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935 CMR 500.002 and 500.050(3)

### Policy Question(s):

- Q 1** Whether to modify the definition of Craft Marijuana Cooperative so that an individual or entity can have an ownership interest without becoming a member?
- Q 2** Whether to modify the definition so that a member does not have to be a Massachusetts resident?

### ED's comments.

### Existing Regulatory Language:

#### 500.002: Definitions (Excerpted)

Craft Marijuana Cooperative means a Marijuana Cultivator comprised of residents of the Commonwealth and organized as a limited liability company, limited liability partnership, or cooperative corporation under the laws of the Commonwealth. A cooperative is licensed to cultivate, obtain, Manufacture, Process, package, brand and ~~t~~ransfer Marijuana or Marijuana Products to Marijuana Establishments, but not to Consumers.

#### 500.050: Marijuana Establishments

...

- (4) Craft Marijuana Cooperative.
  - (a) A Craft Marijuana Cooperative may be organized as a limited liability company, limited liability partnership, or a cooperative corporation under the laws of the Commonwealth.
  - (b) The Members or shareholders of the cooperative shall be residents of the Commonwealth for the 12 months immediately preceding the filing of an application for a license.

APPLICATION PROCESSION: ELIMINATION OF REPORTING OF BUSINESS  
TIMELINE AND APPROVAL OF CONSTRUCTION OR RENOVATION REQUIREMENTS  
*New*

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935 CMR 500.101 and 500.103  
935 CMR 501.101 and 501.103

Policy Question(s):

- Q 1** Whether to eliminate the proposed operational timeline requirement.
- Q 2** Whether to eliminate the requirement that “[c]onstruction or renovation related to such plans may not begin until the Commission has granted approval.”

ED’s comments.

Regulatory Language:

500.101: Application Requirements (Excerpted)

- (c) Management and Operations Profile. Each applicant shall submit, with respect to each application, a response in a form and manner specified by the Commission, which includes:

...

5. A proposed timeline for achieving operation of the Marijuana Establishment and evidence that the Marijuana Establishment will be ready to operate within the proposed timeline after notification by the Commission that the applicant qualifies for licensure;

500.103: Licensure and Renewal (Excerpted)

- (1) Provisional License. On selection by the Commission, an applicant shall submit the required license fee and subsequently be issued a provisional license to develop a Marijuana Establishment, in the name of the entity. Such provisional license shall be subject to reasonable conditions specified by the Commission, if any.

- (a) The Commission shall review architectural plans for the building or renovation of a Marijuana Establishment. Construction or renovation related to such plans ~~shall~~ may not begin until the Commission has granted approval. Submission of such plans shall occur in a manner and form established by the Commission including, but not limited to, a detailed floor plan of the Premises of the proposed Marijuana Establishment that identifies the square footage available and describes the functional areas of the Marijuana Establishment, including areas for any preparation of Marijuana Products, and, if applicable, such information for the single allowable off-Premises location in

Massachusetts where Marijuana will be cultivated or Marijuana Products will be prepared; and a description of plans to ensure that the Marijuana Establishment will be compliant with requirements of the Americans with Disabilities Act (ADA) Accessibility Guidelines.

APPLICATION PROCESS: SUITABILITY STANDARDS, SPECIFICALLY  
NONMANDATORY DISQUALIFICATIONS, IDENTIFICATION OF DISQUALIFYING  
PRIOR ACTIONS, VIOLENT CRIME DEFINITION *New*

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935 CMR 500.800 to 500.803

935 CMR 501.800 to 501.803

Policy Question(s):

- Q 1** Whether disqualifications not mandated by statute should be limited as follows:
- i. To allow for a waiver based on “rehabilitation,” which would include clarifying the standards for evaluating rehabilitation; or
  - ii. To limit the application of the disqualifying event based on years since the event.
- Q 2** Whether the disqualification for “[p]rior actions [that] posed or would likely pose a risk to the public health, safety, or welfare; and the risk posed by the [person’s] actions relates or would likely relate to the operation of an ME [or MTC]” should be modified to include the following:
- iii. “dishonest actions that relate or would likely relate to the operation of an ME [or MTC]”; or
  - iv. “actions creating a work environment that would be intimidating, hostile, or offensive to reasonable people, and the actions relate or would likely relate to the operation of an ME [or MTC].”
- Q 3** Whether the Violent Crime definition should be revised, where the regulations reference the definitions in G.L. c. 140, § 121 and G.L. c. 127, § 133E?

ED’s comments.

Relevant Statutory and Regulatory Language:

G.L. c. 140, § 121

“‘Violent crime’, shall mean any crime punishable by imprisonment for a term exceeding one year, or any act of juvenile delinquency involving the use or possession of a deadly weapon that would be punishable by imprisonment for such term if committed by an adult, that: (i) has as an element the use, attempted use or threatened use of physical force or a deadly weapon against the person of another; (ii) is burglary, extortion, arson or kidnapping; (iii) involves the use of explosives; or (iv) otherwise involves conduct that presents a serious risk of physical injury to another.”

G.L. c. 127, § 133E

“‘Violent crime’, any crime (a) for which an individual has been sentenced to imprisonment of 1 year or more, and (b) that: (i) has as an element the use, attempted use or threatened use of physical force or a deadly weapon against the person of another; (ii) is burglary, extortion, arson or kidnapping; (iii) involves the use of explosives; or (iv) otherwise involves conduct that presents a serious risk of physical injury to another.”

Definition proposed by public comment/CAB (Public Safety and Community Mitigation Subcommittee):

Violent Crime means a felony offense that (i) has as an element the use, attempted use or threatened use of physical force or a deadly weapon against the person of another; (ii) is a burglary, extortion, arson, or kidnapping; (iii) involves the use of explosives; or (iv) otherwise involves conduct that presents a serious risk of physical injury to another.

500.801: Suitability Standard for Licensure (Excerpted)

...

Table A: Marijuana Establishment Licensees. Shall apply solely to Persons or Entities Having Direct or Indirect Control in accordance with 935 CMR 500.101(1): New Applicants and 935 CMR 500.103(4): Expiration and Renewal of Licensure.

Time Period	Precipitating Issue	Result
Present (during time from start of application process through action on application or renewal)	Open/Unresolved Criminal Proceedings:  Any outstanding or unresolved criminal proceeding, the disposition of which may result in a felony conviction under the laws of the Commonwealth or Other Jurisdictions, but excluding any criminal proceeding based solely on a Marijuana-related offense or a violation of M.G.L. c. 94C, § 32E(a) or § 34.	Mandatory Disqualification
Present	Outstanding or Unresolved Criminal Warrants	Presumptive Negative Suitability Determination



Time Period	Precipitating Issue	Result
Present	<p>Submission of Untruthful Information to the Commission Including, but Not Limited to:</p> <p>Submission of information in connection with a License application, waiver request or other Commission action that is deceptive, misleading, false or fraudulent, or that tends to deceive or create a misleading impression, whether directly, or by omission or ambiguity; or</p> <p>making statements during or in connection with a Commission inspection or investigation that are deceptive, misleading, false or fraudulent, or that tend to deceive or create a misleading impression, whether directly, or by omission or ambiguity.</p>	Presumptive Negative Suitability Determination
Present	Open/Unresolved Marijuana License or Registration Violations (Massachusetts or Other Jurisdictions)	Presumptive Negative Suitability Determination
Present	Open Professional or Occupational License Cases	Presumptive Negative Suitability Determination
Indefinite	<p>Sex Offender Registration:</p> <p>Required to register as a sex offender in Massachusetts or an Other Jurisdiction.</p>	Mandatory Disqualification
Indefinite	<p>Felony Convictions in Massachusetts or an Other Jurisdiction Including, but Not Limited to:</p> <p>Felony weapons violation involving narcotics; Felony involving violence against a person; Felony involving theft or fraud; and</p> <p>Felony drug, excluding conviction solely for a Marijuana-related offense or solely for a violation of M.G.L. c. 94C, § 34.</p>	Mandatory Disqualification
Indefinite	Conviction or Continuance without a Finding (CWOFF) for Any Distribution of a Controlled Substance to a Minor	Mandatory Disqualification

Time Period	Precipitating Issue	Result
Indefinite	Non-felony Weapons Violations, Including Firearms, Involving Narcotics	Presumptive Negative Suitability Determination
Indefinite	Firearms-related Crimes	Presumptive Negative Suitability Determination
Indefinite	Multiple Crimes of Operating under the Influence  Two offenses within a ten-year period; or Three or more offenses within any period of time.	Presumptive Negative Suitability Determination
Preceding Five Years	Multiple Crimes  During the five years immediately preceding the application for licensure that separately may not result in a negative determination of suitability, but may, if taken together and tending to show a pattern of harmful behavior, result in a negative determination of suitability depending on the type and severity of the crimes.	Presumptive Negative Suitability Determination
Preceding Five Years	Crimes of Domestic Violence Including, but Not Limited to:  Violation of an abuse prevention restraining order under M.G.L. c. 209A  Violation of a harassment prevention order under M.G.L. c. 258E	Presumptive Negative Suitability Determination
Preceding Five Years	Marijuana License or Registration Violations (Massachusetts or Other Jurisdictions)  The applicant or a Licensee held a License that was revoked, a renewal application that was denied, or a similar action taken with relation to their Marijuana business in Massachusetts or Other Jurisdiction, whether by administrative action or stipulated agreement.	Mandatory Disqualification

Time Period	Precipitating Issue	Result
More than Five and less than Ten Years	<p>Marijuana License or Registration Violations (Massachusetts or Other Jurisdictions)</p> <p>The applicant or a Licensee held a License that was revoked, a renewal application that was denied, or a similar action taken with relation to their Marijuana business in Massachusetts or Other Jurisdiction, whether by administrative action or stipulated agreement.</p>	Presumptive Negative Suitability Determination
Preceding Five Years	<p>The applicant's or Licensee's prior actions posed or would likely pose a risk to the public health, safety, or welfare; and</p> <p>the risk posed by the applicant's or Licensee's actions relates or would likely relate to the operation of a Marijuana Establishment.</p>	May make a Negative Suitability Determination in accordance with 935 CMR 500.800(8)

935 CMR 500.802: Suitability Standard for Registration as a Marijuana Establishment Agent (Excerpted)

Table B: Retail, ~~Delivery-only~~Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement, Social Consumption Establishment, and Transporter Marijuana Establishment Agents.

Time Period	Precipitating Issue	Result
Preceding Five Years	<p><b>Felony Convictions in Massachusetts or Other Jurisdictions:</b></p> <p>For crimes of violence against a person or crimes of dishonesty or fraud, "violent crime" to be defined the same way as under M.G.L. c. 140, § 121 and M.G.L. c. 127, § 133E.</p>	Mandatory Disqualification

Table C: Marijuana Product Manufacturer Marijuana Establishment Agents.

	<b>Conviction or Continuance without a Finding (CWO) for Any Distribution of a Controlled Substance to a Minor</b>	
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Indefinite	<b>Failure to Register as a Sex Offender in Massachusetts or an Other Jurisdiction</b>	Mandatory Disqualification
	<b>Felony Convictions in Massachusetts or Other Jurisdictions for Crimes of Violence Against a Person or Crimes of Dishonesty or Fraud, "Violent Crime" to Be Defined the Same Way as under M.G.L. c. 140, § 121 and M.G.L. c. 127, § 133E.</b>	

Table D: Cultivation Marijuana Establishment Agents.

Indefinite	<b>Felony Convictions in Massachusetts or Other Jurisdictions</b>	Presumptive Negative Suitability Determination
	For crimes of violence against a person, "violent crime" to be defined the same way as under M.G.L. c. 140, § 121 and M.G.L. c. 127, § 133E	

Table E: Registration as a Laboratory Agent. (Excerpted)

Preceding Five Years	<b>Felony Convictions or CWOFF in Massachusetts or Other Jurisdictions:</b>	Presumptive Negative Suitability Determination
	For crimes of violence against a person, "violent crime" to be defined the same way as under M.G.L. c. 140, § 121 and M.G.L. c. 127, § 133E.	

See also 935 CMR 500.800: Background Check Suitability Standard for Licensure and Registration.

## OPERATIONS: TESTING REQUIREMENTS

[PowerPoint: Slides []]

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935 CMR 500.160(13)

935 CMR 501.160(12)

### Policy Question(s):

- Q 1** Should the requirement that the first retest at the same lab used for the initial test be reconsidered?
- Q 2** Where cannabis and cannabis products must be destroyed after 2 failed tests, should there be an exception for flower to be extracted into concentrate rather than destroyed?
- Q 3** What constitutes remediation? Does extraction count as remediation?
- Q 4** Should the requirement that the same sample be 'resubmitted' for retesting be reconsidered, given that samples are generally destroyed during testing and analysis? Alternatively, should the Commission require that a sample from the same batch be submitted for retesting?

### ED's comments.

### Regulatory Language:

#### 500.160: Testing of Marijuana and Marijuana Products (Excerpted)

...

- (13) A Licensee that receives notice that Marijuana or a Marijuana Product it has submitted for testing has failed any test for contaminants shall either reanalyze the Marijuana or Marijuana Product without remediation, take steps to remediate the identified contaminants, or dispose of the Marijuana or Marijuana Product.
  - (a) Reanalysis by a Second ITL. If the Licensee chooses to reanalyze the sample, the same sample shall be submitted for reanalysis at the ITL that provided the original failed result. If the sample passes all previously failed tests at the initial ITL, an additional sample representing the same sample set previously tested shall be submitted to a second ITL other than the initial ITL for a Second Confirmatory Test. To be considered passing and therefore safe for sale, the sample shall have passed the Second Confirmatory Test at a second ITL. Any Marijuana and Marijuana product that fails the Second Confirmatory Test may not be sold, transferred or otherwise dispensed to consumers, patients or Licensees. Any such product shall be destroyed.
  - (b) Remediation. If the Licensee chooses to remediate, a new test sample shall be submitted to a licensed ITL, which may include the initial ITL for a

full-panel test. Any failing Marijuana or Marijuana product may be remediated a maximum of two times. Any Marijuana or Marijuana product that fails any test after the second remediation attempt may not be sold, transferred or otherwise dispensed to consumers, patients or Licensees. Any such product shall be destroyed.

(c) If the Licensee chooses to dispose of the Marijuana or Marijuana Products, it shall do so in compliance with 935 CMR 500.105(12): *Waste Disposal*.

~~(13) Marijuana and Marijuana Products submitted for retesting prior to remediation must be submitted to an Independent Testing Laboratory other than the laboratory which provided the initial failed result. Marijuana submitted for retesting after documented remediation may be submitted to the same Independent Testing Laboratory that produced the initial failed testing result prior to remediation~~

#### 501.160: Testing of Marijuana and Marijuana Products

(12) A Licensee that receives notice that Marijuana or a Marijuana Product it has submitted for testing has failed any test for contaminants shall either reanalyze the Marijuana or Marijuana Product without remediation, take steps to remediate the identified contaminants or dispose of the Marijuana or Marijuana Product.

(a) If the Licensee chooses to reanalyze the sample, the same sample shall be submitted for reanalysis at the ITL that provided the initial failed result. If the sample passes all previously failed tests at the initial ITL, an additional sample representing the same sample set previously tested shall be submitted to a second ITL other than the original ITL for a Second Confirmatory Test. To be considered passing and therefore safe for sale, the sample shall have passed the Second Confirmatory Test at a second ITL. Any Marijuana and Marijuana product that fails the Second Confirmatory Test **may** not be sold, transferred or otherwise dispensed to consumers, patients or Licensees. Any such product shall be destroyed.

(b) If the Licensee chooses to remediate, a new test sample shall be submitted to any licensed ITL, which may include the initial ITL, for a full-panel test. Any failing Marijuana or Marijuana product may be remediated a maximum of two times. Any Marijuana or Marijuana product that fails any test after the second remediation attempt **may** not be sold, transferred or otherwise dispensed to consumers, patients or Licensees. Any such product shall be destroyed.

(c) If the Licensee chooses to dispose of the Marijuana or Marijuana Products, it shall do so in compliance with 935 CMR 501.105(12): *Waste Disposal*.

~~(12)(13) Marijuana and Marijuana Products submitted for retesting prior to remediation must be submitted to an Independent Testing Laboratory other than the laboratory which provided the initial failed result. Marijuana and Marijuana Products submitted for retesting after documented remediation may be submitted to the same Independent Testing Laboratory that produced the initial failed testing result prior to remediation.~~

TOPIC	New	POLICY QUESTION	Writing Group Lead (Not necessarily lead for policy discussion)
TOPIC 1: DEFINITIONS: CITIZEN REVIEW COMMITTEE	Yes	Q 1 Whether in response to feedback received from the Cannabis Advisory Board, to remove the definition of Citizen Review Committee?	None.
TOPIC 2: DEFINITIONS: CLONE, VEGETATIVE/IMMATURE PLANT, FLOWERING/MATURE PLANT	Yes	Q 1 Whether to clarify definition of Clone, Vegetative Plant, Immature Plant, Flowering Plant and Mature Plant to bring consistency between the regulations and the Guidance on Seed-to-Sale Tracking.	None.



TOPIC 3: DEFINITIONS APPLICATION PROCESS: APPLICATION OF ECONOMIC EMPOWERMENT APPLICANT PRIORITY STATUS	No	<p>Q 1 Whether the regulations and guidance need to clarify that in order for an EEA to maintain its EEA status, the applicant must meet at least one majority equity ownership criteria even though the original certified individuals are no longer involved or no longer hold majority ownership?</p> <p>Q 2 The current regulations do not state that an individual originally certified as an EEA, either as an individual or in association with an entity, can now apply as a new entity with EEA status. Should the regulations make it clear that these individuals can apply as a new entity with EEA status so long as it continues to meet three or more of the six criteria, at least one of which shall be a majority-equity-ownership criterion?</p>	Chairman
TOPIC 4: APPLICATION PROCESS: MEASUREMENT OF BUFFER ZONE	No	Q 1 Whether the Impassible Barrier definition should be revised.	Commissioner Title
	No	Q 2 Whether School Entrance, as defined in the draft regulations, should be modified.	Commissioner Title
	Yes	Q 3 Whether ME, and MTC, Entrance should be defined.	Commissioner Title
TOPIC 5: LICENSE TYPES: DELIVERY LICENSEES' ABILITY TO WHOLESALE AND WAREHOUSE	Yes	<p>Q 1 Whether Delivery Licensees should be allowed to wholesale?</p> <p>Q 2 If the answer to Q 1 is yes, should the licensee also be required to warehouse?</p>	Commissioner McBride
See Memo			

		<p>Q 3</p> <p>Should the Commission preserve the current courier model for Delivery Licensees? If the answer is yes, the following questions should be considered: i. Should the Delivery Licensee that is a courier be allowed to warehouse?</p> <p>ii. Should the Commission establish two different Delivery Licensee types:</p> <ol style="list-style-type: none"> <li>1. A courier; and</li> <li>2. A courier and wholesaler, which is allowed to warehouse.</li> </ol>	
	Yes	<p>Q 4</p> <p>If Delivery Licensees are permitted to engage in wholesaling activities, consider how Delivery operators will comply with regulatory requirements (e.g., collecting information about vape hardware, labeling of vapes and consumer notifications around vapes, safe handling, packing and labeling requirements) and whether Delivery Licensees should be limited in the type of product they can deliver?</p>	None
TOPIC 6: LICENSE TYPES: DURATION OF SOCIAL CONSUMPTION AND DELIVERY LICENSES EXCLUSIVITY PERIOD	Yes	<p>Q 1</p> <p>Whether the Exclusivity Period for adult-use delivery and social consumption should be extended?</p>	None.
TOPIC 7: LICENSE TYPES: DELIVERY LICENSEES, DELIVERY ENDORSEMENTS, SCOPE OF DELIVERY	Yes	<p>Q 1</p> <p>Whether Microbusinesses should be allowed to apply for a Delivery License?</p>	None.
	No	<p>Q 2</p> <p>Whether Delivery Licensees must be considered to be Marijuana Retailers under G.L. c. 94G, § 1 and the regulations?</p>	Commissioner McBride

	Yes	<p>Q 3 Should delivery licensees be allowed to deliver to any municipality?</p> <p>i. If the answer is yes, should the Commission eliminate the requirements set forth in 935 CMR 500.145(1)(k), including the restriction that a licensee cannot deliver to a particular municipality unless the Commission receives notice from that municipality?</p>	None.
TOPIC 8: LICENSE TYPES: DELIVERY LICENSEES' SCOPE OF PREMISES	Yes	<p>Q 1 Whether security and associated regulatory requirements for Premises should be relaxed for Delivery Licensees operating under only a "courier-style" delivery model? Whether to adopt similar requirements applicable to courier businesses in other industries?</p>	None.
TOPIC 9: LICENSE TYPES: ALL LICENSE TYPES' ABILITY TO SHARE SPACE  See Memo	Yes	<p>Q 1 Whether all license types, including delivery licenses, should be allowed to share space?</p>	None.
TOPIC 10: OPERATIONS: SCOPE OF SAMPLING	Yes	<p>Q 1 Whether Vendor and Quality Control Sample size should be increased? If so, how much?</p>	Commissioner Flanagan
TOPIC 11: OPERATIONS: DISABILITY ACCESS	Yes	<p>Q 1 Whether Responsible Vendor Training should include MTC agent and employee training for working with disabled populations?</p>	Chairman

		Q 2 Whether MEs and MTCs should be required to provide an agent and employee handbook that addresses disability accommodations?	Commissioner Title
TOPIC 12: MEDICAL: MTCs' COMPLIANCE WITH PRODUCT DATABASE REQUIREMENT	Yes	Q 1 Should MTCs be required to comply with the Product Database requirement?	Commissioner McBride
TOPIC 13: MEDICAL: CAREGIVERS	No	Q 1 Should Personal Caregivers be able to care for up to 10 Patients?	Commissioner Title
	Yes	Q 2 Should Personal or Institutional Caregivers be restricted from participating in paid advertising?	None
TOPIC 14: MEDICAL: HARDSHIP CULTIVATION	Yes	Q 1 Whether Patients and Personal Caregivers engaging in Hardship Cultivation should be required to notify municipalities or comply with municipal or state requirements for electrical usage or fire safety, and document fire safety plan and electrical and fire inspections?	Commissioner Title
	Yes	Q 2 Whether Personal Caregivers should be required to provide Patients with notice of cultivation conditions?	None
	No	Q 3 Should Personal Caregivers be able to continue to cultivate for up to one Qualifying Patient who does not have a hardship cultivation registration (codify and continue current practice/policy)?	Commissioner Title
	No	Q 4	Commissioner Title

		If Caregivers are allowed to cultivate for Patients, and Patients can cultivate 12 Flowering plants and 12 immature or vegetative plants, are Personal Caregivers allowed to cultivate that amount for each Patient so long as it is not in excess of 500 feet of Canopy? If yes, no regulatory change needed.	
	Yes	Q 5 Where the Commission may inspect the hardship cultivation site of a Patient or Personal Caregiver, should the Commission further clarify its ability to perform inspections? For example: Whether the Commission must have a basis for the inspection? Whether the Commission may inspect at any time? Whether the Commission shall provide notice before an inspection? Clarify or define terms “reasonable notice” and “suspected diversion” in 501.027(12)?	None.
TOPIC 15: MEDICAL: OUT-OF-STATE PATIENTS	No	Q 1 Should out-of-state residents with “severe” conditions be allowed to register as a Patient?	Commissioner Title
TOPIC 16: MEDICAL: VERTICAL INTEGRATION	Yes	Q 1 Should the Commission exercise its authority to dismantle vertical integration?  i. Whether the Commission has the authority under G.L. c. 94 and c. 94I, to dismantle vertical integration?  ii. If the Commission concludes it has authority, whether the Commission should adopt a regulatory scheme that allows MTCs to apply for licenses and endorsements? See Excerpt from Former Commissioner Doyle Memo. Whether the proposed regulatory scheme is consistent with the licensing scheme set forth in G.L. c. 94 and c. 94I, and licensing limits established in G.L. c. 94G, § 16?	None.

		Q 2 If “endorsements” are implemented for medical licenses, should the option exclusively be offered to equity, economic empowerment, co-ops, and women/minority/veteran owned businesses for 5 years?	None
TOPIC 17. OTHER TOPICS NOT PREVIOUSLY RAISED		Note: Receivership will be considered at the September public meeting.	
Topic taken off the Agenda:	Yes	<b>Topic: DEFINITIONS: CRAFT MARIJUANA COOPERATIVE</b>  1. Whether to modify the definition of Craft Marijuana Cooperative so that an individual or entity can have an ownership interest without becoming a member?  2. Whether to modify the definition so that a member does not have to be a Massachusetts resident?	None
		<b>TOPIC: APPLICATION PROCESSION: ELIMINATION OF REPORTING OF BUSINESS TIMELINE AND APPROVAL OF CONSTRUCTION OR RENOVATION REQUIREMENTS</b>  1. Whether to eliminate the proposed operational timeline requirement.  2. Whether to eliminate the requirement that “[c]onstruction or renovation related to such plans may not begin until the Commission has granted approval.”	None.

		<p><b>Topic: APPLICATION PROCESS: SUITABILITY STANDARDS, SPECIFICALLY NONMANDATORY DISQUALIFICATIONS, IDENTIFICATION OF DISQUALIFYING PRIOR ACTIONS, VIOLENT CRIME DEFINITION</b></p> <ol style="list-style-type: none"> <li>1. Whether disqualifications not mandated by statute should be limited as follows: <ol style="list-style-type: none"> <li>a. To allow for a waiver based on “rehabilitation,” which would include clarifying the standards for evaluating rehabilitation; or</li> <li>b. To limit the application of the disqualifying event based on years since the event.</li> </ol> </li> <li>2. Whether the disqualification for “[p]rior actions [that] posed or would likely pose a risk to the public health, safety, or welfare; and the risk posed by the [person’s] actions relates or would likely relate to the operation of an ME [or MTC]” should be modified to include the following: <ol style="list-style-type: none"> <li>a. “dishonest actions that relate or would likely relate to the operation of an ME [or MTC]”; or</li> <li>b. “actions creating a work environment that would be intimidating, hostile, or offensive to reasonable people, and the actions relate or</li> </ol> </li> </ol>	None



		<p>would likely relate to the operation of an ME [or MTC].”</p> <p>3. Whether the Violent Crime definition should be revised, where the regulations reference the definitions in G.L. c. 140, § 121 and G.L. c. 127, § 133E?</p>	
		<p><b>TOPIC: OPERATIONS: TESTING REQUIREMENTS</b></p> <p>1. Should the requirement that the first retest at the same lab used for the initial test be reconsidered?</p> <p>2. Where cannabis and cannabis products must be destroyed after 2 failed tests, should there be an exception for flower to be extracted into concentrate rather than destroyed?</p> <p>3. What constitutes remediation? Does extraction count as remediation?</p> <p>4. Should the requirement that the same sample be 'resubmitted' for retesting be reconsidered, given that samples are generally destroyed during testing and analysis? Alternatively, should the Commission require that a sample from the same batch be submitted for retesting?</p>	<p>Commissioner McBride</p>

August 14, 2020

RE: Public Comment

The Enforcement Department respectfully submits the following comments for consideration in connection with the Cannabis Control Commission's promulgation of draft regulations and notice of public comment dated July 24, 2020.

Sincerely,

\_\_\_\_\_  
/s/

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**1. Strengthen enforcement of inadequate disclosures under suitability and licensing regulations.**

- a. Applicability: 935 CMR 500.031(2), .032(1)(a), .400(2), .450(2), .801: Table A, .802: Tables B, C, and D, and .803: Table E.
- b. Proposed Language: “. . . deceptive, misleading, false or fraudulent, or that tends to deceive or create a misleading impression, whether directly, or by omission or ambiguity, **including lack of disclosure or insufficient disclosure.**”
- c. Rationale: Clarifies that a suitability or administrative licensing action may be taken against a licensee for failing to make a full disclosure on an application or response to Commission inquiry. This issue has been raised in recent Commission discussions regarding the disclosure of pending administrative, civil, and criminal actions and ownership interests.

**2. Clarify that an admission to sufficient facts or continuance without a finding does not constitute a conviction for purposes of reviewing suitability for licensure.**

- a. Applicability: 935 CMR 500.801(2)(e), .802(2)(e), and .803(2)(e)
- b. Proposed Language: Revise subsection (2)(e) as follows: “Unless otherwise specified in 935 CMR 500.80[#]: Table [#], a criminal condition, offense or violation shall mean ~~include both a~~ convictions, which includes a guilty pleas ~~and and dispositions resulting in continuances without a finding or other disposition constituting an admission to sufficient facts~~ **and excludes an admission to sufficient facts, continuance without a finding, or other disposition resulting in a non-conviction.**”
- c. Rationale: The suitability table identify some offenses as “convictions” and others as “crimes” or “non-felony violations.” The use of different terminology for “crimes” and “non-felony violations” (rather than remaining consistent with usage of “conviction” for other precipitating issues) prompted ambiguity as to whether the regulatory language intended for a precipitating issue to arise for a criminal charge resulting in an admission to sufficient facts. Unfortunately, the clarification attempted by 935 CMR 500.801(2)(e) (and related) was not a workable standard and requires clarification to harmonize suitability standards with state law.

Massachusetts courts accord separate treatment as to whether an admission to sufficient facts constitutes a conviction depending on whether the application is civil or criminal nature. Although Massachusetts courts have consistently held that “[a]n admission to sufficient facts is treated as a plea of guilty,” Com. v. Rodriguez, 467 Mass. 1002, 1004 (2014) (citing Luke v. Commonwealth, 421 Mass. 415, 418 n. 6, (1995)), the Supreme Judicial Court clarified in Souza that equating an admission to sufficient fact disposition to a conviction is only



applicable in the criminal context, particularly, in instances where such construction affords individuals greater procedural protections. Souza v. Registrar of Motor Vehicles, 462 Mass. 227, 234 (2012). Prior to any regulatory change and to the extent the existing regulation conflicts with Souza, it is assumed that staff will apply Souza in evaluating an applicant or licensee's suitability.

In addition to the operational and legal conformance, the regulation change further harmonizes the Commission's suitability standards with its statutory mission to promote and encourage full participation in the regulated marijuana industry by people from communities that have previously been disproportionately harmed by marijuana prohibition and enforcement.

**3. Clarify that a license application may be deemed incomplete for purpose of undertaking a suitability review or application review based on new information consistent with application evaluation criteria.**

- a. Applicability: 935 CMR 500.102(1)(b), and (e)
- b. Proposed Language:
  - i. Revise 935 CMR 500.102(1)(b) as follows: (b) The Commission shall notify each applicant in writing that: 1. the application has been deemed complete; 2. **The application has been deemed incomplete**, or 3. the Commission requires further information within a specified period of time before the packet is determined to be complete."
  - ii. Add the following after the last sentence in 935 CMR 500.102(1)(e): **"If an application initially deemed complete, and later deemed incomplete, a notice will be provided to the applicant. An incomplete application must be fully evaluated pursuant to 935 CMR 500.102(1)(a) prior to being deemed complete again and submitted to the Commission pursuant to M.G.L. c. 94G, sec. 5(a)."**
- c. Rationale: Existing regulations provide that "[i]f a material change occurs to an application deemed complete, the Commission may deem the application incomplete pending further review." The proposed language clarifies the process for deeming an application complete consistent with existing practice for deeming applications complete. The proposed language clarifies expectation that an application deemed incomplete must be evaluated under the evaluation criteria under 935 CMR 500.102(1)(a) prior to being deemed complete again.

**4. Establish clear authority for the Commission to order disposal of product deemed non-compliant with the Commission's regulation**

- a. Applicability: 935 CMR 500.105(12); 935 CMR 500.160(3)(a)(1); 935 CMR 500.330.



b. Proposed Language

i. Revise 935 CMR 500.330(1) as follows:

1. “If the Commission or a Commission Delegee determines that a Marijuana Establishment does not substantially comply with applicable provisions of St. 2016, c. 334, as amended by St.2017, c. 55, M.G.L. c. 94G, or 935 CMR 500.000, the Commission or a Commission Delegee may order that the Marijuana Establishment shall **dispose of or** not sell Marijuana or Marijuana Products, after a date specified.”

ii. Revise 935 CMR 500.330(2) as follows:

1. “The Commission or a Commission Delegee shall not make such a determination until a Marijuana Establishment has been notified that the establishment does not substantially comply with applicable provisions of St. 2016, c. 334, as amended by St. 2017, c. 55, M.G.L. c. 94G, or 935 CMR 500.000, that an order to **dispose or** limit sales is contemplated, and that the establishment has a reasonable opportunity to correct the deficiencies.”

iii. Revise 935 CMR 500.330(3) as follows:

1. “An order that a Marijuana Establishment shall **dispose or** not sell Marijuana or Marijuana Products pursuant to 935 CMR 500.330(1) may be rescinded when the Commission or a Commission Delegee finds that the establishment is in substantial compliance with the applicable provisions of St. 2016, c. 334, as amended by St. 2017, c. 55, M.G.L. c. 94G, or 935 CMR 500.000.”

- c. Rationale: The existing regulations provide that licensees must have a plan to dispose of marijuana that cannot be remediated after testing by an Independent Testing Laboratory. The existing regulations also provide for the proper method to dispose of marijuana. However, the regulations lack explicit regulatory notice and authority to order a licensee to dispose of marijuana. An order to dispose of marijuana or marijuana products must be supported by reliable and credible evidence that the marijuana or marijuana product cannot achieve substantial compliance with the Commission’s regulations after notice and a reasonable opportunity to correct the deficiencies.

**5. Clarify that the Commission may return insufficient plans of correction for amendment, that approval of a plan of correction does not preclude corresponding administrative action, and proposing a process to bring the plan of correction to a close.**

- a. Applicability: 935 CMR 500.310, .320



b. Proposed Language:

- i. Revise 935 CMR 500.320(3) as follows: “The Commission shall review the plan of correction and shall notify the Marijuana Establishment of either the acceptance or rejection of the plan **or any component of the plan.**”
  - ii. Add the following new subsection as 935 CMR 500.320(5): “**The approval of a plan of correction shall not preclude the Commission from issuing an order for further corrective action fixing a reasonable time for correction of the violation, assessment of an administrative fine, or taking any other administrative action authorized under the Commission’s regulations.**”
  - iii. Add the following new subsection as 935 CMR 500.320(6): “**Marijuana Establishments shall notify the Commission once the plan of correction has been fully implemented and completed.**”
- c. Rationale: Rejected plans of correction are rarely rejected in their entirety. The proposed change clarifies that a plan of correction may be returned for amendment of specific aspects of the licensee’s proposed corrective action. The addition of subsection (5) clarifies that the approval of a plan of correction does not displace authority under 935 CMR 500.360(1)(d) (authorizing assessment of administrative fine and/or order for corrective action). The addition of subsection (6) provides a degree of closure to the notice of deficiency and provides greater certainty about expectations and timing for the imposition of administrative action.

6. **Provide language that addresses interference with the process of an investigation or inspection.**

- a. Applicability: 935 CMR 500.301, .302, and .303.
- b. Proposed Language:
  - i. Revise 935 CMR 500.301(4) as follows:
    1. “A Marijuana Establishment shall make all reasonable efforts to facilitate the inspection or investigation of an incident or a complaint, including the taking of samples, photographs, video or other evidence or recordings, and complying with demands for examination and inspection in accordance with 935 CMR 500.302. **A Marijuana Establishment shall not directly communicate with Commissioners or executive staff with decision-making authority to issue an order to show cause or other administrative action that could result from a particular investigation.**”
  - ii. Revise 935 CMR 500.302(5) as follows:



1. “The failure to cooperate with the provisions of 935 CMR 500.302 or interference with the process of those carrying out the provisions of 935 CMR 500.302 may result in administrative disciplinary action against the Licensee.”
- iii. Revise 935 CMR 500.303(5) as follows:
  1. “The failure to cooperate with the provisions of 935 CMR 500.303 or interference with the process of those carrying out the provisions of 935 CMR 500.303 may result in administrative disciplinary action against the Licensee.”
- c. **Rationale:** This proposed language is an attempt to curb the practice of ex parte communication with Commissioners and Commission staff who may be part of the decision making process on active or ongoing investigations. These communications interfere with the ability of Investigators and Compliance Officers conducting a thorough and accurate investigation.

**7. Clarify that an applicant must disclose all state and federal administrative actions in a manner consistent with disclosure of civil actions.**

- a. **Applicability:** 935 CMR 500.101(1)(b)(3)b., d. and e.
- b. **Proposed language:**
  - i. Revise 935 CMR 500.101(1)(b)(3)d. as follows:
    - a. A description and the relevant dates of any administrative action ~~with regard to any professional license, registration, or certification,~~ including any complaint, order, stipulated agreement or settlement, or disciplinary action, by the Commonwealth, or like action in an Other Jurisdiction including, but not limited to:
      - i. ~~any complaint or issuance of an order relating to the denial, suspension, or revocation, or other action with regard to~~ a professional or occupational license, registration, or certification or the surrender of a license;
      - ii. administrative actions with regard to unfair labor practices, employment discrimination, or other prohibited labor practices
      - iii. administrative actions with regard to financial fraud, securities regulation, or consumer protection.
    - ii. Delete 935 CMR 500.101(1)(b)(3)e.
  - c. **Rationale:** The proposed language conforms the regulations to recent Commission public meeting discussion seeking disclosure of administrative actions beyond denial, suspension, revocation, or other action against professional and occupational licenses. The current language includes a broad disclosure requirement for civil actions. The separate disclosure requirements for



administrative actions could be incorrectly read as creating a separate, narrower disclosure category for civil administrative actions.

**8. Correct an inconsistent reference to meaning of “Persons and Entities Having Direct or Indirect Control”**

- a. Applicability: 935 CMR 500.101(1)(b)(3)
- b. Proposed Language: Revise 935 CMR 500.101(1)(b)(3) as follows: “All Persons and Entities Having Direct or Indirect Control, ~~including~~ **and** those individuals and entities contributing 10% or more in the form of a loan, shall provide information detailing involvement in any of the following criminal, civil, or administrative matters.”
- c. Rationale: The existing regulatory language suggests that an individual contributing a 10% financial interest in the form of a commercially reasonable loan is “included” among the meaning of “Persons and Entities Having Direct or Indirect Control.” The proposed regulation assumes that lenders were intended to be subject to background checks.

NOTE: The above comments refer both to the adult-use and medical-use programs. All references to 935 CMR 500.000, *et seq.* are intended to refer and incorporate corresponding regulatory sections under 935 CMR 501.000, *et seq.*





# Cannabis Control Commission

## Regulatory Policy Discussion

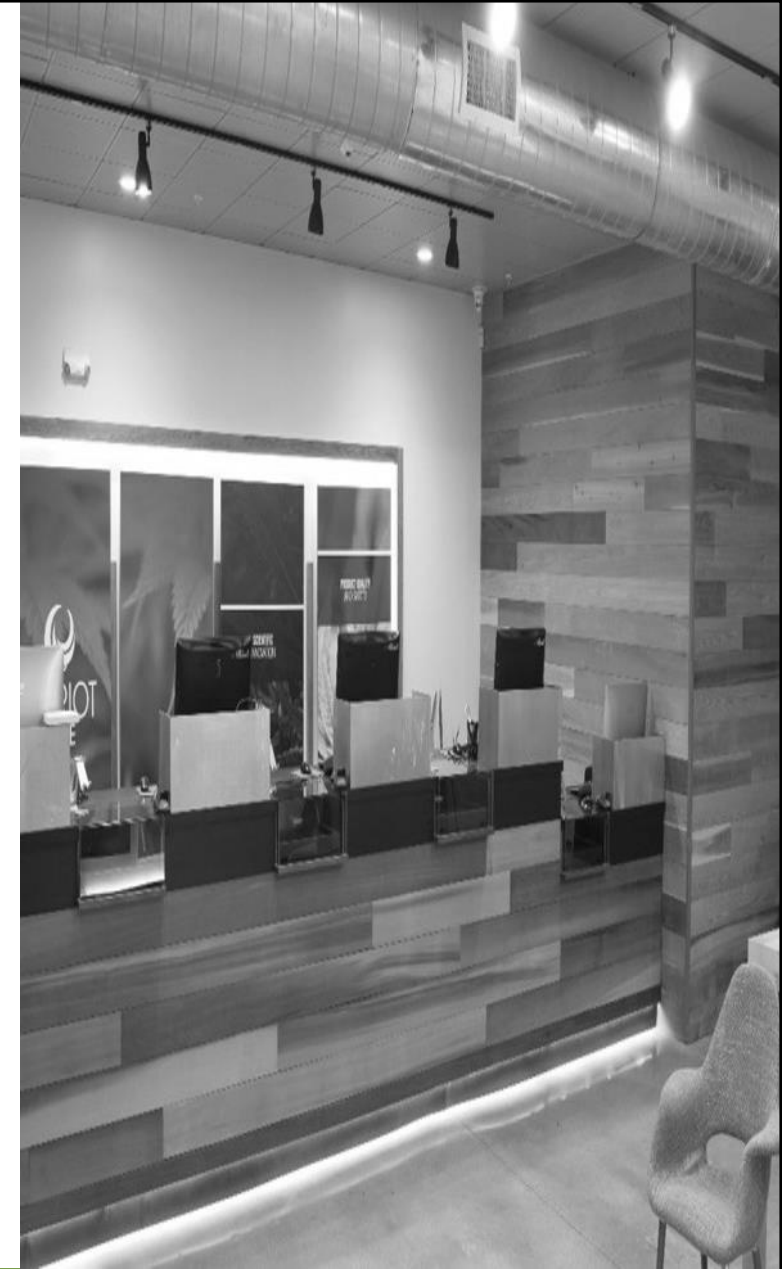
August 28, 2020 at 10:00 a.m. via Microsoft Teams Live

# Agenda

1. Call to Order
2. Chairman's Comments and Updates
3. Regulatory Policy Discussion
4. Next Meeting
5. Adjournment

# Topics

1. Citizen Review Committee
2. Clone, Vegetative/Immature Plant, Flowering/Mature Plant Definitions
3. Applications of Economic Empowerment Applicants
4. Buffer Zones
5. Delivery Licensees' Ability to Wholesale and Warehouse
6. Duration of Social Consumption and Delivery Licenses Exclusivity
7. Delivery Licensees, Delivery Endorsements, Scope of Delivery
8. Delivery Licensees' Scope of Premises




# Topics

9. All License Types' Ability to Share Space
10. Scope of Sampling
11. Disability Access
12. MTC's Compliance with Product Database Requirement
13. Caregivers
14. Medical Hardship Cultivation
15. Out-of-State Patients
16. Medical Vertical Integration
17. Other Topics Not Previously Raised







# Regulatory Policy Discussion

## 1. Citizen Review Committee

Q 1: Whether in response to feedback received from the Cannabis Advisory Board, to modify the definition of Citizen Review Committee?



## 2. Clone, Vegetative/Immature Plant, Flowering/Mature Plant Definitions

Q1: Whether to clarify certain definitions and regulatory language associated with Clones, Vegetative Plant, and immature plants to bring consistency between the regulations and the Guidance on Seed-to-Sale Tracking.

### 3. Applications of Economic Empowerment Applicant Priority Status

Q 1: Whether the regulations and guidance need to clarify that in order for an EEA to maintain its EEA status, the applicant must meet at least one majority equity ownership criteria even though the original certified individuals are no longer involved or no longer hold majority ownership?

Q 2: The current regulations do not state that an individual originally certified as an EEA, either as an individual or in association with an entity, can now apply as a new entity with EEA status. Should the regulations make it clear that these individuals can apply as a new entity with EEA status so long as it continues to meet three or more of the six criteria, at least one of which shall be a majority-equity-ownership criterion?



## 4. Buffer Zones

Q 1: Whether the Impassible Barrier definition should be revised.

Proposed Language: **Impassible Barrier** means, for the purposes of determining the 500 feet buffer zone, a highway, public or private way or path, structure or structures or row of buildings, body of water, or other obstruction that renders any part of the 500-foot straight-line distance between a Marijuana Establishment and a school inaccessible by a pedestrian or automobile.

Q2: Whether School Entrance, as defined in the draft regulations, should be modified.

Proposed Language: **School Entrance** shall mean the entrance that provides ingress and egress to the students of the pre-existing public or private school providing education in kindergarten or any grades 1 through 12 at the time of the newspaper publication of the proposed Marijuana Establishment's community outreach meeting as required by 935 CMR 500.101(1)(a)(9)(a) license application;

Q3: Whether ME, and MTC, Entrance should be defined.

Proposed Language: **Marijuana Establishment Entrance** shall mean the entrance or entrances that provides ingress and egress to Consumers and Registered Qualifying Patients to the Marijuana Establishment.

## 5. Delivery Licensees' Ability to Wholesale and Warehouse

- Q1: Whether Delivery Licensees should be allowed to wholesale?
- Q2: If the answer to Q 1 is yes, should the licensee also be required to warehouse?
- Q3: Should the Commission preserve the current courier model for Delivery Licensees? If yes, the following questions should be considered:
- i. Should the Delivery Licensee that is a courier be allowed to warehouse?
  - ii. Should the Commission establish two different Delivery Licensee types:
    - 1. A courier; and
    - 2. A courier and wholesaler, which is allowed to warehouse.
- Q4: If Delivery Licensees are permitted to engage in wholesaling activities, consider how Delivery operators will comply with regulatory requirements (e.g., collecting information about vape hardware, labeling of vapes and consumer notifications around vapes, safe handling, packing and labeling requirements) and whether Delivery Licensees should be limited in the type of product they can deliver?

## 6. Duration of Social Consumption and Delivery Licenses Exclusivity

Q1: Whether the Exclusivity Period for adult-use delivery and social consumption should be extended?

## 7. Delivery Licensees, Delivery Endorsements, Scope of Delivery

Q1: Whether Microbusinesses should be allowed to apply for a Delivery License?

Q2: Whether Delivery Licensees must be considered Marijuana Retailers under G.L. c. 94G, § 1 and the regulations?

Q3: Should delivery licensees be allowed to deliver to any municipality?  
i. If yes, should the Commission eliminate the requirements set forth in 935 CMR 500.145(1)(k), including the restriction that a licensee cannot deliver to a particular municipality unless the Commission receives notice from that municipality?

## 8. Delivery Licensees' Scope of Premises

Q1: Whether security and associated regulatory requirements for Premises should be relaxed for Delivery Licensees operating under only a “courier-style” model? Whether to adopt similar requirements applicable to courier businesses in other industries?

## 9. All License Types' Ability to Share Space

Q1: Whether all license types, including delivery licenses, should be allowed to share space?

## 10. Scope of Sampling

Q1: Whether Vendor and Quality Control Sample size should be increased? If so, how much?

## 11. Disability Access

- Q1: Whether Responsible Vendor Training should include MTC agent and employee training for working with disabled populations?
- Q2: Whether MEs and MTCs should be required to provide an agent and employee handbook that addresses disability accommodations?



## 12. MTC's Compliance with Product Database Requirement

Q1: Should MTCs be required to comply with the Product Database requirement?

## 13. Caregivers

- Q1: Should Personal Caregivers be able to care for up to 10 Patients?
- i. If Caregivers are allowed to cultivate for Patients, and Patients can cultivate 12 Flowering plants and 12 immature or vegetative plants, are Personal Caregivers allowed to cultivate that amount for each Patient so long as it is not in excess of 500 feet of Canopy?
- Q2: Should Personal or Institutional Caregivers be restricted from participating in paid advertising?

## 14. Medical Hardship Cultivation

Q1: Whether Patients and Personal Caregivers engaging in Hardship Cultivation should be required to notify municipalities or comply with municipal or state requirements for electrical usage or fire safety, and document its fire safety plan and electrical and fire inspections?

Q2: Whether Personal Caregivers should be required to provide Patients with notice of cultivation conditions?

Q3: Should Personal Caregivers be able to continue to cultivate for up to one Qualifying Patient who does not have a hardship cultivation registration, i.e., is this a codification and continuation of the current practice/policy?

## 14. Medical Hardship Cultivation (cont'd)

Q4: If Caregivers are allowed to cultivate for Patients, and Patients can cultivate 12 Flowering plants and 12 immature or vegetative plants, are Personal Caregivers allowed to cultivate that amount for each Patient so long as it is not in excess of 500 feet of Canopy? If yes, no regulatory change needed.

Q5: Where the Commission may inspect the hardship cultivation site of a Patient or Personal Caregiver, should the Commission further clarify its ability to perform inspections?

For example: Whether the Commission must have a basis for the inspection? Whether the Commission may inspect at any time? Whether the Commission shall provide notice before an inspection? Clarify or define terms “reasonable notice” and “suspected diversion” in 501.027(12)?

## 15. Out-of-State Patients

Q1: Should out-of-state residents with “severe” conditions be allowed to register as a Patient?

## 16. Medical Vertical Integration

- Q1: Should the Commission exercise its authority to dismantle vertical integration?
- i. Whether the Commission has the authority under G.L. c. 94 and c. 94I, to dismantle vertical integration?
  - ii. If the Commission concludes it has authority, whether the Commission should adopt a regulatory scheme that allows MTCs to apply for licenses and endorsements? See Excerpt from Former Commissioner Doyle Memo. Whether the proposed regulatory scheme is consistent with the licensing scheme set forth in G.L. c. 94 and c. 94I, and licensing limits established in G.L. c. 94G, § 16?
- Q2: If “endorsements” are implemented for medical licenses, should the option exclusively be offered to equity, economic empowerment, co-ops, and women/minority/veteran owned businesses for 5 years?

## 17. Other Topics Not Previously Raised



# Upcoming Meetings

## Monthly Meeting: September 10, 2020

### Final Regulations: TBD

via Microsoft Teams Live