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Section 1



Acts

2012

CHAPTER 369 AN ACT FOR THE HUMANITARIAN MEDICAL USE OF MARIJUANA.

Be it enacted by the People, and by their authority, as follows:

Section 1. Purpose and Intent.

The citizens of Massachusetts intend that there should be no punishment under state law for qualifying patients, physicians and health care professionals, personal caregivers for patients, or medical marijuana treatment center agents for the medical use of marijuana, as defined herein.

Section 2. As used in this Law, the following words shall, unless the context clearly requires otherwise, have the following meanings:

(A) "Card holder" shall mean a qualifying patient, a personal caregiver, or a dispensary agent of a medical marijuana treatment center who has been issued and possesses a valid registration card.

(B) "Cultivation registration" shall mean a registration issued to a medical marijuana treatment center for growing marijuana for medical use under the terms of this Act, or to a qualified patient or personal caregiver under the terms of Section 11.

(C) "Debilitating medical condition" shall mean:

Cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome (AIDS), hepatitis C, amyotrophic lateral sclerosis (ALS), Crohn's disease, Parkinson's disease, multiple sclerosis and other conditions as determined in writing by a qualifying patient's physician.

(D) "Department" shall mean the Department of Public Health of the Commonwealth of Massachusetts.

(E) "Dispensary agent" shall mean an employee, staff volunteer, officer, or board member of a non-profit medical marijuana treatment center, who shall be at least twenty-one (21) years of age.

(F) "Enclosed, locked facility" shall mean a closet, room, greenhouse, or other area equipped with locks or other security devices, accessible only to dispensary agents, patients, or personal caregivers.

(G) "Marijuana," has the meaning given "marihuana" in Chapter 94C of the General Laws.

(H) "Medical marijuana treatment center" shall mean a not-for-profit entity, as defined by Massachusetts law only, registered under this law, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers.

(I) "Medical use of marijuana" shall mean the acquisition, cultivation, possession, processing, (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfer, transportation, sale, distribution, dispensing, or administration of marijuana, for the benefit of qualifying patients in the treatment of debilitating medical conditions, or the symptoms thereof.

(J) "Personal caregiver" shall mean a person who is at least twenty-one (21) years old who has agreed to assist with a qualifying patient's medical use of marijuana. Personal caregivers are prohibited from consuming marijuana obtained for the personal, medical use of the qualifying patient.

An employee of a hospice provider, nursing, or medical facility providing care to a qualifying patient may also serve as a personal caregiver.

(K) "Qualifying patient" shall mean a person who has been diagnosed by a licensed physician as having a debilitating medical condition.

(L) "Registration card" shall mean a personal identification card issued by the Department to a qualifying patient, personal caregiver, or dispensary agent. The registration card shall verify that a physician has provided a written certification to the qualifying patient, that the patient has designated the individual as a personal caregiver, or that a medical treatment center has met the terms of Section 9 and Section 10 of this law. The registration card shall identify for the Department and law enforcement those individuals who are exempt from Massachusetts criminal and civil penalties for conduct pursuant to the medical use of marijuana.

(M) "Sixty-day supply" means that amount of marijuana that a qualifying patient would reasonably be expected to need over a period of sixty days for their personal medical use.

(N) "Written certification" means a document signed by a licensed physician, stating that in the physician's professional opinion, the potential benefits of the medical use of marijuana would likely outweigh the health risks for the qualifying patient. Such certification shall be made only in the course of a bona fide physician-patient relationship and shall specify the qualifying patient's debilitating medical condition(s).

Section 3. Protection from State Prosecution and Penalties for Health Care Professionals

A physician, and other health care professionals under a physician's supervision, shall not be penalized under Massachusetts law, in any manner, or denied any right or privilege, for:

- (a) Advising a qualifying patient about the risks and benefits of medical use of marijuana; or
- (b) Providing a qualifying patient with written certification, based upon a full assessment of the qualifying patient's medical history and condition, that the medical use of marijuana may benefit a particular qualifying patient.

Section 4. Protection From State Prosecution and Penalties for Qualifying Patients and Personal Caregivers

Any person meeting the requirements under this law shall not be penalized under Massachusetts law in any manner, or denied any right or privilege, for such actions.

A qualifying patient or a personal caregiver shall not be subject to arrest or prosecution, or civil penalty, for the medical use of marijuana provided he or she:

- (a) Possesses no more marijuana than is necessary for the patient's personal, medical use, not exceeding the amount necessary for a sixty-day supply; and
- (b) Presents his or her registration card to any law enforcement official who questions the patient or caregiver regarding use of marijuana.

Section 5. Protection From State Prosecution and Penalties for Dispensary Agents.

A dispensary agent shall not be subject to arrest, prosecution, or civil penalty, under Massachusetts law, for actions taken under the authority of a medical marijuana treatment center, provided he or she:

- (a) Presents his or her registration card to any law enforcement official who questions the agent concerning their marijuana related activities; and
- (b) Is acting in accordance with all the requirements of this law.

Section 6. Protection Against Forfeiture and Arrest

(A) The lawful possession, cultivation, transfer, transport, distribution, or manufacture of medical marijuana as authorized by this law shall not result in the forfeiture or seizure of any property.

(B) No person shall be arrested or prosecuted for any criminal offense solely for being in the presence of medical marijuana or its use as authorized by this law.

Section 7. Limitations of Law

(A) Nothing in this law allows the operation of a motor vehicle, boat, or aircraft while under the influence of marijuana.

(B) Nothing in this law requires any health insurance provider, or any government agency or authority, to reimburse any person for the expenses of the medical use of marijuana.

(C) Nothing in this law requires any health care professional to authorize the use of medical marijuana for a patient.

(D) Nothing in this law requires any accommodation of any on-site medical use of marijuana in any place of employment, school bus or on school grounds, in any youth center, in any correctional facility, or of smoking medical marijuana in any public place.

(E) Nothing in this law supersedes Massachusetts law prohibiting the possession, cultivation, transport, distribution, or sale of marijuana for nonmedical purposes.

(F) Nothing in this law requires the violation of federal law or purports to give immunity under federal law.

(G) Nothing in this law poses an obstacle to federal enforcement of federal law.

Section 8. Department to define presumptive 60-day supply for qualifying patients.

Within 120 days of the effective date of this law, the department shall issue regulations defining the quantity of marijuana that could reasonably be presumed to be a sixty-day supply for qualifying patients, based on the best available evidence. This presumption as to quantity may be overcome with evidence of a particular qualifying patient's appropriate medical use.

Section 9. Registration of nonprofit medical marijuana treatment centers.

(A) Medical marijuana treatment centers shall register with the department.

(B) Not later than ninety days after receiving an application for a nonprofit medical marijuana

treatment center, the department shall register the nonprofit medical marijuana treatment center to acquire, process, possess, transfer, transport, sell, distribute, dispense, and administer marijuana for medical use, and shall also issue a cultivation registration if:

1. The prospective nonprofit medical marijuana treatment center has submitted:

(a) An application fee in an amount to be determined by the department consistent with Section 13 of this law.

(b) An application, including:

(i) The legal name and physical address of the treatment center and the physical address of one additional location, if any, where marijuana will be cultivated.

(ii) The name, address and date of birth of each principal officer and board member.

(c) Operating procedures consistent with department rules for oversight, including cultivation and storage of marijuana only in enclosed, locked facilities.

2. None of the principal officers or board members has served as a principal officer or board member for a medical marijuana treatment center that has had its registration certificate revoked.

(C) In the first year after the effective date, the Department shall issue registrations for up to thirty-five non-profit medical marijuana treatment centers, provided that at least one treatment center shall be located in each county, and not more than five shall be located in any one county. In the event the Department determines in a future year that the number of treatment centers is insufficient to meet patient needs, the Department shall have the power to increase or modify the number of registered treatment centers.

(D) A medical treatment center registered under this section, and its dispensary agents registered under Section 10, shall not be penalized or arrested under Massachusetts law for acquiring, possessing, cultivating, processing, transferring, transporting, selling, distributing, and dispensing marijuana, products containing marijuana, and related supplies and educational materials, to qualifying patients or their personal caregivers.

Section 10. Registration of medical treatment center dispensary agents.

(A) A dispensary agent shall be registered with the Department before volunteering or working at a medical marijuana treatment center.

(B) A treatment center must apply to the Department for a registration card for each affiliated dispensary agent by submitting the name, address and date of birth of the agent.

(C) A registered nonprofit medical marijuana treatment center shall notify the department within one business day if a dispensary agent ceases to be associated with the center, and the agent's registration card shall be immediately revoked.

(D) No one shall be a dispensary agent who has been convicted of a felony drug offense. The Department is authorized to conduct criminal record checks with the Department of Criminal Justice Information to enforce this provision.

Section 11. Hardship Cultivation Registrations.

The Department shall issue a cultivation registration to a qualifying patient whose access to a medical treatment center is limited by verified financial hardship, a physical incapacity to

access reasonable transportation, or the lack of a treatment center within a reasonable distance of the patient's residence. The Department may deny a registration based on the provision of false information by the applicant. Such registration shall allow the patient or the patient's personal caregiver to cultivate a limited number of plants, sufficient to maintain a 60-day supply of marijuana, and shall require cultivation and storage only in an enclosed, locked facility. The department shall issue regulations consistent with this section within 120 days of the effective date of this law. Until the department issues such final regulations, the written recommendation of a qualifying patient's physician shall constitute a limited cultivation registration.

Section 12. Medical marijuana registration cards for qualifying patients and designated caregivers.

(A) A qualifying patient may apply to the department for a medical marijuana registration card by submitting

1. Written certification from a physician.

2. An application, including:

(a) Name, address unless homeless, and date of birth.

(b) Name, address and date of birth of the qualifying patient's personal caregiver, if any.

Section 13. Department implementation of Regulations and Fees.

Within 120 days of the effective date of this law, the department shall issue regulations for the implementation of Sections 9 through 12 of this Law. The department shall set application fees for non-profit medical marijuana treatment centers so as to defray the administrative costs of the medical marijuana program and thereby make this law revenue neutral.

Until the approval of final regulations, written certification by a physician shall constitute a registration card for a qualifying patient. Until the approval of final regulations, a certified mail return receipt showing compliance with Section 12 (A) (2) (b) above by a qualifying patient, and a photocopy of the application, shall constitute a registration card for that patient's personal caregiver.

Section 14. Penalties for Fraudulent Acts.

(A) The department, after a hearing, may revoke any registration card issued under this law for a willful violation of this law. The standard of proof for revocation shall be a preponderance of the evidence. A revocation decision shall be reviewable in the Superior Court.

(B) The fraudulent use of a medical marijuana registration card or cultivation registration shall be a misdemeanor punishable by up to 6 months in the house of correction, or a fine up to \$500, but if such fraudulent use is for the distribution, sale, or trafficking of marijuana for non-medical use for profit it shall be a felony punishable by up to 5 years in state prison or up to two and one half years in the house of correction.

Section 15. Confidentiality

The department shall maintain a confidential list of the persons issued medical marijuana registration cards. Individual names and other identifying information on the list shall be

exempt from the provisions of Massachusetts Public Records Law, M.G.L. Chapter 66, section 10, and not subject to disclosure, except to employees of the department in the course of their official duties and to Massachusetts law enforcement officials when verifying a card holder's registration.

Section 16. Effective Date.

This law shall be effective January 1, 2013.

Section 17. Severability.

The provisions of this law are severable and if any clause, sentence, paragraph or section of this measure, or an application thereof, shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section or application adjudged invalid.

ELECTION, 2012.

Section 2

105 CMR: Department of Public Health

105 CMR 725.000: IMPLEMENTATION OF AN ACT FOR THE HUMANITARIAN
MEDICAL USE OF MARIJUANA

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105 CMR: Department of Public Health

725.001: Purpose

The purpose of 105 CMR 725.000 is to implement Chapter 369 of the Acts of 2012, An Act for the Humanitarian Medical Use of Marijuana.

725.002: Scope

105 CMR 725.000 applies to every person who:

(A) Seeks to register or registers with the Department as a certifying physician, registered qualifying patient, personal caregiver, or for hardship cultivation;

(B) Is a physician who seeks to certify or certifies that a person has a debilitating medical condition; or

(C) Seeks to register or registers with the Department as a registered marijuana dispensary (RMD), or dispensary agent, including such RMD's board members, directors, employees, executives, managers, and volunteers.

725.003: Authority

105 CMR 725.000 is promulgated pursuant to Chapter 369 of the Acts of 2012, An Act for the Humanitarian Medical Use of Marijuana, and M.G.L. c. 111, s. 3.

725.004: Definitions

For the purposes of 105 CMR 725.000, the following terms shall have the following meanings:

Act means Chapter 369 of the Acts of 2012, An Act for the Humanitarian Medical Use of Marijuana.

Arming Station means a device that allows control of a security alarm system.

Bona Fide Physician-Patient Relationship means a relationship between a certifying physician, acting in the usual course of his or her professional practice, and a patient in which the physician has conducted a clinical visit, completed and documented a full assessment of the patient's medical history and current medical condition, has explained the potential benefits and risks of marijuana use, and has a role in the ongoing care and treatment of the patient.

Card Holder means a registered qualifying patient, a personal caregiver, or a dispensary agent of a RMD who has been issued and possesses a valid registration card.

Certificate of Registration means the certificate issued by the Department that confirms that a RMD has met all requirements pursuant to the Act and 105 CMR 725.000 and is registered by the Department.

Certifying Physician means a Massachusetts licensed physician (Medical Doctor or Doctor of Osteopathy) who certifies that in his or her professional opinion, the potential benefits of the medical use of marijuana would likely outweigh the health risks for a qualifying patient.

Commercially Available Candy means any product that is manufactured and packaged in the form of bars, drops, or pieces and that includes a sweetened mixture of chocolate, caramel, nougat, nuts, fruit, cream, honey, marshmallow or any similar combination to create a dessert-like confection.

Commissioner means the Commissioner of Public Health or the Commissioner's designee.

Debilitating means causing weakness, cachexia, wasting syndrome, intractable pain, or nausea, or impairing strength or ability, and progressing to such an extent that one or more of a patient's major life activities is substantially limited.

Debilitating Medical Condition means cancer, glaucoma, positive status for human immunodeficiency virus (HIV), acquired immune deficiency syndrome (AIDS), hepatitis C, amyotrophic lateral sclerosis (ALS), Crohn's disease, Parkinson's disease, and multiple sclerosis (MS), when such diseases are debilitating, and other debilitating conditions as determined in writing by a qualifying patient's certifying physician.

Department means the Massachusetts Department of Public Health.

Dispensary Agent means a board member, director, employee, executive, manager, or volunteer of a RMD, who is at least 21 years of age. Employee includes a consultant or contractor who provides on-site services to a RMD related to the cultivation, harvesting, preparation, packaging, storage, testing, or dispensing of marijuana.

Duress Alarm means a silent security alarm system signal generated by the entry of a designated code into an arming station in order to signal that the alarm user is being forced to turn off the system.

Edible Marijuana-Infused Products (edible MIPs) means a Marijuana-Infused Product (MIP) that is to be consumed by eating or drinking.

Enclosed, Locked Area means a closet, room, greenhouse, or other indoor or outdoor area equipped with locks or other security devices, accessible only to dispensary agents, registered qualifying patients, or personal caregivers.

Executive means the chair of a board of directors, chief executive officer, executive director, president, senior director, other officer, and any other executive leader of a RMD.

Flowering means the gametophytic or reproductive state of marijuana in which the plant produces flowers, trichomes, and cannabinoids characteristic of marijuana.

Hardship Cultivation Registration means a registration issued to a registered qualifying patient under the requirements of 105 CMR 725.035.

Holdup Alarm means a silent alarm signal generated by the manual activation of a device intended to signal a robbery in progress.

Immediate Family Member means a spouse, parent, child, grandparent, grandchild, or sibling, including in-laws.

Known Allergen means milk, egg, fish, crustacean shellfish, tree nuts, wheat, peanuts, and soybeans.

Life-Limiting Illness means a debilitating medical condition that does not respond to curative treatments, where reasonable estimates of prognosis suggest death may occur within two years.

Limited Access Area means a building, room, or other indoor or outdoor area on the registered premises of a RMD where marijuana, MIPs, or marijuana by-products are cultivated, stored, weighed, packaged, processed, or disposed, under control of a RMD, with access limited to only those dispensary agents designated by the RMD.

Marijuana means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake or the sterilized seed of the plant which is incapable of germination. The term also includes MIPs except where the context clearly indicates otherwise.

Massachusetts Resident means a person whose primary residence is located in Massachusetts.

Marijuana-Infused Product (MIP) means a product infused with marijuana that is intended for use or consumption, including but not limited to edible products, ointments, aerosols, oils, and tinctures. These products, when created or sold by a RMD, shall not be considered a food or a drug as defined in M.G.L. c. 94, s. 1.

Medical Marijuana Treatment Center means a not-for-profit entity registered under 105 CMR 725.100, to be known as a registered marijuana dispensary (RMD), that acquires, cultivates, possesses, processes (including development of related products such as edible MIPs, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of marijuana.

Member means a member of a non-profit entity incorporated pursuant to M.G.L. c. 180.

Panic Alarm means an audible security alarm system signal generated by the manual activation of a device intended to signal a life threatening or emergency situation requiring a law enforcement response.

Paraphernalia means “drug paraphernalia” as defined in M.G.L. c. 94C, s. 1.

Person means an individual or a non-profit entity.

Personal Caregiver means a person, registered by the Department, who is at least 21 years old, who has agreed to assist with a registered qualifying patient’s medical use of marijuana, and is not the registered qualifying patient’s certifying physician. An employee of a hospice provider, nursing, or medical facility or a visiting nurse, personal care attendant, or home health aide providing care to a qualifying patient may serve as a personal caregiver, including to patients under 18 years of age as a second caregiver.

Propagation means the reproduction of marijuana plants by seeds, cuttings, or grafting.

Production Area means any limited access area within the RMD where marijuana is handled or produced in preparation for sale.

Qualifying Patient means a Massachusetts resident 18 years of age or older who has been diagnosed by a Massachusetts licensed certifying physician as having a debilitating medical condition, or a Massachusetts resident under 18 years of age 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, as having a debilitating medical condition that is also a life-limiting illness, subject to 105 CMR 725.010(J).

Real-Time Inventory means using a single electronic system to capture everything that happens to an individual marijuana plant, from seed and cultivation, through growth, harvest and preparation of MIPs, if any, to final sale of finished products. This system shall chronicle every step, ingredient, activity, transaction, and dispensary agent, registered qualifying patient, or personal caregiver who handles, obtains, or possesses the product. This system shall utilize a unique plant identification and unique batch identification.

Registered Qualifying Patient means a qualifying patient who has applied for and received a registration card from the Department.

Registrant means the holder of a registration card or a certificate of registration, or a certifying physician registered with the Department.

Registration Card means an identification card issued by the Department to a registered qualifying patient, personal caregiver, or dispensary agent. The registration card verifies either that a certifying physician has provided a written certification to the qualifying patient and the patient has been registered with the Department; that a patient has designated the individual as a personal caregiver; that a patient has been granted a hardship cultivation registration; or that a dispensary agent has been registered with the Department and is authorized to work at a RMD.

The registration card allows access into appropriate elements of a Department-supported, interoperable database in which detailed information regarding certifications and possession criteria are stored. The registration card identifies for the Department and law enforcement authorities, those individuals who are exempt from Massachusetts criminal and civil penalties for the medical use of marijuana in compliance with 105 CMR 725.000 and the Act.

Sixty-Day Supply means that amount of marijuana, or equivalent amount of marijuana in MIPs, that a registered qualifying patient would reasonably be expected to need over a period of 60 calendar days for his or her personal medical use, which is ten ounces, subject to 105 CMR 725.010(I).

Usable Marijuana means the fresh or dried leaves and flowers of the female marijuana plant and any mixture or preparation thereof, including MIPs, but does not include the seedlings, seeds, stalks, or roots of the plant.

Vegetation means the sporophytic state of the 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.

Verified financial hardship means that an individual is a recipient of MassHealth, or Supplemental Security Income, or the individual's income does not exceed 300% of the federal poverty level, adjusted for family size.

Visitor means an individual, other than a personal caregiver, accompanying a patient who needs assistance obtaining access to a RMD.

Written Certification means a form submitted to the Department by a Massachusetts licensed certifying physician, describing the qualifying patient's pertinent symptoms, specifying the patient's debilitating medical condition, and stating that in the physician's professional opinion the potential benefits of the medical use of marijuana would likely outweigh the health risks for the patient.

725.005: Registration of Certifying Physicians

- (A) A physician who wishes to issue a written certification for a qualifying patient shall have at least one established place of practice in Massachusetts and shall hold:
 - (1) An active full license, with no prescribing restriction, to practice medicine in Massachusetts; and
 - (2) A Massachusetts Controlled Substances Registration from the Department.
- (B) To register as a certifying physician, a physician shall submit, in a form and manner determined by the Department, the physician's:
 - (1) Full name and business address;
 - (2) License number issued by the Massachusetts Board of Registration in Medicine;
 - (3) Massachusetts Controlled Substances Registration number; and
 - (4) Any other information required by the Department.

- (C) Once registered by the Department, a certifying physician will retain indefinitely a registration to certify a debilitating medical condition for a qualifying patient unless:
- (1) The physician's license to practice medicine in Massachusetts is suspended, revoked, or restricted with regard to prescribing, or the physician has voluntarily agreed not to practice medicine in Massachusetts;
 - (2) The physician's Massachusetts Controlled Substances Registration is suspended or revoked;
 - (3) The physician has fraudulently issued a written certification of a debilitating medical condition;
 - (4) The physician has certified a qualifying patient for a debilitating medical condition on or after July 1, 2014, without appropriate completion of continuing professional development credits pursuant to 105 CMR 725.010(A); or
 - (5) The physician surrenders his or her registration.
- (D) After registering, a certifying physician is responsible for notifying the Department, in a form and manner determined by the Department, within five business days after any changes to the physician's information.

725.010: Certifying Physician's Written Certification of a Debilitating Medical Condition for a Qualifying Patient

- (A) A certifying physician issuing a written certification on or after July 1, 2014, must have completed a minimum of 2.0 Category 1 continuing professional development credits as defined in 243 CMR 2.06(6)(a)1. Such program must explain the proper use of marijuana, including side effects, dosage, and contraindications, including with psychotropic drugs, as well as on substance abuse recognition, diagnosis, and treatment related to marijuana.
- (B) A certifying physician issuing a written certification shall comply with generally accepted standards of medical practice, including regulations of the Board of Registration in Medicine at 243 CMR 1.00, 2.00, and 3.00.
- (C) A certifying physician may not delegate to any other health care professional or any other person, authority to diagnose a patient as having a debilitating medical condition.
- (D) A certifying physician may issue a written certification only for a qualifying patient with whom the physician has a bona fide physician-patient relationship.
- (E) Before issuing a written certification, a certifying physician must utilize the Massachusetts Prescription Monitoring Program, unless otherwise specified by the Department, to review the qualifying patient's prescription history.
- (F) A patient who has had a diagnosis of a debilitating medical condition in the past but does not have an active condition, unless the symptoms related to such condition are mitigated by marijuana for medical use, and is not undergoing treatment for such condition is not

105 CMR: Department of Public Health

suffering from a debilitating medical condition for which the medical use of marijuana is authorized.

- (G) An initial written certification submitted before a clinical visit is prohibited. A renewal written certification may be submitted after a clinical visit or a telephonic consultation, however a clinical visit must occur no less than once per year.
- (H) A certification must indicate the time period for which the certification is valid, and shall not be less than 15 calendar days or longer than one year.
- (I) A certifying physician may determine and certify that a qualifying patient requires an amount of marijuana exceeding 10 ounces as a 60-day supply and shall document the amount and the rationale in the medical record and in the written certification. For that qualifying patient, that amount of marijuana constitutes a 60-day supply.
- (J) A qualifying patient who is under 18 years of age and has been diagnosed by two Massachusetts licensed certifying physicians, at least one of whom is a board-certified pediatrician or a board-certified pediatric subspecialist, with a debilitating life-limiting illness, may receive a written certification, provided however that the physicians may certify a qualifying patient who is under 18 years of age who has a debilitating medical condition that is not a life-limiting illness if those physicians determine that the benefits of the medical use of marijuana outweigh the risks. This must include a discussion of the potential negative impacts on neurological development with the parent or legal guardian of the qualifying patient, written consent of the parent or legal guardian, and documentation of the rationale in the medical record and the written certification.
- (K) A certifying physician, and such physician's co-worker, employee, or immediate family member, shall not:
 - (1) Have ever directly or indirectly accepted or solicited from, or offered to a RMD, a board member or executive of a RMD, any RMD personnel, or any other person associated with a RMD, or a personal caregiver, anything of value;
 - (2) Offer a discount or any other thing of value to a qualifying patient based on the patient's agreement or decision to use a particular personal caregiver or RMD;
 - (3) Examine or counsel a patient, or issue a written certification, at a RMD;
 - (4) Have a direct or indirect financial interest in a RMD; or
 - (5) Directly or indirectly benefit from a patient obtaining a written certification, which shall not prohibit the physician from charging an appropriate fee for the clinical visit.
- (L) A certifying physician shall not issue a written certification for himself or herself or for his or her immediate family members.
- (M) A certifying physician issuing a written certification for his or her employees or co-workers shall do so in accordance with 105 CMR 725.010, including conducting a clinical visit, completing and documenting a full assessment of the patient's medical

history and current medical condition, explaining the potential benefits and risks of marijuana use, and maintaining a role in the ongoing care and treatment of the patient.

- (N) A written certification shall be issued in a form and manner determined by the Department.

725.015: Registration of Qualifying Patients

- (A) To obtain a registration card, a qualifying patient shall submit, in a form and manner determined by the Department, the following:
- (1) The qualifying patient's full name, date of birth, address, telephone number, and email address if any, and a statement indicating his or her age and that his or her primary residence is in Massachusetts:
 - (a) If the qualifying patient is under 18 years of age, an attestation from a parent or legal guardian granting permission for the child to register with the Department; and
 - (b) If the qualifying patient is under 18 years of age, that qualifying patient must have a designated personal caregiver, who shall be his or her parent or legal guardian.
 - (2) Written certification(s) for the qualifying patient from the qualifying patient's certifying physician(s);
 - (3) Full name, address, and telephone number of the qualifying patient's certifying physician(s);
 - (4) Full name, date of birth, and address of the qualifying patient's personal caregiver(s), if any;
 - (5) A statement of whether the qualifying patient will be applying for a hardship cultivation registration;
 - (6) A copy of the qualifying patient's Massachusetts driver's license, government-issued identification card, or other verifiable identity document acceptable to the Department, except in the case of a qualifying patient under 18 years of age who does not have to comply with such requirement;
 - (7) A non-refundable registration fee. If the fee poses a verified financial hardship, the qualifying patient may request a waiver of the fee in a form and manner determined by the Department;
 - (8) Written acknowledgement of the limitations on his or her authorization to cultivate, possess, and use marijuana for medical purposes in the Commonwealth;
 - (9) An attestation that the registered qualifying patient will not engage in the diversion of marijuana and that the patient understands that protections conferred by the Act for possession of marijuana for medical use are applicable only within Massachusetts; and
 - (10) Any other information required by the Department.
- (B) A registration card will be valid for one year from the date of issue, and may be renewed, in a form and manner determined by the Department, by meeting the requirements in 105 CMR 725.015(A).

- (C) A qualifying patient who received written certification from a physician prior to the effective date of 105 CMR 725.000, or prior to the Department accepting applications for qualifying patient registrations, and who used that written certification as his or her qualifying patient registration card, must apply for a registration card according to the procedures set out in 105 CMR 725.015 no later than January 1, 2014, unless otherwise specified by the Department; however the initial certification will remain valid until the application for the registration card is approved or denied by the Department.
- (D) After obtaining a registration card, a qualifying patient is responsible for notifying the Department, in a form and manner determined by the Department, within five business days after any change to the information that he or she was previously required to submit to the Department, or after he or she discovers that his or her registration card has been lost or stolen.
- (E) A registered qualifying patient must carry his or her registration card at all times while in possession of marijuana.

725.020: Registration of Personal Caregivers

- (A) To obtain a registration card for a personal caregiver, a qualifying patient shall submit, in a form and manner determined by the Department, the following:
 - (1) The personal caregiver's full name, date of birth, address, telephone number, and email address if any, and a statement that the individual is at least 21 years of age;
 - (2) Full name, date of birth, and address of the qualifying patient for whom the personal caregiver will be providing assistance with the use of marijuana for medical purposes;
 - (3) A copy of the personal caregiver's driver's license, government-issued identification card, or other verifiable identity document acceptable to the Department;
 - (4) A statement of whether the caregiver will be cultivating marijuana for the patient, and at what address, if the patient is granted a hardship cultivation registration;
 - (5) Written acknowledgement by the personal caregiver of the limitations on his or her authorization to cultivate, possess, and dispense to his or her registered qualifying patient, marijuana for medical purposes in the Commonwealth;
 - (6) An attestation by the personal caregiver that he or she will not engage in the diversion of marijuana and that he or she understands that protections conferred by the Act for possession of marijuana for medical use are applicable only within Massachusetts; and
 - (7) Any other information required by the Department.
- (B) An individual must be granted a registration card by the Department prior to serving as a personal caregiver for any registered qualifying patient.
- (C) With respect to a personal caregiver who was registered with the Department prior to the effective date of 105 CMR 725.000, or prior to the Department accepting qualifying patient and personal caregiver registrations, his or her registered qualifying patient must

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apply for a registration card according to the procedures set out in 105 CMR 725.020(A) no later than January 1, 2014, unless otherwise specified by the Department; however the initial certification will remain valid until the application for the registration card is approved or denied by the Department.

- (D) Except in the case of an employee of a hospice provider, nursing facility, or medical facility providing care to a qualifying patient admitted to or residing at that facility, or 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 registered qualifying patient at one time.
- (E) 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 consent for such inspection of the cultivation site.
- (F) A registered qualifying patient may add a second caregiver or change personal caregiver(s) by providing notification in a form and manner determined by the Department, and providing the information required in 105 CMR 725.020(A) for registration of personal caregivers.
- (G) A personal caregiver may not receive payment or other compensation for services rendered as a personal caregiver other than reimbursement for reasonable expenses incurred in the provision of services as a caregiver, provided however that a caregiver's time is not considered a reasonable expense. In the case of an employee of a hospice provider, nursing facility, or medical facility, or a visiting nurse, personal care attendant, or home health aide serving as a personal caregiver, such person may not receive payment or compensation above and beyond his or her regular wages.
- (H) A registration card will be valid for one year from the date of issue, and may be renewed, in a form and manner determined by the Department, by meeting the requirements in 105 CMR 725.020(A).
- (I) After obtaining a registration card, the personal caregiver is responsible for notifying the Department, in a form and manner determined by the Department, within five business days after any change to the information that his or her registered qualifying patient was previously required to submit to the Department, or after the personal caregiver discovers that his or her registration card has been lost or stolen.
- (J) A personal caregiver must carry his or her registration card at all times while in possession of marijuana.

725.025: Responsibilities of Personal Caregivers

- (A) A personal caregiver may:

- (1) Transport a registered qualifying patient to and from a RMD;
 - (2) Obtain and transport marijuana from a RMD on behalf of a registered qualifying patient;
 - (3) Cultivate marijuana on behalf of a registered qualifying patient who has obtained a hardship cultivation registration;
 - (4) Prepare marijuana for consumption by a registered qualifying patient; and
 - (5) Administer marijuana to a registered qualifying patient.
- (B) A personal caregiver may not:
- (1) Consume, by any means, marijuana that has been dispensed to or cultivated on behalf of a registered qualifying patient;
 - (2) Sell, provide, or otherwise divert marijuana that has been dispensed to or cultivated on behalf of a registered qualifying patient;
 - (3) Cultivate marijuana for the personal caregiver's own use, unless the personal caregiver is also a registered qualifying patient who has obtained a hardship cultivation registration;
 - (4) Cultivate marijuana for purposes of selling or providing marijuana to anyone other than the registered qualifying patient; or
 - (5) Allow a registered qualifying patient who is under 18 years of age to possess marijuana at any time when not in the presence of the personal caregiver.
- (C) An employee of a hospice provider, nursing facility, or medical facility serving as a personal caregiver for a registered qualifying patient admitted to or residing at that facility, or a visiting nurse, home health aide, or personal care attendant, may not cultivate marijuana for that patient.
- (D) Upon the death of a personal caregiver's registered qualifying patient, the personal caregiver must notify the Department within five calendar days.

725.030: Registration of Dispensary Agents

- (A) A RMD shall apply for dispensary agent registration for all board members, directors, employees, executives, managers, and volunteers who are associated with that RMD. All such individuals must:
- (1) Be at least 21 years old; and
 - (2) Have not been convicted of a felony drug offense in the Commonwealth, or a like violation of the laws of another state, the United States or a military, territorial, or Indian tribal authority.
- (B) An application for registration of a dispensary agent, in a form and manner determined by the Department, shall include:
- (1) The full name, date of birth, and address of the individual;
 - (2) Written acknowledgement by the individual of the limitations on his or her authorization to cultivate, harvest, prepare, package, possess, transport, and dispense marijuana for medical purposes in the Commonwealth;

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- (3) A copy of the dispensary agent's driver's license, government-issued identification card, or other verifiable identity document acceptable to the Department;
 - (4) An attestation that the individual will not engage in the diversion of marijuana;
 - (5) A non-refundable application fee; and
 - (6) Any other information required by the Department.
- (C) A RMD executive registered with the Department of Criminal Justice Information Systems pursuant to 105 CMR 725.100(A)(7) must submit to the Department a Criminal Offender Record Information (CORI) report for each individual for whom the RMD seeks a dispensary agent registration, obtained within 30 calendar days prior to submission.
- (D) A RMD must notify the Department no more than one business day after a dispensary agent ceases to be associated with the RMD. The dispensary agent's registration shall be immediately void when he or she is no longer associated with the RMD.
- (E) A registration card will be valid for one year from the date of issue, and may be renewed, in a form and manner determined by the Department, on an annual basis by meeting the requirements in 105 CMR 725.030 (A)-(C).
- (F) After obtaining a registration card for a dispensary agent, a RMD is responsible for notifying the Department, in a form and manner determined by the Department, as soon as possible, but in any event, within five business days after any changes to the information that the RMD was previously required to submit to the Department, or after discovery that a registration card has been lost or stolen.
- (G) A dispensary agent must carry his or her registration card at all times while in possession of marijuana, including at all times while at a RMD or while transporting marijuana.
- (H) A dispensary agent affiliated with multiple RMDs must be registered as a dispensary agent by each RMD.

725.035: Hardship Cultivation Registration

- (A) A qualifying patient registered with the Department pursuant 105 CMR 725.015 may apply for a hardship cultivation registration if such patient can demonstrate that his or her access to a RMD is limited by:
- (1) Verified financial hardship; or
 - (2) 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 a RMD that will deliver marijuana to the patient's or personal caregiver's primary address; or
 - (3) Lack of a RMD within a reasonable distance of the patient's residence and lack of a RMD that will deliver marijuana to the patient's or personal caregiver's primary address.

- (B) To obtain a hardship cultivation registration, a registered qualifying patient shall, in a form and manner determined by the Department, submit the following:
- (1) A non-refundable registration fee, unless waived pursuant to 105 CMR 725.015(A)(7);
 - (2) Information supporting a claim that access is limited due to one or more of the circumstances listed in 105 CMR 725.035(A);
 - (3) An explanation including lack of feasible alternatives to mitigate the limitation claimed under 105 CMR 725.035(A);
 - (4) 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;
 - (5) A written explanation of how the qualifying patient will cultivate marijuana in accordance with the requirements of 105 CMR 725.035;
 - (6) A description of the device or system that will be used to ensure security and prevent diversion of the marijuana plants being cultivated;
 - (7) Written acknowledgement of the limitations on his or her authorization to cultivate, possess, and use marijuana for medical purposes in the Commonwealth; and
 - (8) Any other information required by the Department.
- (C) The Department shall review and approve or deny an application for a hardship cultivation registration within 30 calendar days of receipt of a completed application.
- (D) A registered qualifying patient with a hardship cultivation registration, or his or her personal caregiver(s), may cultivate only at the location specified in the application approved by the Department.
- (E) 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.
- (F) A hardship cultivation registration will be valid for one year from the date of issue, and may be renewed, in a form and manner determined by the Department, on an annual basis by meeting the requirements in 105 CMR 725.035(B).
- (G) A hardship cultivation registration shall allow the registered qualifying patient or his or her 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, or as further specified by the Department.
- (H) Cultivation and storage of marijuana shall be in an enclosed, locked area accessible only to the registered qualifying patient or his or her personal caregiver(s), subject to 105 CMR 725.650. Marijuana shall not be visible from the street or other public areas.

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- (I) A registered qualifying patient or his or her 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 Department.
- (J) A registered qualifying patient and his or her personal caregiver(s) is prohibited from selling, bartering, giving away or distributing in any manner marijuana or paraphernalia.
- (K) The Department may inspect the cultivation site of a registered qualifying patient with a hardship cultivation registration, or the cultivation site of his or her personal caregiver(s), at any time. Acceptance of a hardship cultivation registration by a registered qualifying patient constitutes consent for such inspection of the cultivation site.
- (L) A registered qualifying patient who received written certification of a debilitating medical condition from a physician prior to enactment of 105 CMR 725.000, or prior to the Department accepting applications for hardship cultivation registration, and who used that written certification as a limited cultivation registration, must apply for a hardship cultivation registration according to the procedures set out in 105 CMR 725.035(B) no later than January 1, 2014, if he or she intends to continue to cultivate marijuana; however the initial limited cultivation registration will remain valid until the application for the hardship cultivation registration card is approved or denied by the Department.
- (M) After obtaining a hardship cultivation registration, a registered qualifying patient is responsible for notifying the Department, in a form and manner determined by the Department, within five business days after any change to the information that he or she or his or her personal caregiver(s) was previously required to submit to the Department.
- (N) A registered qualifying patient with a hardship cultivation registration, or his or her personal caregiver(s) if applicable, must have the registration available at the site of cultivation. Such registration must be made available upon request of the Department or other government agency acting within their lawful authority.
- (O) A registered qualifying patient with a hardship cultivation registration, or his or her personal caregiver(s) if applicable, is prohibited from purchasing marijuana from a RMD, provided however that such individuals may purchase seeds.

725.100: Registration of Registered Marijuana Dispensaries

(A) General Requirements

- (1) A RMD is required to incorporate pursuant to M.G.L. c. 180 and to maintain the corporation in good standing with the Secretary of the Commonwealth. A RMD must operate on a non-profit basis for the benefit of registered qualifying patients. Such corporation must ensure that revenue of the RMD is used solely in furtherance of its non-profit purpose.

- (2) No executive, member, or any entity owned or controlled by such executive or member, may directly or indirectly control more than three RMDs.
- (3) A RMD must make vaporizers available for sale to registered qualifying patients.
- (4) A RMD may not have more than two locations in Massachusetts at which marijuana is cultivated, MIPs are prepared, and marijuana is dispensed. Each of these activities may occur at only one such location, which may be either the RMD's principal place of business or one Department-approved alternate location in Massachusetts, but not both.
- (5) All dispensary agents of the RMD must be registered pursuant to 105 CMR 725.030.
- (6) A RMD must have a program to provide reduced cost or free marijuana to patients with documented verified financial hardship.
- (7) At least one executive of a non-profit corporation seeking registration as a RMD must register with the Massachusetts Department of Criminal Justice Information Services (DCJIS) on behalf of the entity as an organization user of iCORI.

(B) Application Requirements

- (1) **Phase 1 – Request to Submit Application:** As necessary, the Department shall publish a Notice of Application Opportunity (Notice) for entities that seek authority to apply for a certificate of registration. Every applicant responding to the Notice shall file, with respect to each application, a response in a form and manner specified by the Department, and must at a minimum provide:
 - (a) Documentation that is it a non-profit entity incorporated in Massachusetts as specified in 105 CMR 725.100(A)(2), as well as a list of all executives of the proposed RMD, and a list of all members, if any, of the non-profit corporation;
 - (b) Documentation that it has at least \$500,000 in its control and available, as evidenced by bank statements, lines of credit, or the equivalent, to ensure that the applicant has sufficient resources to operate. This provision may be fulfilled through demonstration of pooled resources among the individuals or entities affiliated with the applicant. If an entity is submitting more than one application, the capital requirement shall be \$400,000 for each subsequent application;
 - (c) Documentation that no member of the non-profit corporation, no executive of the applicant, and no prospective employee or volunteer of the RMD, has been convicted of a felony drug offense in the Commonwealth, or a like violation of the laws of another state, the United States or a military, territorial, or Indian tribal authority;
 - (d) A description of any past or pending legal or enforcement actions in any other state against any officer, executive, director, or board member of the applicant or its members, or against any other entity owned or controlled in whole or in part by them, related to the cultivation, processing, distribution, or sale of marijuana for medical purposes;
 - (e) A description of any past or pending denial, suspension, or revocation of a license or registration, or the denial of a renewal of a license or registration, for

any type of business or profession, by any federal, state, or local government, or any foreign jurisdiction, including denial, suspension, revocation, or refusal to renew certification for Medicaid or Medicare or failure to follow non-profit procedures or rules;

(f) An attestation signed by an authorized designee of the entity that if the entity is allowed to proceed to Phase 2 of the application process, the entity is prepared to pay a non-refundable application fee as specified in the Notice;

(g) A description of any past discipline by, or a pending disciplinary action or unresolved complaint by, the Commonwealth, or a like action or complaint by another state, the United States or a military, territorial, or Indian tribal authority with regard to any professional license or registration of an executive of the applicant, as well as by any member of the non-profit corporation, if any;

(h) Prescribing for or distributing controlled substances or legend drugs by any executive, including of the members of the non-profit corporation, if any, except for therapeutic or other proper medical or scientific purpose;

(i) The requisite non-refundable application fee; and

(j) Any other information required by the Department.

(2) Action on Phase 1 Submissions: The Department shall notify each applicant that responded to the Notice in a timely manner that satisfies the criteria in 105 CMR 725.100(B)(1) that it may proceed to Phase 2 of the application process. At the time of such notice by the Department, an applicant must notify the chief administrative officer, or equivalent, and chief of police, or equivalent, of the proposed city or town in which an RMD would be sited, if applicable, and the sheriff of the applicable county, of the intent to submit a Phase 2 application.

(3) Phase 2 – Application: Within 45 days after receipt of an invitation to submit an application pursuant to 105 CMR 725.100(B)(2), each applicant that proceeds to Phase 2 shall submit, with respect to each application, a response in a form and manner specified by the Department, which includes:

(a) A non-refundable application fee;

(b) Detailed information regarding the non-profit corporation, including the legal name, a copy of the articles of organization and bylaws;

(c) The county, city, or town in which the proposed RMD would be sited, and if known, the physical address of the proposed RMD. If marijuana will be cultivated or MIPs will be prepared at any location other than the dispensing location of the proposed RMD, the physical address of the one additional location where marijuana will be cultivated or MIPs will be prepared, if known;

(d) If the applicant has identified the physical address of the proposed RMD pursuant to 105 CMR 725.100(B)(3)(c), the applicant shall provide evidence of interest in the subject property, and the additional cultivation location, if any.

Interest may be demonstrated by one of the following:

1. Clear legal title to the proposed site;

2. An option to purchase the proposed site;

3. A lease;

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4. A legally enforceable agreement to give such title under 105 CMR 725.100 (B)(3)(d)1. or 2., or such lease under 105 CMR 725.100 (B)(3)(d)3., in the event the Department determines that the applicant qualifies for registration as a RMD; or

5. Binding permission to use the premises.

(e) A description of plans to ensure that the RMD is or will be compliant with requirements of the Americans with Disabilities Act (ADA) Accessibility Guidelines;

(f) If available at the time of submission, pursuant to 105 CMR 725.100(B)(3)(c), a description of plans to ensure that the RMD is or will be compliant with local codes, ordinances, and bylaws for the physical address of the RMD and for the physical address of the additional location, if any, including any demonstration of support or non-opposition furnished by the local municipality;

(g) A proposed timeline for achieving operation of the RMD and evidence that the RMD will be ready to operate within the proposed timeline after notification by the Department that the applicant qualifies for registration;

(h) The name, address, date of birth, and résumés of each executive of the applicant and of the members, if any, of the non-profit corporation, along with a photocopy of their driver's licenses or other government-issued identification cards, and CORI reports obtained from the DCJIS within 30 calendar days prior to submission to the Department, pursuant to the RMD's registration with DCJIS under M.G.L. c. 6, s. 172;

(i) The name, address, and date of birth of all dispensary agents that the RMD intends to employ, to the extent that they are known;

(j) A list of all persons or entities having direct or indirect authority over the management or policies of the RMD, including the members of the non-profit corporation, if any, and a list of all persons or entities contributing 5% or more of the initial capital to operate a RMD, including capital that is in the form of land or buildings;

(k) If applicable, the identity of any creditor holding an interest in the premises of the proposed RMD or the additional cultivation location, if any;

(l) A description of the RMD's plan to obtain a liability insurance policy or otherwise meet the requirements of 105 CMR 725.105(Q);

(m) If available at the time of submission, pursuant to 105 CMR 725.100(B)(3)(c), a detailed floor plan of the premises of the proposed RMD that identifies the square footage available and describes the functional areas of the RMD, including areas for any preparation of MIPs, and, if applicable, such information for the single allowable off-premises location in Massachusetts where marijuana will be cultivated or MIPs will be prepared;

(n) A detailed summary of the business plan for the RMD;

(o) An operational plan for the cultivation of marijuana, including a detailed summary of policies and procedures for cultivation;

(p) If the RMD intends to produce MIPs, a description of the types and forms of MIPs that the RMD intends to produce, and the methods of production;

(q) A detailed summary of operating policies and procedures for the RMD, which shall include but not be limited to provisions for security, prevention of diversion,

storage of marijuana, transportation of marijuana, inventory procedures, procedures for quality control and testing of product for potential contaminants, procedures for maintaining confidentiality as required by law, personnel policies, dispensing procedures, record-keeping procedures, plans for patient education, and any plans for patient or personal caregiver home-delivery;

(r) A detailed summary of the RMD's policies and procedures for the provision of marijuana to registered qualifying patients with verified financial hardship without charge or at less than the market price, as required by 105 CMR 725.100(A)(6);

(s) An analysis of the projected patient population and projected need in the service area of the proposed RMD;

(t) A detailed description of all intended training(s) for dispensary agents;

(u) Evidence that the applicant is responsible and suitable to maintain a RMD.

Information including but not limited to the following factors shall be considered in determining the responsibility and suitability of the applicant to maintain a RMD:

1. Demonstrated experience running a non-profit organization or other business;
2. History of providing health care services or services providing marijuana for medical purposes, including provision of services in other states;
3. History of response to correction orders issued under the laws or regulations of the Commonwealth or other states;
4. Whether the applicant is in compliance with all laws of the Commonwealth relating to taxes and child support and whether the applicant will have workers' compensation and professional and commercial insurance coverage;
5. Any criminal action under the laws of the Commonwealth, or another state, the United States, or a military, territorial, or Indian tribal authority, whether for a felony or misdemeanor, against any of the executives of the applicant, or of the members of the non-profit corporation, if any, including but not limited to action against any health care facility or facility for providing marijuana for medical purposes in which those individuals either owned shares of stock or served as executives, and which resulted in conviction, or guilty plea, or plea of nolo contendere, or admission of sufficient facts;
6. Any civil or administrative action under the laws of the Commonwealth, another state, the United States, or a military, territorial, or Indian tribal authority relating to any executive's (or members of the non-profit corporation, if any) profession or occupation or fraudulent practices, including but not limited to fraudulent billing practices;
7. Any attempt to obtain a registration, license, or approval to operate in any state by fraud, misrepresentation, or the submission of false information; and
8. Any other information required by the Department.

- (v) An indication of whether the applicant would consider a location other than the county or physical address provided pursuant to 105 CMR 725.100(B)(3)(c); and
- (w) Any other information required by the Department.

(4) Failure of the applicant to adequately address all required items in its application will result in evaluation of the application as submitted. The applicant will not be permitted to provide supplemental materials unless specifically requested by the Department.

(5) Action on Phase 2 Submissions

- (a) The Department shall not consider an application that is submitted after the due date specified.
- (b) The Department may conduct a site visit to the proposed location, if applicable, of the RMD, to determine the appropriateness of the site(s).
- (c) A selection committee established by the Department shall evaluate and score applications for the purpose of granting registrations. Decisions will be based on the thoroughness and quality of the applicants' responses to the required criteria, and the applicants' ability to meet the overall health needs of registered qualifying patients and the safety of the public.
- (d) For purposes of scoring, the Department may take into account desired geographical distribution of RMDs (i.e., convenience for and proximity to Massachusetts residents, and avoidance of clustering of RMDs in one area), local support for the RMD application, likelihood of successful siting of the RMD in the proposed location, the presence of a home-delivery system, and other mechanisms to ensure appropriate patient access, as well as other factors as described in the application form.
- (e) The Department shall grant registrations with the goal of ensuring that the needs of the Commonwealth are met with regard to access, quality, and community safety.
- (f) The Department shall review architectural plans for the building or renovation of a RMD. Submission of such plans shall occur in a manner and form established by the Department and shall be accompanied by a requisite fee. Construction or renovation related to such plans shall not begin until the Department has granted approval.
- (g) Nothing in 105 CMR 725.000 is intended to confer a property or other right or interest entitling an applicant to a hearing before an application may be denied.

(C) RMD Certificate of Registration

- (1) Upon selection by the Department, an applicant shall submit the required registration fee and subsequently be issued a certificate of registration to operate a RMD, in the name of the non-profit corporation, after the Department has completed an inspection and issued final approval. All information described in 105 CMR 725.100(B)(3) that is not available at the time of submission, must be provided to and approved by the Department, before a RMD may be operational. Such certificate of registration shall be subject to reasonable conditions specified by the Department, if any.

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- (2) No person shall operate a RMD without a certificate of registration issued by the Department.
 - (3) A certificate of registration may not be assigned or transferred without prior Department approval.
 - (4) A registration shall be immediately null and void if the RMD ceases to operate, or if, without the permission of the Department, it relocates.
 - (5) Acceptance of a certificate of registration constitutes an agreement by the RMD that it will adhere to the practices, policies, and procedures that are described in its application materials, as well as all relevant laws, regulations, and any conditions imposed by the Department as part of registration.
 - (6) The RMD shall post the certificate of registration in a conspicuous location on the premises at each Department-approved location.
 - (7) The RMD shall conduct all activities authorized by 105 CMR 725.000 at the address(es) identified on the certificate of registration issued by the Department. Except for the two permitted locations, no operations are permitted at any other locations, except surveillance activities in accordance with 105 CMR 725.110(D).
- (D) The RMD must be operational within the time indicated in 105 CMR 725.100(B)(3)(g) or as otherwise amended through the application process, and approved by the Department through the issuance of a certificate of registration.
- (E) Expiration and Renewal of Registration. The RMD's certificate of registration shall expire one year after the date of issuance and may be renewed as follows unless an action has been taken based upon the grounds set forth in 105 CMR 725.405:
- (1) No later than 60 calendar days prior to the expiration date, a RMD shall submit a completed renewal application to the Department in a form and manner determined by the Department, as well as the required fee; and
 - (2) The RMD shall update as needed, and ensure the accuracy of, all information that it submitted on its initial application for a certificate of registration.
- (F) Notification to Department and Department Approval of Changes
- (1) Prior to changing location(s), the RMD shall submit a request for such change to the Department and shall pay the appropriate fee. No such change shall be permitted until approved by the Department.
 - (2) Prior to any modification, remodeling, expansion, reduction, or other physical, non-cosmetic alteration of the RMD, the RMD shall submit an application for such change to the Department and shall pay the appropriate fee. No such change shall be permitted until approved by the Department.

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- (3) Prior to changing its name, the RMD shall notify the Department and shall pay the appropriate fee. No such change shall be permitted until approved by the Department.
- (4) The RMD shall keep current all information required by 105 CMR 725.000 or otherwise required by the Department. The RMD shall report any changes in or additions to the content of the information contained in any document to the Department within five business days after such change or addition.

725.105: Operational Requirements for Registered Marijuana Dispensaries

- (A) Every RMD shall have and follow a set of detailed written operating procedures. If the RMD has a second location, it shall develop and follow a set of such operating procedures for that facility. Operating procedures shall include but need not be limited to the following:
 - (1) Security measures in compliance with 105 CMR 725.110;
 - (2) Employee security policies, including personal safety and crime prevention techniques;
 - (3) A description of the RMD's:
 - (a) Hours of operation and after-hours contact information, which shall be provided to the Department, made available to law enforcement officials upon request, and updated pursuant to 105 CMR 725.100(F)(4); and
 - (b) Price list for marijuana, MIPs, and any other available products, and alternate price lists for patients with documented verified financial hardship as required by 105 CMR 725.100(A)(6);
 - (4) Storage of marijuana in compliance with 105 CMR 725.105(D);
 - (5) Description of the various strains of marijuana to be cultivated and dispensed, and the form(s) in which marijuana will be dispensed;
 - (6) Procedures to ensure accurate recordkeeping, including inventory protocols;
 - (7) Plans for quality control, including product testing for contaminants in compliance with 105 CMR 725.105(C)(2);
 - (8) A staffing plan and staffing records in compliance with 105 CMR 725.105(I)(4)(c);
 - (9) Emergency procedures, including a disaster plan with procedures to be followed in case of fire or other emergencies;
 - (10) Alcohol, smoke, and drug-free workplace policies;
 - (11) A plan describing how confidential information will be maintained in accordance with 105 CMR 725.200;

- (12) A description of the RMD's patient education activities in accordance with 105 CMR 725.105(K);
 - (13) The standards and procedures by which the RMD determines the price it charges for marijuana, and a record of the prices charged, including the RMD's policies and procedures for the provision of marijuana to registered qualifying patients with verified financial hardship without charge or at less than the market price, as required by 105 CMR 725.100(A)(6);
 - (14) Written policies and procedures for the production and distribution of marijuana, which shall include but not be limited to:
 - (a) Methods for identifying, recording, and reporting diversion, theft, or loss, and for correcting all errors and inaccuracies in inventories;
 - (b) A procedure for handling voluntary and mandatory recalls of marijuana. Such procedure shall be adequate to deal with recalls due to any action initiated at the request or order of the Department, and any voluntary action by a RMD to remove defective or potentially defective marijuana from the market, as well as any action undertaken to promote public health and safety;
 - (c) A procedure for ensuring that any outdated, damaged, deteriorated, mislabeled, or contaminated marijuana is segregated from other marijuana and destroyed. This procedure shall provide for written documentation of the disposition of the marijuana;
 - (d) Policies and procedures for patient or personal caregiver home-delivery; and
 - (e) Policies and procedures for the transfer, acquisition, or sale of marijuana between RMDs.
 - (15) A policy for the immediate dismissal of any dispensary agent who has:
 - (a) Diverted marijuana, which shall be reported to law enforcement officials and to the Department; or
 - (b) Engaged in unsafe practices with regard to operation of the RMD, which shall be reported to the Department; and
 - (16) A list of all board members and executives of a RMD, and members, if any, of the non-profit corporation, must be made available upon request by any individual. This requirement may be fulfilled by placing this information on the RMD's website.
- (B) Cultivation, Acquisition, and Distribution Requirements
- (1) The following requirements pertain to cultivation of marijuana for medical use:
 - (a) Only a RMD is permitted to cultivate marijuana, with the exception of a registered qualifying patient granted a hardship cultivation registration or that patient's personal caregiver;
 - (b) A cultivation location of a RMD may cultivate marijuana for only that RMD, and up to two additional RMDs under a common non-profit corporation;
 - (c) All phases of the cultivation of marijuana shall take place in designated, locked, limited access areas that are monitored by a surveillance camera system in accordance with 105 CMR 725.110(D)(1)(d)-(i);

- (d) Application of any non-organic pesticide in the cultivation of marijuana is prohibited. All cultivation must be consistent with U.S. Department of Agriculture organic requirements at 7 CFR Part 205;
 - (e) Soil for cultivation shall meet the U.S. Agency for Toxic Substances and Disease Registry's Environmental Media Evaluation Guidelines for residential soil levels; and
 - (f) The cultivation process shall use best practices to limit contamination, including but not limited to mold, fungus, bacterial diseases, rot, pests, non-organic pesticides, mildew, and any other contaminant identified as posing potential harm.
- (2) A RMD may acquire marijuana from or distribute marijuana to another RMD when:
- (a) An documented emergency situation occurs such as loss of crop, vandalism, or theft, or other circumstance as approved by the Department; or
 - (b) A specific registered qualifying patient's needs cannot otherwise be met by the acquiring RMD, as documented by the acquiring RMD; and
 - (c) The distribution and acquisition of marijuana to and from all other RMDs does not exceed, cumulatively, 30% of the RMD's total annual inventory.
- (C) Requirements for Handling and Testing Marijuana and for Production of MIPs
- (1) Except for a registered qualifying patient or personal caregiver, who are not subject to 105 CMR 725.105, only a registered RMD is permitted to produce MIPs. A MIP production facility of a RMD may produce MIPs for only that RMD, and up to two additional RMDs under a common non-profit corporation.
- (2) The RMD is responsible for having all marijuana cultivated by the RMD tested in accordance with the following:
- (a) Marijuana shall be tested for the cannabinoid profile and for contaminants as specified by the Department, including but not limited to mold, mildew, heavy metals, plant-growth regulators, and the presence of non-organic pesticides. The Department may require additional testing;
 - (b) The RMD shall maintain the results of all testing for no less than one year;
 - (c) The RMD must have and follow a policy and procedure for responding to results indicating contamination, which shall include destruction of contaminated product and assessment of the source of contamination. Such policy shall be available to registered qualifying patients and personal caregivers;
 - (d) All testing must be conducted by an independent laboratory that is:
 - 1. Accredited to International Organization for Standardization (ISO) 17025 by a third party accrediting body such as A2LA or ACLASS; or
 - 2. Certified, registered, or accredited by an organization approved by the Department.
 - (e) The RMD shall arrange for testing to be conducted in accordance with the frequency required by the Department;
 - (f) A RMD must have a contractual arrangement with a laboratory for the purposes of testing marijuana, including a stipulation that those individuals

responsible for testing at the laboratory be registered as dispensary agents by the RMD pursuant to 105 CMR 725.030;

(g) An executive of a RMD, or a member, if any, of the non-profit corporation, is prohibited from having any financial or other interest in a laboratory providing testing services for any RMD;

(h) No individual employee of a laboratory providing testing services for RMDs may receive direct financial compensation from any RMD;

(i) All transportation of marijuana to and from laboratories providing marijuana testing services shall comply with 105 CMR 725.110(E);

(j) All storage of marijuana at a laboratory providing marijuana testing services shall comply with 105 CMR 725.105(D); and

(k) All excess marijuana must be returned to the source RMD and be disposed of pursuant to 105 CMR 725.105(J).

(3) All marijuana in the process of cultivation, production, preparation, transport, or analysis shall be housed and stored in such a manner as to prevent diversion, theft, or loss.

(a) Such items shall be accessible only to the minimum number of specifically authorized dispensary agents essential for efficient operation.

(b) Such items shall be returned to a secure location immediately after completion of the process or at the end of the scheduled business day.

(c) If a manufacturing process cannot be completed at the end of a working day, the processing area or tanks, vessels, bins, or bulk containers containing marijuana shall be securely locked inside an area or building that affords adequate security.

(4) A RMD shall process marijuana in a safe and sanitary manner. A RMD shall process the leaves and flowers of the female marijuana plant only, which shall be:

(a) Well cured and free of seeds and stems;

(b) Free of dirt, sand, debris, and other foreign matter;

(c) Free of contamination by mold, rot, other fungus, and bacterial diseases;

(d) Prepared and handled on food-grade stainless steel tables; and

(e) Packaged in a secure area.

(5) Production of edible MIPs shall take place in compliance with the following:

(a) All edible MIPs shall be prepared, handled, and stored in compliance with the sanitation requirements in 105 CMR 500.000: Good Manufacturing Practices for Food, and with the requirements for food handlers specified in 105 CMR 300.000: Reportable Diseases, Surveillance, and Isolation and Quarantine Requirements; and

(b) Any edible MIP that is made to resemble a typical food or beverage product must be packaged in an opaque package and labeled as required by 105 CMR 725.105(E)(3).

(6) All RMDs, including those that develop or process non-edible MIPs, shall comply with the following sanitary requirements:

- (a) Any dispensary agent whose job includes contact with marijuana or non-edible MIPs, including cultivation, production, or packaging, is subject to the requirements for food handlers specified in 105 CMR 300.000: Reportable Diseases, Surveillance, and Isolation and Quarantine Requirements;
- (b) Any dispensary agent working in direct contact with preparation of marijuana or non-edible MIPs shall conform to sanitary practices while on duty, including:
 - 1. Maintaining adequate personal cleanliness; and
 - 2. Washing hands thoroughly in an adequate hand-washing area before starting work, and at any other time when hands may have become soiled or contaminated.
- (c) Hand-washing facilities shall be adequate and convenient and shall be furnished with running water at a suitable temperature. Hand-washing facilities shall be located in the RMD in production areas and where good sanitary practices require employees to wash and/or sanitize their hands, and shall provide effective hand-cleaning and sanitizing preparations and sanitary towel service or suitable drying devices;
- (d) There shall be sufficient space for placement of equipment and storage of materials as is necessary for the maintenance of sanitary operations;
- (e) Litter and waste shall be properly removed, disposed of so as to minimize the development of odor, and minimize the potential for the waste attracting and harboring pests. The operating systems for waste disposal shall be maintained in an adequate manner pursuant to 105 CMR 725.105(J);
- (f) Floors, walls, and ceilings shall be constructed in such a manner that they may be adequately kept clean and in good repair;
- (g) There shall be adequate safety lighting in all processing and storage areas, as well as areas where equipment or utensils are cleaned;
- (h) Buildings, fixtures, and other physical facilities shall be maintained in a sanitary condition;
- (i) All contact surfaces, including utensils and equipment, shall be maintained in a clean and sanitary condition. Such surfaces shall be cleaned and sanitized as frequently as necessary to protect against contamination, using a sanitizing agent registered by the U.S. Environmental Protection Agency (EPA), in accordance with labeled instructions. Equipment and utensils shall be so designed and of such material and workmanship as to be adequately cleanable;
- (j) All toxic items shall be identified, held, and stored in a manner that protects against contamination of marijuana and MIPs;
- (k) A RMD's water supply shall be sufficient for necessary operations. Any private water source shall be capable of providing a safe, potable, and adequate supply of water to meet the RMD's needs;
- (l) Plumbing shall be of adequate size and design, and adequately installed and maintained to carry sufficient quantities of water to required locations throughout the RMD. Plumbing shall properly convey sewage and liquid disposable waste from the RMD. There shall be no cross-connections between the potable and waste water lines;
- (m) A RMD shall provide its employees with adequate, readily accessible toilet facilities that are maintained in a sanitary condition and in good repair;

- (n) Products that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms; and
- (o) Storage and transportation of finished products shall be under conditions that will protect them against physical, chemical, and microbial contamination as well as against deterioration of them or their container.

(D) RMD Storage Requirements

- (1) A RMD shall provide adequate lighting, ventilation, temperature, humidity, space, and equipment, in accordance with applicable provisions of 105 CMR 725.105 and 725.110.
- (2) A RMD shall have separate areas for storage of marijuana that is outdated, damaged, deteriorated, mislabeled, or contaminated, or whose containers or packaging have been opened or breached, until such products are destroyed.
- (3) RMD storage areas shall be maintained in a clean and orderly condition.
- (4) RMD storage areas shall be free from infestation by insects, rodents, birds, and pests of any kind.
- (5) RMD storage areas shall be maintained in accordance with the security requirements of 105 CMR 725.110.

(E) Packaging and Labeling

- (1) Marijuana shall be packaged in plain, opaque, tamper-proof, and child-proof containers without depictions of the product, cartoons, or images other than the RMD's logo. Edible MIPs shall not bear a reasonable resemblance to any product available for consumption as a commercially available candy.
- (2) Labeling of Marijuana (Excluding MIPs). The RMD shall place a legible, firmly affixed label on which the wording is no less than 1/16 inch in size on each package of marijuana that it prepares for dispensing, containing at a minimum the following information:
 - (a) The registered qualifying patient's name;
 - (b) The name and registration number of the RMD that produced the marijuana, together with the RMD's telephone number and mailing address, and website information, if any;
 - (c) The quantity of usable marijuana contained within the package;
 - (d) The date that the RMD packaged the contents;
 - (e) A batch number, sequential serial number, and bar code when used, to identify the batch associated with manufacturing and processing;
 - (f) The cannabinoid profile of the marijuana contained within the package, including THC level;
 - (g) A statement that the product has been tested for contaminants, that there were no adverse findings, and the date of testing in accordance with 105 CMR 725.105(C)(2); and
 - (h) This statement, including capitalization: "This product has not been analyzed or approved by the FDA. There is limited information on the side effects of using

this product, and there may be associated health risks. Do not drive or operate machinery when under the influence of this product. KEEP THIS PRODUCT AWAY FROM CHILDREN.”

- (3) Labeling of MIPs. The RMD shall place a legible, firmly affixed label on which the wording is no less than 1/16 inch in size on each MIP that it prepares for dispensing, containing at a minimum the following information:
- (a) The registered qualifying patient’s name;
 - (b) The name and registration number of the RMD that produced the MIP, together with the RMD’s telephone number and mailing address, and website information, if any;
 - (c) The name of the product;
 - (d) The quantity of usable marijuana contained within the product as measured in ounces;
 - (e) A list of ingredients, including the cannabinoid profile of the marijuana contained within the product, including the THC level;
 - (f) The date of product creation and the recommended “use by” or expiration date;
 - (g) A batch number, sequential serial number, and bar code when used, to identify the batch associated with manufacturing and processing;
 - (h) Directions for use of the product if relevant;
 - (i) A statement that the product has been tested for contaminants, that there were no adverse findings, and the date of testing in accordance with 105 CMR 725.105(C)(2);
 - (j) A warning if nuts or other known allergens are contained in the product; and
 - (k) This statement, including capitalization: “This product has not been analyzed or approved by the FDA. There is limited information on the side effects of using this product, and there may be associated health risks. Do not drive or operate machinery when under the influence of this product. KEEP THIS PRODUCT AWAY FROM CHILDREN.” □

(F) Dispensing Marijuana

- (1) Registered qualifying patients and personal caregivers shall be identified as follows:
- (a) A RMD shall refuse to sell marijuana to any registered qualifying patient or personal caregiver who is unable to produce a registration card and valid proof of identification, or who does not have a valid certification in the Department-supported interoperable database. The identification must contain a name, photograph, and date of birth, and shall be limited to one of the following:
 - 1. A drivers license;
 - 2. A government-issued identification card;
 - 3. A military identification card; or
 - 4. A passport.
 - (b) Upon entry into a RMD by a registered qualifying patient or personal caregiver, a dispensary agent shall immediately inspect the patient’s or caregiver’s registration card and proof of identification.

- (2) A RMD may dispense only to a registered qualifying patient who has a current valid certification, or to his or her personal caregiver. Pursuant to 105 CMR 725.010(H), a certifying physician shall have defined the calendar day length of valid certification of a qualifying patient.
- (a) For a registered qualifying patient certified for less than 60 days, the amount of marijuana dispensed, including marijuana contained in MIPs, shall be no more than the appropriate proportion of a 60-day supply, as defined in 105 CMR 725.004 (e.g., a patient certified for 15 days may receive up to 2.5 ounces of marijuana).
 - (b) For a registered qualifying patient certified for 60 days or longer, the amount of marijuana dispensed, including marijuana contained in MIPs, shall be no more than a 60-day supply in each 60-day period as defined in 105 CMR 725.004 (e.g. a patient certified for 90 days may receive up to ten ounces in the first 60 days and five ounces in the remaining 30 days, while a patient certified for 180 days may receive up to ten ounces in each 60-day period).
 - (c) For a registered qualifying patient whose certifying physician has determined that he or she requires a 60-day supply in excess of 10 ounces in accordance with 105 CMR 725.010(I), the amount of marijuana dispensed, including marijuana contained in MIPs, pursuant to 105 CMR 725.105(F)(2)(a) or (b) shall be adjusted accordingly.
- (3) A RMD shall make interpreter services available that are appropriate to the population served, including for the visually- and hearing-impaired. Such services may be provided by any effective means.
- (4) A RMD may refuse to dispense to a registered qualifying patient or personal caregiver if in the opinion of the dispensary agent, the patient or the public would be placed at risk. In any instance of denial, a RMD must notify the patient's certifying physician within 24 hours.
- (G) Inventory
- (1) A RMD must limit its inventory of seeds, plants, and usable marijuana to reflect the projected needs of registered qualifying patients.
 - (2) Real-time inventory shall be maintained as specified by the Department and in 105 CMR 725.105(G)(3) and (4), including, at a minimum, an inventory of marijuana plants; marijuana plant-clones in any phase of development such as propagation, vegetation, and flowering; marijuana ready for dispensing; all MIPs; and all damaged, defective, expired, or contaminated marijuana and MIPs awaiting disposal.
 - (3) A RMD shall:
 - (a) Establish inventory controls and procedures for the conduct of inventory reviews, and comprehensive inventories of marijuana and MIPs in the process of cultivation, and finished, stored marijuana;
 - (b) Conduct a monthly inventory of marijuana in the process of cultivation and finished, stored marijuana;

- (c) Conduct a comprehensive annual inventory at least once every year after the date of the previous comprehensive inventory; and
 - (d) Promptly transcribe inventories if taken by use of an oral recording device.
- (4) The record of each inventory shall include, at a minimum, the date of the inventory, a summary of the inventory findings, and the names, signatures, and titles of the individuals who conducted the inventory.
- (5) A RMD shall tag and track all marijuana seeds, plants, and products, using a seed-to-sale methodology.
- (H) Dispensary Agent Training. RMDs shall ensure that all dispensary agents complete training prior to performing job functions. Training shall be tailored to the roles and responsibilities of the job function of each dispensary agent, and at a minimum must include training on confidentiality, and other topics as specified by the Department. At a minimum, staff shall receive 8 hours of on-going training annually.
- (I) Record Keeping. Records of a RMD must be available for inspection by the Department, upon request. Written records that are required and are subject to inspection include but are not necessarily limited to all records required in any section of 105 CMR 725.000, in addition to the following:
- (1) Operating procedures as required by 105 CMR 725.105(A);
 - (2) Inventory records as required by 105 CMR 725.105(G);
 - (3) Seed-to-sale tracking records for all marijuana and MIPs as required by 725.105(G)(5);
 - (4) The following personnel records:
 - (a) Job descriptions for each employee and volunteer position, as well as organizational charts consistent with the job descriptions;
 - (b) A personnel record for each dispensary agent. Such records shall be maintained for at least 12 months after termination of the individual's affiliation with the RMD and shall include, at a minimum, the following:
 - 1. All materials submitted to the Department pursuant to 105 CMR 725.030(B);
 - 2. Documentation of verification of references;
 - 3. The job description or employment contract that includes duties, authority, responsibilities, qualifications, and supervision;
 - 4. Documentation of all required training, including training regarding privacy and confidentiality requirements, and the signed statement of the individual indicating the date, time, and place he or she received said training and the topics discussed, including the name and title of presenters;
 - 5. A copy of the application that the RMD submitted to the Department on behalf of any prospective dispensary agent;
 - 6. Documentation of periodic performance evaluations; and

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- 7. A record of any disciplinary action taken.
 - (c) A staffing plan that will demonstrate accessible business hours and safe cultivation conditions;
 - (d) Personnel policies and procedures; and
 - (e) All CORI reports obtained in accordance with 105 CMR 725.030(C), M.G.L. c.6, s. 172 and 803 CMR 2.00;
- (5) Business records, which shall include manual or computerized records of:
 - (a) Assets and liabilities;
 - (b) Monetary transactions;
 - (c) Books of accounts, which shall include journals, ledgers, and supporting documents, agreements, checks, invoices, and vouchers;
 - (d) Sales records that indicate the name of the registered qualifying patient or personal caregiver to whom marijuana has been dispensed, including the quantity, form, and cost; and
 - (e) Salary and wages paid to each employee, stipend paid to each board member, and any executive compensation, bonus, benefit, or item of value paid to any individual affiliated with a RMD, including members of the non-profit corporation, if any.
- (6) Waste disposal records as required under 105 CMR 725.105(J)(5); and
- (7) Following closure of a RMD, all records must be kept for at least 2 years at the expense of the RMD and in a form and location acceptable to the Department.
- (J) Waste Disposal
 - (1) All waste, including waste composed of or containing finished marijuana and MIPs, shall be stored, secured, and managed in accordance with applicable state and local statutes, ordinances, and regulations.
 - (2) Liquid waste containing marijuana or by-products of marijuana processing shall be disposed of in compliance with requirements for discharge into surface water (314 CMR 3.00), groundwater (314 CMR 5.00), and sewers (314 CMR 7.00), or disposed of in an industrial wastewater holding tank in accordance with 314 CMR 18.00.
 - (3) Solid waste generated at a RMD shall be disposed of as follows:
 - (a) Incineration in a commercial or municipal waste combustor in Massachusetts holding a valid permit issued by the Department of Environmental Protection (DEP). No fewer than two dispensary agents must witness and document destruction; or
 - (b) Disposal in a landfill holding a valid permit issued by the DEP or by the appropriate state agency in the state in which the facility is located. No fewer than two dispensary agents must witness and document disposal in the landfill; or
 - (c) Grinding and incorporating the medical marijuana waste with solid wastes such that the resulting mixture renders the medical marijuana waste unusable. Once such medical marijuana waste has been rendered unusable, it may be:

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1. Disposed of in a solid waste management facility that holds a valid permit issued by the DEP or by the appropriate state agency in the state in which the facility is located; or
 2. If the material mixed with the medical marijuana waste is organic material as defined in 310 CMR 16.02, the mixture may be composted at an operation that is in compliance with the requirements of 310 CMR 16.00.
- (4) A RMD must accept at no charge unused, excess, or contaminated marijuana from a registered qualifying patient or personal caregiver, and shall destroy it as provided in 105 CMR 725.105(J) and maintain a written record of such disposal, which shall include the name of the supplying registered qualifying patient or personal caregiver if applicable.
- (5) When marijuana or MIPs are disposed of, the RMD must create and maintain a written record of the date, the type and quantity disposed of, the manner of disposal, and the persons present during the disposal, with their signatures. RMDs shall keep disposal records for at least two years.
- (K) Patient Education. A RMD shall provide educational materials about marijuana to registered qualifying patients and their personal caregivers. A RMD must have an adequate supply of up-to-date educational material available for distribution. Educational materials must be available in languages accessible to all patients served by the RMD, including for the visually- and hearing-impaired. Such materials shall be made available for inspection by the Department upon request. The educational material must include at least the following:
- (1) A warning that marijuana has not been analyzed or approved by FDA, that there is limited information on side effects, that there may be health risks associated with using marijuana, and that it should be kept away from children;
 - (2) A warning that when under the influence of marijuana, driving is prohibited by M.G.L. c. 90, s. 24, and machinery should not be operated;
 - (3) Information to assist in the selection of marijuana, describing the potential differing effects of various strains of marijuana, as well as various forms and routes of administration;
 - (4) Materials offered to registered qualifying patients and their personal caregivers to enable them to track the strains used and their associated effects;
 - (5) Information describing proper dosage and titration for different routes of administration. Emphasis shall be on using the smallest amount possible to achieve the desired effect. The impact of potency must also be explained;
 - (6) A discussion of tolerance, dependence, and withdrawal;
 - (7) Facts regarding substance abuse signs and symptoms, as well as referral information for substance abuse treatment programs;

(8) A statement that registered qualifying patients may not distribute marijuana to any other individual, and that they must return unused, excess, or contaminated product to the RMD from which they purchased the product, for disposal; and

(9) Any other information required by the Department.

(L) Marketing and Advertising Requirements

(1) A RMD may develop a logo to be used in labeling, signage, and other materials. Use of medical symbols, images of marijuana, related paraphernalia, and colloquial references to cannabis and marijuana are prohibited from use in this logo.

(2) RMD external signage shall not be illuminated except for a period of 30 minutes before sundown until closing, and shall comply with local requirements regarding signage, provided however that the Department may further specify minimum signage requirements. Neon signage is prohibited at all times.

(3) A RMD 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.

(4) A RMD shall not utilize graphics related to marijuana or paraphernalia on the exterior of the RMD or the building in which the RMD is located.

(5) A RMD shall not advertise the price of marijuana, except that it shall provide a catalogue or a printed list of the prices and strains of marijuana available at the RMD to registered qualifying patients and personal caregivers upon request.

(6) Marijuana, MIPs, and associated products shall not be displayed or clearly visible to a person from the exterior of a RMD.

(7) A RMD shall not produce any items for sale or promotional gifts, such as T-shirts or novelty items, bearing a symbol of or references to marijuana or MIPs, including the logo of the RMD.

(8) All advertising materials and materials produced by a RMD and disseminated pursuant to 105 CMR 725.105(K) or (L) are prohibited from including:

(a) 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;

(b) Any statement, design, representation, picture, or illustration that encourages or represents the recreational use of marijuana;

(c) Any statement, design, representation, picture, or illustration related to the safety or efficacy of marijuana unless supported by substantial evidence or substantial clinical data with reasonable scientific rigor, which shall be made available upon the request of a registrant or the Department; or

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- (d) Any statement, design, representation, picture, or illustration portraying anyone under 18 years of age.
- (9) Inside the RMD, all marijuana shall be kept in a limited access area inaccessible to any persons other than dispensary agents, with the exception of displays allowable under 105 CMR 725.105(L)(10). Inside the RMD, all marijuana shall be stored in a locked, access-controlled space in a limited access area during non-business hours.
- (10) A RMD may display, in secure, locked cases, no more than one sample of each product offered for sale. These display cases may be transparent.
- (11) The Department shall maintain and make available a list of all RMDs, their dispensing location, and their contact information.
- (M) Reports to the Department. The Department may require ongoing reporting on operational, quality, and financial information in a form and manner determined by the Department.
- (N) Prohibitions
- (1) A RMD may not dispense, deliver, or otherwise transfer marijuana to a person other than a registered qualifying patient or to his or her personal caregiver, to another RMD as specified in 105 CMR 725.105(B)(2), or to a laboratory as specified in 105 CMR 725.105(C)(2).
- (2) A RMD may not acquire marijuana or marijuana plants except through the cultivation of marijuana by that RMD or another RMD as specified in 105 CMR 725.105(B)(2), provided however that a RMD may acquire marijuana seeds.
- (3) A RMD is prohibited from acquiring, possessing, cultivating, delivering, transferring, transporting, supplying, or dispensing marijuana for any purpose except to assist registered qualifying patients.
- (4) A RMD may not give away any marijuana except as required pursuant to 105 CMR 725.100(A)(6). A RMD may not provide any samples of marijuana.
- (5) A RMD may not receive orders for marijuana in any manner other than from a registered qualifying patient or personal caregiver in-person at the RMD, except in the cases of home delivery, in which an order may be received by telephone or through a password-protected, internet-based platform.
- (6) A RMD may not fill orders for marijuana in any manner other than to a registered qualifying patient or personal caregiver in-person at the RMD, except in the case of home delivery, in which an order may be delivered only to a registered qualifying patient or personal caregiver who possesses valid photo identification as required pursuant to 105 CMR 725.105(F)(2).

- (7) A RMD may not sell any products other than marijuana, including MIPs and marijuana seeds, and other products such as vaporizers that facilitate the use of marijuana for medical purposes.
 - (8) Consumption of marijuana on the premises or grounds of any RMD is prohibited, provided however that a RMD may administer marijuana for the purposes of teaching use of vaporizers, or demonstration of use of other products as necessary.
 - (9) A RMD may not adulterate marijuana, including with psychoactive additives or other illicit substances.
 - (10) A RMD may not sell marijuana to a patient with a hardship cultivation registration or to his or her personal caregiver(s), provided however that the RMD may sell seeds to such individuals.
- (O) Requirements Upon Expiration, Revocation, or Voiding of Certificate of Registration of RMD
- (1) If a registration to operate expires without being renewed, is revoked, or becomes void, the RMD shall:
 - (a) Immediately discontinue cultivation and production of marijuana;
 - (b) Weigh and inventory all unused marijuana in all stages of cultivation and all MIPs in any stage of production, and create and maintain a written record of all such items;
 - (c) Dispose of the unused marijuana in accordance with 105 CMR 725.105(J) subsequent to approval by the Department. Such disposal shall be considered to be in the best interests of the general public, and the Department shall not be held liable in any way for any financial or other loss; and
 - (d) Maintain all records as required by 105 CMR 725.105(I)(7).
 - (2) If the RMD does not comply with the requirements of 105 CMR 725.105(O)(1), the Department shall have the authority to, at the RMD's expense, secure the RMD, and after a period of thirty calendar days, seize and destroy the inventory and equipment and contract for the storage of RMD records.
- (P) Access to the Department, Emergency Responders, and Law Enforcement
- (1) The following individuals shall have access to a RMD or RMD transportation vehicle:
 - (a) Representatives of the Department in the course of responsibilities authorized by 105 CMR 725.000 or the Act; and
 - (b) Emergency responders in the course of responding to an emergency.
 - (2) This regulation shall 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.
- (Q) Liability Insurance Coverage or Maintenance of Escrow

- (1) A RMD shall obtain and maintain general liability insurance coverage for no less than \$1,000,000 per occurrence and \$2,000,000 in aggregate, annually, and product liability insurance coverage for no less than \$1,000,000 per occurrence and \$2,000,000 in aggregate, annually, except as provided in 105 CMR 725.105(Q)(2). The deductible for such a liability policy shall be no higher than \$5,000 per occurrence.
- (2) A RMD that documents an inability to obtain minimum liability insurance coverage as required by 105 CMR 725.105(Q)(1) may place in escrow a sum of no less than \$250,000, to be expended for coverage of liabilities.
- (3) The escrow account required pursuant to 105 CMR 725.105(Q)(2) must be replenished within 10 business days of any expenditure.
- (4) Reports documenting compliance with 105 CMR 725.105(Q) shall be made in a manner and form determined by the Department pursuant to 105 CMR 725.105(M).

725.110: Security Requirements for Registered Marijuana Dispensaries

- (A) General Requirements. A RMD shall implement sufficient security measures to deter and prevent unauthorized entrance into areas containing marijuana and theft of marijuana at the RMD. Security measures to protect the premises, registered qualifying patients, personal caregivers, and dispensary agents of the RMD must include but are not limited to the following. The RMD must:
- (1) Allow only registered qualifying patients, personal caregivers, dispensary agents, persons authorized by 105 CMR 725.105(P), and, subject to the requirements of 105 CMR 725.110(C)(4), outside vendors, contractors, and visitors, access to the RMD;
 - (2) Prevent individuals from remaining on the premises of the RMD if they are not engaging in activity expressly or by necessary implication permitted by the Act and 105 CMR 725.000;
 - (3) Dispose of marijuana in accordance with 105 CMR 725.105(J), in excess of the quantity required for normal, efficient operation as established in 105 CMR 725.105(G)(1);
 - (4) Establish limited access areas accessible only to specifically authorized personnel, which shall include only the minimum number of employees essential for efficient operation;
 - (5) Store all finished marijuana in a secure, locked safe or vault and in such a manner as to prevent diversion, theft, and loss;
 - (6) Keep all safes, vaults, and any other equipment or areas used for the production, cultivation, harvesting, processing, or storage of marijuana and MIPs securely locked and protected from entry, except for the actual time required to remove or replace marijuana;
 - (7) Keep all locks and security equipment in good working order;

- (8) Prohibit keys, if applicable, from being left in the locks, or stored or placed in a location accessible to persons other than specifically authorized personnel;
 - (9) Prohibit accessibility of security measures, such as combination numbers, passwords, or electronic or biometric security systems, to persons other than specifically authorized personnel;
 - (10) Ensure that the outside perimeter of the RMD is sufficiently lit to facilitate surveillance;
 - (11) Ensure that trees, bushes, and other foliage outside of the RMD do not allow for a person or persons to conceal themselves from sight;
 - (12) 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; and
 - (13) Develop sufficient additional safeguards as required by the Department for RMDs that present special security concerns.
 - (14) A RMD shall comply with all local requirements regarding siting, provided however that if no local requirements exist, a RMD shall not be sited within a radius of five hundred feet of a school, daycare center, or any facility in which children commonly congregate. The 500 foot distance under this section is measured in a straight line from the nearest point of the facility in question to the nearest point of the proposed RMD.
- (B) Alternate Security Provisions. If a RMD has provided other safeguards that can be regarded as an adequate substitute for a security requirement specified in 105 CMR 725.110, such added protection may be taken into account by the Department in evaluating overall required security measures.
- (C) Limited Access Areas
- (1) All limited access areas 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 1 inch in height.
 - (2) All limited access areas shall be clearly described by the filing of a diagram of the registered premises, in the form and manner determined by the Department, 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.
 - (3) A dispensary agent shall visibly display an identification badge issued by the RMD at all times while at the RMD or transporting marijuana.

- (4) All outside vendors, contractors, and visitors must obtain a visitor identification badge prior to entering a limited access area, and shall be escorted at all times by a dispensary agent authorized to enter the limited access area. The visitor identification badge must be visibly displayed at all times while the visitor is in any limited access area. All visitors must be logged in and out, and that log shall be available for inspection by the Department at all times. All visitor identification badges shall be returned to the RMD upon exit.

(D) Security and Alarm Systems

- (1) A RMD 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:
 - (a) A perimeter alarm on all entry points and perimeter windows;
 - (b) 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 RMD within five minutes after the failure, either by telephone, email, or text message;
 - (c) A duress alarm, panic alarm, or holdup alarm connected to local public safety or law enforcement authorities;
 - (d) Video cameras in all areas that may contain marijuana, 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. Cameras shall be angled so as to allow for the capture of clear and certain identification of any person entering or exiting the RMD or area;
 - (e) Twenty-four hour recordings from all video cameras that are available for immediate viewing by the Department upon request and that are retained for at least 90 calendar days. Recordings shall not be destroyed or altered, and shall be retained as long as necessary if the RMD is aware of a pending criminal, civil, or administrative investigation, or legal proceeding for which the recording may contain relevant information;
 - (f) The ability to immediately produce a clear, color, still photo (live or recorded);
 - (g) A date and time stamp embedded on all recordings. The date and time shall be synchronized and set correctly and shall not significantly obscure the picture;
 - (h) The ability to remain operational during a power outage; and
 - (i) 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 can be played on a standard computer operating system. All recordings shall be erased or destroyed prior to disposal.

- (2) All security system equipment and recordings shall be maintained in a secure location so

as to prevent theft, loss, destruction, and alterations.

- (3) In addition to the requirements listed in 105 CMR 725.110(D)(1) and (2), the RMD shall have a back-up alarm system, with all capabilities of the primary system, provided by a company supplying commercial grade equipment, which shall not be the same company supplying the primary security system.
- (4) Access to surveillance areas shall be limited to persons that are essential to surveillance operations, law enforcement authorities acting within their lawful jurisdiction, security system service personnel, and the Department. A current list of authorized employees and service personnel that have access to the surveillance room must be available to the Department upon request. If on-site, surveillance rooms shall remain locked and shall not be used for any other function.
- (5) 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.

(E) Registered Marijuana Dispensary Transportation of Marijuana and MIPs

- (1) Only a dispensary agent may transport marijuana or MIPs on behalf of a RMD, whether between RMDs, RMD sites, or to registered qualifying patients or personal caregivers.
- (2) A RMD shall:
 - (a) Weigh, inventory, and account for on video all marijuana to be transported prior to its leaving the origination location;
 - (b) Re-weigh, re-inventory, and account for on video all marijuana transported, within eight hours after arrival at the destination RMD except in the case of home delivery pursuant to 105 CMR 725.110(E)(11);
 - (c) Document and report any unusual discrepancy in weight or inventory to the Department and local law enforcement within 24 hours;
 - (d) Complete a shipping manifest in a form and manner determined by the Department, for retention by the origination location, and carry a copy of said manifest with the products being transported; and
 - (e) Securely transmit a copy of the manifest to the receiving RMD prior to transport except in the case of home delivery pursuant to 105 CMR 725.110(E)(11).
- (3) A RMD shall retain all shipping manifests for no less than one year and make them available to the Department upon request.
- (4) A RMD shall ensure that marijuana is:
 - (a) Transported in a secure, locked storage compartment that is part of the vehicle transporting the marijuana;
 - (b) Not visible from outside the vehicle; and
 - (c) Transported in a vehicle that bears no markings that indicate that the vehicle is being used to transport marijuana nor indicates the name of the RMD.

- (5) Any vehicle transporting marijuana shall travel directly to the receiving RMD and shall not make any stops except in the case of home delivery pursuant to 105 CMR 725.110(E)(11). In case of an emergency stop, a detailed log must be maintained describing the reason for the event, the duration, the location, and any activities of personnel exiting the vehicle.
 - (6) A RMD shall ensure that all delivery times and routes are randomized.
 - (7) A RMD shall staff all transport vehicles with a minimum of two dispensary agents. At least one dispensary agent shall remain with the vehicle at all times that the vehicle contains marijuana.
 - (8) Each dispensary agent shall have access to a secure form of communication with personnel at the sending site at all times that the vehicle contains marijuana.
 - (9) Each dispensary agent shall carry his or her Department-issued registration card at all times when transporting marijuana and shall produce it to the Department's authorized representative or law enforcement official upon request.
 - (10) A RMD shall report to the Department and local law enforcement any vehicle accidents, diversions, losses, or other reportable incidents pursuant to 105 CMR 725.110(F), that occur during transport, within 24 hours.
 - (11) Home delivery of marijuana to a registered qualifying patient or a personal caregiver shall be conducted in accordance with 105 CMR 725.105(F) and 105 CMR 725.110(E).
 - (12) Each vehicle used for transport of marijuana shall have a global positioning system monitoring device that is monitored by the RMD during transport.
- (F) Incident Reporting
- (1) A RMD shall immediately notify appropriate law enforcement authorities and the Department within 24 hours after discovering the following:
 - (a) Discrepancies identified during inventory, diversion, theft, loss, and any criminal action involving the RMD or a dispensary agent;
 - (b) Any suspicious act involving the sale, cultivation, distribution, processing, or production of marijuana by any person;
 - (c) Unauthorized destruction of marijuana;
 - (d) Any loss or unauthorized alteration of records related to marijuana, registered qualifying patients, personal caregivers, or dispensary agents;
 - (e) An alarm activation or other event that requires response by public safety personnel;
 - (f) 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; and
 - (g) Any other breach of security.

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- (2) A RMD shall, within 10 calendar days, provide written notice to the Department of any incident described in 105 CMR 725.110(F)(1), by submitting an incident report in the form and manner determined by the Department which details the circumstances of the event, any corrective actions taken, and confirmation that the appropriate law enforcement authorities were notified.
- (3) All documentation related to an incident that is reportable pursuant to 105 CMR 725.110(F)(1) shall be maintained by a RMD for no less than one year and made available to the Department and to law enforcement authorities acting within their lawful jurisdiction upon request.
- (G) A RMD must, on an annual basis, obtain at its own expense a security system audit by a vendor approved by the Department. A report of such audit must be submitted, in a form and manner determined by the Department, no later than 30 calendar days after the audit is conducted. If the audit identifies concerns related to the RMD's security system, the RMD must also submit a plan to mitigate those concerns within 10 business days of submitting the audit.

725.200: Confidentiality

- (A) Information held by the Department about applicants for registration as a qualifying patient, personal caregiver, or dispensary agent, and registered qualifying patients, personal caregivers, and dispensary agents is confidential and exempt from the provisions of M.G.L. c. 66.
- (B) Information held by the Department about applicants for registration as a qualifying patient, personal caregiver, or dispensary agent, and registered qualifying patients, personal caregivers, and dispensary agents may be released by the Department to:
 - (1) The data subject or the data subject's authorized representative, pursuant to M.G.L. c. 66A;
 - (2) Department staff for the purpose of carrying out their official duties;
 - (3) An individual or entity pursuant to an order from a court of competent jurisdiction;
 - (4) Law enforcement personnel for the sole purpose of verifying a cardholder's registration and certification;
 - (5) The Board of Registration in Medicine when necessary in connection with referrals to said Board concerning violations of 105 CMR 725.000; and
 - (6) Other government agencies acting within their lawful jurisdiction, to the extent necessary to carry out the Department's responsibilities and to ensure compliance with the Act and with 105 CMR 725.000.

- (C) Applications, supporting information, and other information regarding a RMD are not confidential, provided however that the following is confidential and exempt from the provisions of M.G.L. c.66:
- (a) Information that identifies a specific registered qualifying patient, personal caregiver, or dispensary agent;
 - (b) Information held by the Department about RMD physical layout, as well as policies, procedures, practices, and plans pertaining to security; and
 - (c) The address of the cultivation or MIP production facility if separate from the dispensing facility.
- (D) Information held by a RMD about registered qualifying patients, personal caregivers, and dispensary agents is confidential and shall not be disclosed without the written consent of the individual to whom the information applies, or as required under law or pursuant to an order from a court of competent jurisdiction, provided however, the Department may access this information to carry out official duties.

725.300: Inspection of Registered Marijuana Dispensaries

- (A) The Department or its agents may inspect a RMD and affiliated vehicles at any time without prior notice in order to determine the RMD's compliance with the Act and 105 CMR 725.000. All areas of a RMD, all dispensary agents and activities, and all records are subject to such inspection. Acceptance of a certificate of registration by a RMD constitutes consent for such inspection.
- (B) A RMD shall immediately upon request make available to the Department all information that may be relevant to a Department inspection, or an investigation of any incident or complaint.
- (C) A RMD shall make all reasonable efforts to facilitate the Department's inspection, or investigation of any incident or complaint, and to facilitate the Department's interviews of RMD dispensary agents.
- (D) An inspection or other investigation may be made prior to the issuance of a certificate of registration or renewal of registration. Additional inspections may be made whenever the Department deems it necessary for the enforcement of the Act and 105 CMR 725.000.
- (E) During an inspection, the Department may direct a RMD to test marijuana for contaminants as specified by the Department, including but not limited to mold, mildew, heavy metals, plant-growth regulators, and the presence of non-organic pesticides.

725.305: Deficiency Statements

After an inspection in which a violation of 105 CMR 725.000 is observed, the Department shall issue a Deficiency Statement citing every violation identified, a copy of which shall be left with or sent to the RMD.

725.310: Plan of Correction

- (A) A RMD shall submit to the Department a written Plan of Correction for any violations cited in the Deficiency Statement issued pursuant to 105 CMR 725.305 within 10 business days after receipt of the Deficiency Statement.
- (B) Every Plan of Correction shall state, with respect to each deficiency, the specific corrective step(s) to be taken, a timetable for such steps, and the date by which compliance with 105 CMR 725.000 will be achieved. The timetable and the compliance dates shall be consistent with achievement of compliance in the most expeditious manner possible.
- (C) The Department shall review the Plan of Correction for compliance with the requirements of 105 CMR 725.000 and shall notify the RMD of either the acceptance or rejection of the plan. An unacceptable plan must be amended and resubmitted within five business days after receipt of such notice.

725.400: Registered Marijuana Dispensary: Grounds for Denial of Initial Application for Registration

Each of the following, in and of itself, constitutes full and adequate grounds for denying the initial application for a RMD registration.

- (A) Information provided by the applicant was misleading, incorrect, false, or fraudulent.
- (B) The application received a low score, indicating the inability to maintain and operate a RMD in compliance with the requirements of the Act and 105 CMR 725.000.
- (C) The application received a lower score than other applications.
- (D) The applicant has been determined to be either not responsible or suitable pursuant to any one or more of the factors listed in 105 CMR 725.100(B)(3)(u).
- (E) The application does not serve the needs of the Commonwealth with regard to location, access, quality, and community safety.
- (F) Any other ground that serves the purposes of 105 CMR 725.000 or the Act.

725.405: Registered Marijuana Dispensary Registration: Grounds for Denial of Renewal Applications and Revocation

Each of the following, in and of itself, constitutes full and adequate grounds for denying the renewal application for registration or revoking registration.

- (A) The RMD is not operational within the time indicated pursuant to 105 CMR 725.100(D).
- (B) Information provided by the RMD was materially inaccurate, incomplete, or fraudulent.

- (C) The RMD has failed to comply with any requirement of the Act or 105 CMR 725.000 or any applicable law or regulation, including laws and regulations of the Commonwealth relating to taxes, child support, workers compensation, and professional and commercial insurance coverage.
- (D) The RMD has failed to submit a Plan of Correction as required or to implement a Plan of Correction as submitted pursuant to 105 CMR 725.310.
- (E) The RMD has assigned or attempted to assign its certificate of registration to another entity.
- (F) There has been a lack of responsible operation of the RMD, as shown by, but not limited to, one or more of the following:
 - (1) Incompetent or negligent operation;
 - (2) Failure to maintain the RMD in a clean, orderly, and sanitary fashion; or
 - (3) Permitting a person to use a registration card belonging to a different person.
- (G) The RMD does not have sufficient financial resources to meet the requirements of the Act or 105 CMR 725.000.
- (H) The financial management of the RMD has resulted in the filing of a petition for bankruptcy or receivership related to the financial solvency of the RMD.
- (I) A executive of a RMD, or a member, if any, of the non-profit corporation, has maintained a substandard level of compliance with the statutory and regulatory requirements for the operation of a health care facility or facility for providing marijuana for medical purposes in another jurisdiction, including, but not limited to, failure to correct deficiencies, a limitation upon or a suspension, revocation, or refusal to grant or renew a registration or license to operate, or certification for Medicaid or Medicare.
- (J) A dispensary agent of a RMD has a history of criminal conduct as evidenced by any criminal proceedings against such individual or against health care facilities or marijuana facilities in which such individual either owned shares of stock or served as a corporate officer, and which resulted in conviction, guilty plea, plea of nolo contendere, or admission to sufficient facts.
- (K) A executive of a RMD, or a member, if any, of the non-profit corporation, has committed, permitted, aided, or abetted any illegal practices in the operation of any RMD.
- (L) The RMD has failed to cooperate or give information to a law enforcement official acting within his or her lawful jurisdiction related to any matter arising out of conduct at any RMD.
- (M) The conduct or practices of the RMD have been detrimental to the safety, health, or welfare of registered qualified patients, personal caregivers, or the public.

(N) The conduct and/or practices of the RMD demonstrate a lack of responsibility or suitability as specified in 105 CMR 725.100(B)(3)(u).

(O) Any other ground that serves the purposes of 105 CMR 725.000 or the Act.

725.410: Void Registered Marijuana Dispensary Registration

A RMD registration is void if the RMD transfers its location without Department approval or ceases to operate.

725.415: Registered Marijuana Dispensary Registration: Limitation of Sales by Registered Marijuana Dispensaries

- (A) If the Commissioner determines that a RMD does not substantially comply with applicable provisions of 105 CMR 725.000 or the Act, the Commissioner may order that the RMD shall not sell marijuana, after a date specified, to registered qualifying patients or their personal caregivers.
- (B) The Commissioner shall not make such a determination until a RMD has been notified that the RMD does not substantially comply with applicable provisions of 105 CMR 725.000 or the Act, that an order to limit sales is contemplated, and that the RMD has a reasonable opportunity to correct the deficiencies.
- (C) An order that a RMD shall not sell marijuana pursuant to 105 CMR 725.415(A) may be rescinded when the Commissioner finds that the RMD is in substantial compliance with the applicable provisions of 105 CMR 725.000.

725.420: Denial of a Registration Card or Hardship Cultivation Registration

Each of the following, in and of itself, constitutes full and adequate grounds for denial of a registration card for a registered qualifying patient, personal caregiver, or dispensary agent, or a hardship cultivation registration:

- (A) Failure to provide the information required in 105 CMR 725.000 for a registration card or hardship cultivation registration;
- (B) Provision of misleading, incorrect, false, or fraudulent information on the application;
- (C) Failure to meet the requirements set forth in 105 CMR 725.000 for a registration card or hardship cultivation registration;
- (D) Revocation or suspension of a registration card or hardship cultivation registration in the previous six months;
- (E) Failure to pay all applicable fees; or

(F) Any other ground that serves the purposes of 105 CMR 725.000 or the Act.

725.425: Revocation of a Registration Card or Hardship Cultivation Registration

- (A) Each of the following, in and of itself, constitutes full and adequate grounds for revocation of a registration card issued to a registered qualifying patient, personal caregiver, or dispensary agent, or a hardship cultivation registration:
- (1) Submission of misleading, incorrect, false, or fraudulent information in the application or renewal application;
 - (2) Violation of the requirements of the Act or 105 CMR 725.000;
 - (3) Fraudulent use of a registration card;
 - (4) Selling, distributing, or giving marijuana to any unauthorized person;
 - (5) Tampering, falsifying, altering, modifying, duplicating, or allowing another person to use, tamper, falsify, alter, modify, or duplicate a registration card or hardship cultivation registration;
 - (6) Failure to notify the Department within five business days after becoming aware that the registration card has been lost, stolen, or destroyed; or
 - (7) Failure to notify the Department within five business days after a change in the registration information contained in the application or required by the Department to have been submitted in connection therewith.
- (B) In addition to the grounds in 105 CMR 725.425(A), each of the following, in and of itself, shall be adequate grounds for the revocation of a registration card issued to a registered qualifying patient:
- (1) The qualifying patient is no longer a resident of the Commonwealth;
 - (2) The qualifying patient, taking into account the amounts of marijuana or MIPs obtained by his or her personal caregiver if applicable, seeks to obtain or obtains more of such amounts than is allowable under 105 CMR 725.105(F)(2); or
 - (3) The qualifying patient has used marijuana in a manner that puts others at risk of their health, safety, or welfare, or has failed to take reasonable precautions to avoid putting others at such risk.
- (C) In addition to the grounds in 105 CMR 725.425(A), a conviction of a felony drug offense in the Commonwealth, or a like violation of the laws of another state, the United States or a military, territorial, or Indian tribal authority shall be adequate grounds for the revocation of a dispensary agent's registration card.

- (D) In addition to the grounds in 105 CMR 725.425(A), the purchase of marijuana from a RMD by a registered qualifying patient with a hardship cultivation registration, or his or her personal caregiver, shall be adequate grounds for the revocation of a hardship cultivation registration.
- (E) In addition to the applicable grounds in 105 CMR 725.425(A)-(C), any other ground that serves the purposes of 105 CMR 725.000 or the Act shall be sufficient to revoke a registration card or hardship cultivation registration.

725.430: Revocation of a Certifying Physician Registration

Each of the following, in and of itself, constitutes full and adequate grounds for revoking a certifying physician registration:

- (A) The physician fraudulently issued a written certification;
- (B) The physician failed to comply with the requirements of the Act or any applicable provisions of 105 CMR 725.000;
- (C) The physician issued a written certification on or after July 1, 2014, without completion of continuing professional development credits pursuant to 105 CMR 725.010(A); or
- (D) Any other ground that serves the purposes of 105 CMR 725.000 or the Act.

725.435: Void Certifying Physician Registration

- (A) When a certifying physician's license to practice medicine in Massachusetts is no longer active, or is suspended, revoked, or restricted with regard to prescribing, or the physician has voluntarily agreed not to practice medicine in Massachusetts, or the physician's Massachusetts controlled substances registration is suspended or revoked, the physician's registration to certify a debilitating medical condition for a qualifying patient is immediately void.
- (B) When a certifying physician surrenders his or her registration, the registration is void.
- (C) A void certifying physician registration is inactive and invalid.

725.440: Void Registration Cards

- (A) A registration card issued to a dispensary agent shall be void when the agent has ceased to be associated with the RMD that applied for and received the dispensary agent's registration card.
- (B) A registration card that has been issued to a qualifying patient, including a hardship cultivation registration, shall be void when:
 - (1) The card has not been surrendered upon the issuance of a new registration card based on new information;

- (2) The qualifying patient is no longer a resident of Massachusetts; or
- (3) The patient is deceased.
- (C) A registration card issued to a personal caregiver is void:
 - (1) When the registered qualifying patient has notified the Department that the individual registered as the personal caregiver is no longer the personal caregiver for that patient;
 - (2) When the sole registered qualifying patient for whom the personal caregiver serves as such is no longer registered with the Department; or
 - (3) Five days after the death of the registered qualifying patient to allow for appropriate disposal of marijuana pursuant to 105 CMR 725.105(J)(4).
- (D) A void registration card is inactive and invalid.

725.445: Summary Cease and Desist Order and Quarantine Order

A summary cease and desist order or quarantine order may be imposed by the Commissioner prior to a hearing, in order immediately to stop or restrict operations by a RMD, to protect the public health, safety, or welfare. The Commissioner may rescind or amend a summary cease and desist order or quarantine order.

- (A) If, based upon inspection, affidavits, or other evidence, the Commissioner determines that a RMD or the products prepared by a RMD pose an immediate or serious threat to the public health, safety, or welfare, the Commissioner may:
 - (1) Issue a cease and desist order and/or quarantine order, requiring cessation or restriction of any or all RMD operations, and prohibiting the use of marijuana produced by that RMD; or
 - (2) Issue a cease and desist order placing restrictions on a RMD, to the extent necessary to avert a continued threat, pending final investigation results.
- (B) The requirements of the cease and desist order or the quarantine order shall remain in effect until the Commissioner rescinds or amends such requirements or until such time as the Department takes final action on any related pending complaint and issues a final decision.

725.450: Summary Suspension Order

The Commissioner may summarily suspend any registration card or certificate of registration issued pursuant to 105 CMR 725.000, pending further proceedings for denial of renewal or revocation of a registration, whenever the Commissioner finds that the continued registration poses an imminent danger to the public health, safety, or welfare.

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725.500: Administrative Review: Non-Selection of a Registered Marijuana Dispensary's Application for Initial Registration

- (A) The Department shall provide written notice of non-selection to an applicant.
- (B) Applicants may request copies of the application scores and any documentation supporting the scoring process for all applications.
- (C) Applicants may request an informal briefing from the Department limited to a discussion of the scoring of their application.
- (D) The written notice of non-selection becomes a final agency action 10 business days after issuance, subject to judicial review in Superior Court in an action for certiorari relief under M.G.L. c. 249, s. 4, unless the applicant submits a request pursuant to 105 CMR 725.500(B) or (C).
- (E) If an applicant submits a request pursuant to 105 CMR 725.500(B) or (C), the written notice of non-selection becomes final upon provision of the requested written documentation or completion of the informal briefing.
- (F) No entity whose application has been denied pursuant to 105 CMR 725.400 may make another application for at least one year after the date of denial.

725.505: Hearings

- (A) Upon written request, a registrant shall be afforded a hearing no later than 28 calendar days after the effective date of a summary cease and desist order or quarantine order issued pursuant to 105 CMR 725.445. At the hearing, the Department must prove by a preponderance of the evidence that there existed immediately prior to, or at the time of the order, an immediate or serious threat to the public health, safety, or welfare.
- (B) Upon written request, a registrant shall be afforded a hearing no later than 14 calendar days after the effective date of a summary suspension order issued pursuant to 105 CMR 725.450. At the hearing, the Department must prove by a preponderance of the evidence that there existed immediately prior to, or at the time of the suspension, an imminent danger to the public health, safety, or welfare.
- (C) With the exception of the provisions for cease and desist orders and quarantine orders pursuant to 105 CMR 725.445, and summary suspension orders pursuant to 105 CMR 725.450, the Department shall provide written notice, and shall provide a hearing if a hearing is requested in writing within 21 calendar days after the effective date stated in the notice, prior to:
 - (1) Denying a renewal application for a registration card;

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- (2) Revoking a registration card for a registered qualifying patient, personal caregiver, or dispensary agent;
 - (3) Denying a renewal application for or revoking a hardship cultivation registration;
 - (4) Denying a renewal application of a RMD;
 - (5) Revoking the registration certificate of a RMD;
 - (6) Limiting sales of marijuana by a RMD; or
 - (7) Revoking a certifying physician registration.
- (D) The written notice shall provide the registrant with a statement of the grounds for the action and of the right to request a hearing and the time-period for such request.
- (E) If a request for a hearing is made, the hearing shall be conducted and a tentative decision issued by the Division of Administrative Law Appeals in accordance with the Adjudicatory Rules of Practice and Procedure, 801 CMR 1.01.
- (F) At the hearing, the Department must prove the basis for the action by a preponderance of the evidence.
- (G) A final decision by the Department after a hearing is a final agency action subject to judicial review in Superior Court pursuant to M.G.L. c. 30A.
- (H) If a hearing pursuant to 105 CMR 725.505 is not requested within the required time, the right to a hearing is waived.

725.510: Effect of Denial of Renewal or Revocation of Registered Marijuana Dispensary Registration, Revocation of Dispensary Agent Registration, and Surrender of a Registration

- (A) A RMD that has had its application for renewal registration denied or its registration revoked is disqualified from future registration as a RMD.
- (B) A dispensary agent whose registration card has been revoked is disqualified from serving as a dispensary agent or from having any financial interest in a RMD.
- (C) The surrender of a certificate of registration or a registration card shall not prevent the Department from revoking, or imposing other penalties with respect to, such certificate of registration or registration card.

725.600: Municipal Requirements

- (A) A RMD and other registered persons shall comply with all local rules, regulations, ordinances, and bylaws.

- (B) The Department does not mandate any involvement by municipalities or local boards of health in the regulation of RMDs, qualifying patients with hardship cultivation registrations, or any other aspects of marijuana for medical use. However, nothing in 105 CMR 725.000 shall be construed so as to prohibit lawful local oversight and regulation, including fee requirements, that does not conflict or interfere with the operation of 105 CMR 725.000.

725.650: _____ Non-Conflict with Other Law

- (A) Nothing in 105 CMR 725.000 shall be construed to limit the applicability of other law as it pertains to the rights of landlords, employers, law enforcement authorities, or regulatory agencies.

- (B) Nothing in 105 CMR 725.000:

- (1) Allows the operation of a motor vehicle, boat, or aircraft while under the influence of marijuana;
- (2) Requires any health insurance provider, or any government agency or authority, to reimburse any person for the expenses of the medical use of marijuana; ☐
- (3) Requires any health care professional to authorize the use of medical marijuana for a patient; ☐
- (4) Requires any accommodation of any on-site medical use of marijuana in any place of employment, school bus or on school grounds, in any youth center, in any correctional facility, or of smoking medical marijuana in any public place;
- (5) Supersedes Massachusetts law prohibiting the possession, cultivation, transport, distribution, or sale of marijuana for nonmedical purposes; or
- (6) Requires the violation of federal law or purports to give immunity under federal law; ☐
- (7) Poses an obstacle to federal enforcement of federal law.

- (C) Nothing in 105 CMR 725.000 shall be construed to limit the scope of practice of a nurse practitioner pursuant to M.G.L. c. 112, s. 80I.

725.700: _____ Waivers

The Commissioner may waive the applicability of one or more of the requirements imposed by 105 CMR 725.000 upon finding that:

- (A) Compliance would cause undue hardship to the registrant;
- (B) If applicable, the registrant's non-compliance does not jeopardize the health or safety of any patient or the public;
- (C) The registrant has instituted compensating features that are acceptable to the Department;
and
- (D) The registrant provides to the Commissioner written documentation supporting its request

for a waiver.

725.800: Severability

The provisions of 105 CMR 725.000 are severable. If a court of competent jurisdiction declares any section, subsection, paragraph, or provision unconstitutional or invalid, the validity of the remaining provisions shall not be affected.

REGULATORY AUTHORITY: Chapter 369 of the Acts of 2012 and M.G.L. c. 111, s. 3.

Regulation As Approved by PHC - 5.8.13

Section 3

To see if the Town will vote to amend Chapter 282 (Zoning Bylaw) of the Town of Ashland Code by making the following changes thereto:

SECTION I

That the Code of the Town of Ashland Chapter 282, Zoning, Section 10.0 Definitions, shall be amended by adding, after the definition of “Medical center or clinic” and before the definition of “Mezzanine/Loft” the following new definition:

“A Medical marijuana dispensary shall mean a not-for-profit entity, as defined by Massachusetts law only, registered under this law, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers.” For further clarification, see additional definitions below [Section 2 of Chapter 369 of the Acts of 2012]:

- A. “Card holder shall mean a qualifying patient, a personal caregiver, or a dispensary agent of a medical marijuana dispensary who has been issued and possess a valid registration card.”
- B. “Cultivation registration shall mean a registration issued to a medical marijuana dispensary for growing marijuana for medical use under the terms of Chapter 369 of the Acts of 2012, or to a qualified patient or personal caregiver under the terms of Section 11 of Chapter 369 of the Acts of 2012.”
- C. “Debilitating medical condition shall mean cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome (AIDS), hepatitis C, amyotrophic lateral sclerosis (ALS), Crohn’s disease, Parkinson’s disease, multiple sclerosis and other conditions as determined in writing by a qualifying patient’s physician.”
- D. “Dispensary Agent shall mean an employee, staff volunteer, officer, or board member of a non-profit medical marijuana dispensary, who shall be at least twenty-one (21) years of age.”
- E. “Enclosed, locked facility shall mean a closet, room, greenhouse, or other area equipped with locks or other security devices, accessible only to dispensary agents, patients, or personal caregivers.”
- F. “Marijuana has the meaning given as ‘marihuana’ in Chapter 94C of the Massachusetts General Laws.”
- G. “Medical use of marijuana shall mean the acquisition, cultivation,

possession, processing, (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfer, transportation, sale, distribution, dispensing, or administration or marijuana, for the benefit of qualifying patients in the treatment of debilitating medical conditions, or the symptoms thereof.”

- H. “Personal caregiver shall mean a person who is at least twenty-one (21) years old who has agreed to assist with a qualifying patient’s medical use of marijuana. Personal caregivers are prohibited from consuming marijuana obtained for the personal, medical use of the qualifying patient.” An employee of a hospice provider, nursing, or medical facility providing care to a qualifying patient may also serve as a personal caregiver.
- I. “Qualifying patient shall mean a person who has been diagnosed by a licensed physician as having a debilitating medical condition.”
- J. “Registration card” shall mean a personal identification card issued by the Massachusetts Department of Public Health to a qualifying patient, personal caregiver, or dispensary agent. The registration card shall verify that a physician has provided written certification to the qualifying patient, that the patient has designated the individual as a personal caregiver, or that a medical dispensary has met the terms of Section 9 and Section 10, Chapter 369 of the Acts of 2012. The registration card shall identify for the Department of Public Health and law enforcement those individuals who are exempt from Massachusetts criminal and civil penalties for conduct pursuant to the medical use of marijuana.”
- K. “Written certification means a document signed by a licensed physician, stating that in the physician’s professional opinion, the potential benefits of the medical use of marijuana would likely outweigh the health risks for the qualifying patient. Such certification shall be made only in the course of a bona fide physician-patient relationship and shall specify the qualifying patient’s debilitating medical conditions.”

SECTION II

That the Code of the Town of Ashland Chapter 282, Zoning, Section 3.0 Use Regulations, Table of Principal Use Regulations, Subsection D, Commercial Uses, shall be amended by adding, in between “Medical or dental office or clinic” and “Bank; financial agency,” the following use:

D. COMMERCIAL USES	RA	RB	RM	CH	CD	CV	CN	CO	I
Medical Marijuana Dispensary	N	N	N	PB	N	N	N	N	PB

SECTION III

That the Code of the Town of Ashland Chapter 282, Zoning, Section 6.0 Special Regulations, shall be amended by inserting, after Section 6.4, the following new section:

“SECTION 6.5 MEDICAL MARIJUANA DISPENSARY REQUIREMENTS:

A. Purpose

The purpose of this section is to ensure that those entities permitted to operate a Medical Marijuana Dispensary, as defined at Section 10.0 herein, comply with all of the provisions of Chapter 369 of the Acts of 2012.

B. Special Permit and Special Permit Granting Authority

A Special Permit shall be required for the establishment of a Medical Marijuana Dispensary. For the purposes of this section, the Special Permit Granting Authority shall be the Planning Board.

C. Performance Standards

1. No Medical Marijuana Dispensary shall be permitted within 750 feet of a public or private school, daycare facility, or playground;
2. The cultivation of medical marijuana within the Town of Ashland shall only occur on the same property as an establishment that sells and dispenses medical marijuana to a qualified patient or personal caregiver. A dispensary may operate without cultivation occurring on-site as long as the applicant can provide proof of an existing cultivation registration at another location;
3. Cultivation and storage of medical marijuana shall be in a secure, enclosed, locked area. Medical marijuana shall not be visible from the street or other public areas;
4. An applicant must demonstrate compliance with the application requirements for the Registration of Medical Marijuana Dispensaries as set forth in the regulations promulgated by the Massachusetts Department of Public Health (or referred to herein as “DPH”);

5. A Special Permit shall only be valid for use by the applicant and will become null and void upon the sale or transfer of the Medical Marijuana Dispensary registration or license;
6. In the event that the DPH revokes, fails or refuses to issue a license or registration, a special permit issued by the Town for the medical marijuana dispensary shall be deemed null and void;
7. In the event that the DPH suspends the license or registration of a medical marijuana dispensary, the special permit shall be so suspended by the Town until the matter is resolved to the satisfaction of the DPH;
8. The provisions of this Ordinance are severable and if any clause, sentence, paragraph or section of this measure, or an application thereof, shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section or application adjudged invalid. [Section 17 of Chapter 369 of the Acts of 2012].

D. Additional Criteria

In addition to the Performance Standards set forth herein, the provisions of Section 9.3 shall apply to Special Permit requests filed under this Section 6.5.

E. Exemptions

1. There may be instances where the DPH determines that a patient is eligible for a hardship registration that would allow the cultivation of medical marijuana at their own residence for their own personal use. In such case, the provisions of Section 6.5 shall not apply.”

or take any action relative thereto.



Town of Dighton, Massachusetts

TOWN CLERK

979 Somerset Avenue, Dighton, MA 02715
Telephone (508) 669-5411

Susana Medeiros

I, Susana Medeiros, duly elected Clerk of the Town of Dighton, Massachusetts, hereby certify that the following is a true copy of an extract from the minutes of the Special Town Meeting duly called and held on October 29, 2013:

ARTICLE 11. VOTED UNANIMOUSLY: On motion of David Araujo and seconded to see if the Town will vote to amend the Town's Zoning Bylaw by revising Section 2900 from Temporary Moratorium on Medical Marijuana Treatment Centers to Registered Marijuana Dispensaries and further amend the Table of Contents to amend the title of Section 2900 Registered Marijuana Dispensaries.

Section 2900 REGISTERED MARIJUANA DISPENSARIES **Section 2910 Purposes**

2911 To provide for the limited establishment of Registered Marijuana Dispensaries (RMD) in appropriate places and under strict conditions in accordance with applicable laws.

2912 To minimize the adverse impacts of RMDs on adjacent properties, residential neighborhoods, schools and other places where children congregate, local historic districts, and other land uses potentially incompatible with said Dispensaries.

2913 To regulate the siting, design, placement, safety, monitoring, modification, and removal of RMDs.

2914 To limit the overall number of RMDs in Dighton to what is essential to serve the public convenience and necessity.

Section 2911 Applicability

The cultivation, production, processing, assembly, packaging, retail or wholesale sale, trade, distribution or dispensing of Marijuana for Medical Use is prohibited unless permitted as an RMD under this Section 2900.

No RMD shall be established except in compliance with the

provisions of Section 2900.

Nothing in this Bylaw shall be construed to supersede federal and state laws governing the sale and distribution of narcotic drugs.

If any provision of this Section or the application of any such provision to any person or circumstance shall be held invalid, the remainder of this Section, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of this Section

Section 2920 Definitions

Registered Marijuana Dispensary –shall mean a “not-for-profit entity, as defined by Massachusetts law only, registered by the Department of Public Health, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils or ointments), transfers, transports, sells distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers.

Marijuana for Medical Use – Marijuana that is designated and restricted for use by, and for the benefit of, Qualifying Patients in the treatment of Debilitating Medical Conditions.

Marijuana – Shall be defined as “marihuana” under Chapter 94C of the Massachusetts General Laws and 105 Code of Massachusetts Regulations 725.004

Section 2921 Eligible Locations for Registered Marijuana Dispensaries

An RMD shall be permitted only in the Medical Use Overlay District by Special Permit by the Planning Board in accordance with the provisions noted below and in accordance with the general Special Permit and Site Plan requirements as set forth in sections 5300 and 5400 of these bylaws.

Section 2930 General Requirements and Conditions for all Registered Marijuana Dispensaries.

2931. No RMD shall have a gross floor area in excess of 2,500 square feet. An RMD may be located in buildings that exceed 2,500 square feet of floor area, provided that the gross floor area of the RMD shall not exceed 2,500 square feet.

2932. All RMD shall be contained within a building or structure.

2933. Drive-through services for the purpose of dispensing Medical Marijuana are prohibited.

2934. The hours of operation of a RMD shall be set by the Special Permit Granting Authority, but in no event shall said Centers be open and/or operating between the hours of 9:00 PM and 8:00 AM.

2935. No special permit for an RMD shall be issued to a person who has been convicted of a felony or a violation of a state or federal statute prohibiting the unlawful possession, sale or distribution of narcotic drugs or prescription drugs. Further, no special permit for a RMD shall be issued to a business or non-profit corporation in which an owner, shareholder, member, officer, manager, or employee has been convicted of a violation of a felony or a state or federal statute prohibiting the unlawful possession, sale or distribution of narcotic drugs or prescription drugs.

2936. No special permit for an RMD shall be issued to a person who has been convicted of a violation of Massachusetts General Law Chapter 119, Section 63 or Massachusetts General Law Chapter 272, Section 28. Further, no special permit for an RMD shall be issued to a business or non-profit corporation in which an owner, shareholder, member, officer, manager, or employee has been convicted of a violation of Massachusetts General Law Chapter 119, Section 63 or Massachusetts General Law Chapter 272, Section 28.

2937. No RMD shall be located within 100 feet of a residential zoning district.

2938. No RMD shall be located within 1000 feet of any of the following structures or uses:

- a. any school attended by children under the age of 18;
- b. any licensed child care facility;
- c. any drug or alcohol rehabilitation facility;
- d. any correctional facility, half-way house, or similar facility; or
- e. any other RMD.

2939. No RMD shall be located within ¼ mile of any playground, public athletic field or similar public recreational facility.

2940. No smoking or burning of marijuana or marijuana-related products shall be permitted on the premises of an RMD.

2941. No RMD shall be located inside a building containing residential units, including transient housing such as motels and dormitories, or inside a movable or mobile structure such as a van or truck.

2943. An RMD may not maintain, cultivate, or store more than ninety-nine (99) cannabis plants in up to 100 square feet of total garden canopy measured by the combined vegetative growth area.

2944. Signage for an RMD shall be limited to one wall sign not to exceed ten square feet in area, and one identifying sign not to exceed two square feet in area; such signs shall not be directly illuminated. Any wall sign, or the identifying sign if the medical cannabis dispensary has no exterior wall sign, shall include the following language: "Only individuals with a registration card issued by the state Department of Public Health may obtain cannabis from medical cannabis dispensaries." The required text shall be a minimum of two inches in height.

2945. All print and electronic advertisements for an RMD, including but not limited to flyers, general advertising signs, and newspaper and magazine advertisements, shall include the following language: "Only individuals with a registration card issued by the state Department of Public Health may obtain cannabis from medical cannabis dispensaries." Oral advertisements for medical cannabis dispensaries, including but not limited to radio and television advertisements shall include the same language.

2946. All RMD shall provide the Special Permit Granting Authority with the name, phone number and email address of an on-site community relations staff person to whom one can provide notice if there are operating problems associated with the establishment.

2947. An RMD may sell or distribute cannabis only to registered, qualifying patients in possession of a current, valid, medical cannabis registration card issued by the Department of Public Health, or to the duly registered personal care giver of a qualified, registered patient.

2948. All employees of an RMD shall be at least 18 years of age.

2949. No person who is not at least 18 years of age shall be permitted on the premises of an RMD during hours of operation unless that person is a qualified patient or caregiver with a valid registration card.

Section 2950 Special Permit Requirements

An RMD may only be allowed by special permit from the Special Permit Granting Authority in accordance with G.L. c. 40A, §9, subject to the following statements, regulations, requirements, conditions and limitations.

2951. A special permit granted under this Section shall have a term limited to the duration of the applicant's ownership and use of the premises as an RMD. A special permit may be transferred only with the approval of the Special Permit Granting Authority in the form of an amendment to the special permit.

2952. A special permit for an RMD shall be limited to one or more of the following uses that shall be prescribed by the Special Permit Granting Authority:

- a. Cultivation of Marijuana for Medical Use (horticulture);
- b. Processing and packaging of Marijuana for Medical Use, including Marijuana that is in the form of smoking materials, food products, oils, aerosols, ointments, and other products;
- c. Retail sale or distribution of Marijuana for Medical Use to Qualifying Patients;
- d. Wholesale sale of Marijuana for Medical Use to other RMD located in the same town.

2953. In addition to the application requirements set forth in Sections of this Bylaw, and Section 5400 Special Permit, a special permit application for an RMD shall include the following:

- a. A statement from the Applicant under oath, setting forth the following information:
 - i. The name and address of each owner, manager, member, partner and employee of the Facility, and a statement indicating whether the application conforms to Sections above;
 - ii. The source of all marijuana that will be sold or distributed at the Facility;
 - iii. The source of all marijuana that will be cultivated, processed, and/or packaged at the Center, if applicable;
 - iv. The quantity of marijuana that will be cultivated, processed, packaged, sold and/or distributed at the Facility; and
 - v. If marijuana is to be cultivated, processed, and/or packaged

at the Facility, the name and address of each purchaser of said marijuana.

b. If the Applicant is a non-profit organization, a copy of its Articles of Organization, a current Certificate of Legal Existence from the Secretary of the Commonwealth, and the most recent annual report; if the Applicant is a for-profit corporate entity, a copy of its Articles of Incorporation or equivalent documents, a current Certificate of Legal Existence from the Secretary of the Commonwealth, and the most recent annual report; if the Applicant is a public agency, evidence of the agency's authority to engage in the development of the Facility as proposed by the application;

c. Copies of all licenses and permits issued by the Commonwealth of Massachusetts and any of its agencies for the Facility;

d. Evidence of the Applicant's right to use the site of the Facility for the Facility, such as a deed, lease, purchase and sale agreement or other legally-binding document;

e. If the Applicant is business organization, a statement under oath disclosing all of its owners, shareholders, partners, members, managers, directors, officers, or other similarly-situated individuals and entities. If any of the above are entities rather than persons, the Applicant must disclose the identity of the owners of such entities until the disclosure contains the names of individuals;

f. A certified list of all parties in interest entitled to notice of the hearing for the special permit application, taken from the most recent tax list of the town and certified by the Town Assessor;

g. A market study demonstrating sufficient demand for the Marijuana for Medical Use proposed to be sold or distributed by the Facility;

h. Proposed security measures for the RMD, including lighting and alarms, to ensure the safety of persons and to protect the premises from theft in accordance with 105 CMR 725.110.

i. Resume(s) of the Applicant and all members of the Facility's management, including company history, references, and relevant experience;

Section 2960 Mandatory Findings.

The Special Permit Authority shall not issue a special permit for an RMD unless it finds that:

a. The Facility is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest, as defined in G.L. c. 40A, §11;

b. That the project is compatible with the immediately surrounding uses. In determining same the Applicant shall show

how the proposed use fits in with the surrounding uses, by traffic impacts, pedestrian safety impacts, odor(s), and noise impact(s).

c. The Facility is fully permitted by all applicable agencies within the Commonwealth of Massachusetts and is in compliance with all applicable state laws and regulations;

d. In the case of retail sale or distribution, the Facility is serving a measurable demand for Marijuana for Medical Use that is currently unmet within the municipality;

e. The applicant has not provided materially false documents or testimony; and

f. The applicant has satisfied all of the conditions and requirements of this Bylaw.

Section 2970 Annual Reporting.

Each RMD permitted under this Bylaw shall as a condition of its special permit file an annual report to the Special Permit Granting Authority and the Town Clerk no later than January 31st, providing a copy of all current applicable state licenses for the Facility and/or its owners, and containing a statement under oath that answers each of the questions set forth under Sections in this bylaw for the preceding calendar, as well as the Facility's best good faith estimate for the then-current calendar year.

Section 2980 Violations Any violation of this bylaw shall be grounds for revocation of a special permit issued under this Section.

2/3 Vote required

Planning Board Recommends

Witness my hand and the seal of the Town of Dighton this 4th day of February 2014.

ATTEST:

Susana Medeiros
Town Clerk

Proposed Registered Marijuana Dispensary By-Law

ARTICLE: _____ RE: Zoning Bylaw Amendments. Add a new Section 7.7 entitled “Registered Marijuana Dispensary” and add said use to the Use Regulations, Section 3.0.

To see if the Town will vote to amend the Town’s Zoning Bylaw’s as follows:

1. Amend Table A – Use Regulations in Section 3.1.2 to add the use “Registered Marijuana Dispensary (RMD)” within the Principal Uses, Section 4, Business Uses, as an allowable use by Planning Board Special Permit only in the B, HCI and I zoning districts.

4. Business Uses	S-1	S-2	GR	B	CB	HCI	I	GA	OS
Registered Marijuana Dispensary	N	N	N	PB	N	PB	PB	N	N

2. And by adding a new section in Section 7.0 *Special Regulations* for Registered Marijuana Dispensary as follows:

“7.7 Registered Marijuana Dispensary

7.7.1 A Registered Marijuana Dispensary (RMD) is considered a non-profit facility or location that has been registered by the Massachusetts Department of Public Health, where medical marijuana is grown, processed and/or made available to a qualifying patient or a personal caregiver as determined by 105 CMR 725.000.

7.7.2 **Spacing Requirements.** A Registered Marijuana Dispensary shall not be sited within the distance of any uses in accordance with 105 CMR 725.110(A)(14).

7.7.3 **Term.** A Special Permit granted under this Section shall expire within two (2) years of the date of issuance of the Permit. Prior to the expiration of the Special Permit, the applicant shall make application to the Special Permit Granting Authority for renewal of the Special Permit for an additional two (2) year period. Said renewal shall not require the technical submissions of the original application, provided that conditions of the site and facility have not changed materially from the original application.

7.7.4 **Transfer.** In addition to the Term requirements specified under Section 7.7.3, a Special Permit granted under this Section shall have a term limited to the duration of the applicant’s ownership of the premises as a Registered Marijuana Dispensary. A Special Permit may be transferred only with the approval of the Special Permit Granting Authority in the form of a modification to the Special Permit with all information required per this Section 7.7, Section 10.4 and in any Rules and Regulations that have been adopted, per Section 7.7.5.

7.7.5 Further Criteria:

1. No permit shall be granted hereunder to any applicant, principal officer, agent, owner or manager of the Registered Marijuana Dispensary who has been convicted of a crime in the Commonwealth of Massachusetts. The application shall include proof of the foregoing, by sworn statement and including submission to a CORI from the Chief of Police for each of the aforementioned individuals. The Chief of Police shall report to the SPGA prior to the close of the public hearing whether or not the applicant complies with this criteria.
2. In addition to the criteria and requirements set forth hereunder, the provisions of Section 10.4 shall apply to Special Permits filed under this Section 7.7”

Submitted by the Planning Board

Explanation:

This Zoning Bylaw amendment is proposed to define and allow the use of Registered Marijuana Dispensaries (RMDs) in the Business, Industrial and Health Care/Industrial zoning districts, subject to a Planning Board Special Permit. The Bylaw would provide for the minimum spacing requirements under Section 105 CMR 725.110(A)(14) of the Mass. Department of Public Health Medical Marijuana Regulations, as they currently state which provide that *“a RMD shall not be sited within a radius of five hundred feet of a school, daycare center, or any facility in which children commonly congregate. The 500 foot distance under this section shall be measured in a straight line from the nearest point of the facility in question to the nearest point of the proposed RMD.”* The Planning Boards supports this Zoning Bylaw amendment to address proper siting of Registered Marijuana Dispensaries, which Massachusetts voters approved the use of in November 2012.

Section 4

To see if the Town will vote to amend the zoning bylaws and Table of Contents to add the newly created Section 4800 Medical Overlay District.

4800. MEDICAL OVERLAY DISTRICT

4810. PURPOSE AND INTENT The purpose of the Medical Overlay District (MOD) is to promote the health, safety, and general welfare of the community through guiding the development and use of health care and related activities, primarily serving those who live and work in Dighton with quality health care while minimizing potential adverse impacts upon nearby residential and other premises. These purposes are to be achieved through establishing controls specifically for medical-related uses at locations where either such uses exist presently or would be appropriate based on accessibility and locational considerations.

4820. ESTABLISHMENT AND DEFINITION OF DISTRICT The MOD is hereby established as an overlay district as shown on the Zoning Map of the Town of Dighton. Within the MOD, the provisions of the underlying Industrial and Industrial Overlay Districts shall remain in full force and effect, except where a Special Permit is issued and where the provisions of the MOD shall apply to the extent different than those of the Industrial and Industrial Overlay Districts.

4830. PERMITTED AND SPECIAL PERMITTED USES.

(a) In addition to the uses permitted in the Industrial District in Section 2200 as noted on the Use Table found in Appendix A, the following uses may be permitted in the MOD by Right subject only to compliance with the Site Plan Review requirements of Section 5400 herein.

1. Community Hospital
2. Medical Clinic
3. Medical Services Building
4. Any of the following, but only if ancillary to and contained within a common structure with a community hospital
 - a) Health Care Facility
 - b) Medical Laboratory
 - c) Pharmacy
5. All uses allowed by right in the underlying zoning district at that location

6. Buildings and uses accessory to 1-5 above, such as parking garage, gift shop, cafeteria, and day care facilities.

(b) In addition to those uses noted above, the following uses may be permitted in the MOD subject to the issuance of a Site Plan Review and Special Permit by the Planning Board in accordance with the criteria set forth in Section 4840 herein.

1. Registered Marijuana Dispensary (RMD)

4840. PROCEDURES FOR ISSUANCE OF SPECIAL PERMITS.

Applications for an MOD Special Permit shall be submitted and reviewed in accordance with the procedures outlined in Section 2900, *et seq.* and Section 5300, *et seq.* Applicants for an MOD Special Permit shall also be required to comply with the provisions in Section 5400, Site Plan Review.

4850. APPROVAL.

In order to grant approval of an MOD special permit the Special Permit Granting Authority shall make the findings as required in Section 5320 and in addition, the Special Permit Granting Authority shall make the following additional findings in Section 2940.

4860. LAPSE of SPECIAL PERMIT

Any special permit granted under this subsection shall lapse if construction is not commenced within two years following the date of issuance, unless good cause for failure to begin construction can be shown by the applicant to the Special Permit Granting Authority prior to the expiration of the Special Permit. Financial ability shall not be considered good cause for delay.

4870. SEVERABILITY

The provisions of this section are severable, and in the event that any provision of this section is determined to be invalid for any reason, the remaining provisions shall remain in full force and effect.

Or take any action relative thereto.

Section 5



MARTHA COAKLEY
ATTORNEY GENERAL

THE COMMONWEALTH OF MASSACHUSETTS OFFICE OF THE ATTORNEY GENERAL

CENTRAL MASSACHUSETTS DIVISION
10 MECHANIC STREET, SUITE 301
WORCESTER, MA 01608

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(508) 795-1991 fax
www.mass.gov/ago

January 31, 2014

Susana Medeiros, Town Clerk
Town of Dighton
979 Somerset Ave.
Dighton, MA 02715

**RE: Dighton Special Town Meeting of October 29, 2013 - Case # 6977
Warrant Articles # 10, 11, 12, 13 and 14 (Zoning)**

Dear Ms. Medeiros:

Articles 10, 12, 13 and 14 – We approve Articles 10, 12, 13, and 14, and the map related to Article 13, adopted at the Dighton Special Town Meeting of October 29, 2013. We will return the approved map to you by regular mail.

Article 11 - We approve the large majority of the by-law amendments adopted by the Town under Article 11 regarding zoning for Registered Marijuana Dispensaries (RMDs). As explained below, we approve the following provisions (among others) regarding RMDs:

- Special permit requirements
- Gross floor area restriction
- Prohibition on drive-through services
- Restriction on hours of operation
- Siting restrictions

However, we must disapprove certain text in Article 11 because it conflicts with Chapter 369 of the Acts of 2012, "An Act for the Humanitarian Medical Use of Marijuana," (the Act) and/or the Department of Public Health (DPH) regulations implementing the Act (105 CMR 725.000). In the following two respects, Article 11 directly conflicts with the Act or the DPH regulations and we therefore must disapprove these provisions:

- Authorization for temporary, outdoor RMDs
- Limit on amount of medical marijuana to be dispensed per patient visit

The conflict arises because the DPH regulations require all RMDs to comply with certain siting and security requirements that are incompatible with a temporary, outdoor RMD. In addition, the Act grants to the DPH (not the municipalities) the sole authority to determine the amount of medical marijuana an RMD may dispense. A town by-law authorizing a special permit for a temporary, outdoor RMD and restricting the amount of medical marijuana to be dispensed per patient visit directly conflicts with the Act and/or DPH regulations in these respects. *See American Lithuanian Naturalization Club v. Board of Health of Athol*, 446 Mass. 310, 321 (2006) (a conflict arises between state statute or regulation and local by-law where the purpose of the statute cannot be achieved in the face of the local by-law.) Therefore, we must disapprove and delete certain text from Article 11, as explicated below. (See pp. 3-4 for **Disapproval # 1 of 2**; and pp. 4-6 for **Disapproval # 2 of 2**). We also explain why certain other sections of Article 11 may not be applied in a manner that would interfere with the Act or regulations.

We emphasize that our disapproval of certain text in Article 11 in no way implies any position on the policy views that led to the adoption of this text. The Attorney General's limited standard of review requires her to approve or disapprove by-laws based solely on their consistency with state and federal law, not on any policy views she may have on the subject matter or wisdom of the by-law. *Amherst v. Attorney General*, 398 Mass. 793, 795-96, 798-99 (1986).

A. General Description of Article 11.

Article 11 amends the Town's zoning by-law to change Section 2900 from "Temporary Moratorium on Medical Marijuana Treatment Centers" to "Registered Marijuana Dispensaries, (RMD)" and to insert requirements reflecting where and under what conditions RMDs may be located in Town. In general, RMDs are allowed in the Town's Medical Use Overlay District by special permit from the Planning Board and in accordance with the special permit and site plan requirements in Sections 2900, 5300, and 5400 of the Town's Zoning Bylaw.

B. Attorney General's Standard of Review of Municipal By-Laws.

Pursuant to G.L. c. 40, § 32, the Attorney General has a "limited power of disapproval," and "[i]t is fundamental that every presumption is to be made in favor of the validity of municipal by-laws." *Amherst*, 398 Mass. at 795-96. The Attorney General does not review the policy arguments for or against the enactment. *Id.* at 798-99 ("Neither we nor the Attorney General may comment on the wisdom of the town's by-law.") Rather, in order to disapprove a by-law, the Attorney General must cite an inconsistency between the by-law and the state Constitution or laws. *Id.* at 796. "As a general proposition the cases dealing with the repugnancy or inconsistency of local regulations with State statutes have given considerable latitude to municipalities, requiring a sharp conflict between the local and State provisions before the local regulation has been held invalid." *Bloom*, 363 Mass. at 154 (emphasis added). "The legislative intent to preclude local action must be clear." *Id.* at 155. Massachusetts has the "strongest type of home rule and municipal action is presumed to be valid." *Connors v. City of Boston*, 430 Mass. 31, 35 (1999) (internal quotations and citations omitted).

Article 11, as an amendment to the Town's zoning by-laws, must be accorded deference.

W.R. Grace & Co. v. Cambridge City Council, 56 Mass. App. Ct. 559, 566 (2002) (“With respect to the exercise of their powers under the Zoning Act, we accord municipalities deference as to their legislative choices and their exercise of discretion regarding zoning orders.”). When reviewing zoning by-laws for consistency with the Constitution or laws of the Commonwealth, the Attorney General’s standard of review is equivalent to that of a court. “[T]he proper focus of review of a zoning enactment is whether it violates State law or constitutional provisions, is arbitrary or unreasonable, or is substantially unrelated to the public health, safety or general welfare.” Durand v. IDC Bellingham, LLC, 440 Mass. 45, 57 (2003). Because the adoption of a zoning by-law by the voters at Town Meeting is both the exercise of the Town’s police power and a legislative act, the vote carries a “strong presumption of validity.” *Id.* at 51. “Zoning has always been treated as a local matter and much weight must be accorded to the judgment of the local legislative body, since it is familiar with local conditions.” Concord v. Attorney General, 336 Mass. 17, 25 (1957) (*quoting* Burnham v. Board of Appeals of Gloucester, 333 Mass. 114, 117 (1955)). “If the reasonableness of a zoning bylaw is even ‘fairly debatable, the judgment of the local legislative body responsible for the enactment must be sustained.’” Durand, 440 Mass. at 51 (*quoting* Crall v. City of Leominster, 362 Mass. 95, 101 (1972)). Nevertheless, where a zoning by-law conflicts with state law or the constitution, it is invalid. *See* Zuckerman v. Hadley, 442 Mass. 511, 520 (2004) (rate of development by-law of unlimited duration did not serve a permissible public purpose and was thus unconstitutional).

C. Disapproved Text Based on Conflict with the Act and/or Regulations.

Because the following requirements directly conflict with the Act and/or the DPH regulations, we must disapprove and delete these provisions from the new Section 2900.

1. Temporary, Outdoor RMDs.

Section 2932 requires that all RMDs shall be contained within a building or structure, but authorizes the Planning Board (as Special Permit Granting Authority) to issue a special permit for a temporary outdoor RMD as follows (emphasis added):

All RMD(*sic*) shall be contained within a building or structure, **provided that the Special Permit Granting Authority may, by special permit, allow a temporary RMD located outdoors, which shall not operate for more than three (consecutive) days per year, and which shall not consume an area of land in excess of 5,000 square feet.**

The DPH regulations allow for “lawful local oversight and regulation, including fee requirements, that does not conflict or interfere with the operation of 105 CMR 725.000.” 105 CMR 725.600 (B). The highlighted text in Section 2932 must be disapproved and deleted because it conflicts with the location and security requirements for RMDs contained in the regulations.

The DPH regulations require that all RMDs be registered by the DPH. No RMD may operate until it has been inspected by DPH and determined to meet all regulatory requirements, including all security provisions. *See generally* 105 CMR 725.100. DPH must approve the

location where an RMD plans to operate. 105 CMR 725.100 (A) (4). In addition, the cultivation and dispensing of marijuana and the preparation of MIPs all must be done within approved closed, locked facilities. *See, e.g.,* 105 CMR 725.105 (B) (1) (c) (“All phases of the cultivation of marijuana shall take place in designated, locked, limited access areas that are monitored by a surveillance camera system...”); *see generally* 105 CMR 725.105 (C) (6) (sanitation requirements for preparing MIPs) and 105 CMR 725.110 (security requirements for registered marijuana dispensaries). A temporary, outdoor RMD could not comply with these operational and security requirements. Because of this direct conflict with the regulations, we must disapprove and delete the highlighted text from Section 2932.

2. Limit on Amount to Be Dispensed Per Patient Visit.

Section 2942 limits the amount which an RMD can dispense per patient visit, as follows (emphasis added):

An RMD shall not sell, distribute or dispense more than one ounce of dried cannabis per qualified patient to a qualified patient or primary caregiver per visit to the Facility. If a qualified patient or a primary caregiver has a doctor’s recommendation that this quantity does not meet the qualified patient’s medical needs, the qualified patient or the primary caregiver may possess and the RMD may dispense an amount of dried cannabis and maintain a number (*sic*) cannabis plants consistent with those needs. Only the dried mature processed flowers of female cannabis plant or the plant conversion shall be considered when determining allowable quantities of cannabis under this Section.

We must disapprove Section 2942 because it directly conflicts with the Act and regulations.

Contrary to the Act and regulations, Section 2942 of the by-law places the Town, and not the DPH or a certifying physician, in the role of determining the amount necessary for a patient’s personal use. The Act dictates that:

[a] qualifying patient or a personal caregiver shall not be subject to arrest or prosecution, or civil penalty, for the medical use of marijuana provided that he or she: (a) [p]ossesses no more marijuana than is necessary for the patient’s personal, medical use, not exceeding the amount necessary for a sixty-day supply...

Act, Section 4 (a).

The Act grants to DPH the sole authority and responsibility to define the amount necessary for a sixty-day supply:

Within 120 days of the effective date of this law, the department shall issue regulations defining the quantity of marijuana that could reasonably be presumed to be a sixty-day supply for qualifying patients, based on the best available evidence. This presumption as to quantity may be overcome with evidence of a particular qualifying patient's appropriate medical use.

Act, Section 8. DPH has made this determination and defined a presumptive sixty-day supply in 105 CMR 725.004 as:

Sixty-Day Supply means that amount of marijuana, or equivalent amount of marijuana in MIPs, that a registered qualifying patient would reasonably be expected to need over a period of 60 calendar days for his or her personal medical use, which is ten ounces, subject to 105 CMR 725.010(I).

The exception referred to in 105 CMR 725.010(I) is:

A certifying physician may determine and certify that a qualifying patient requires an amount of marijuana exceeding 10 ounces as a 60-day supply and shall document the amount and rationale in the medical record and in the written certification. For that qualifying patient, that amount of marijuana constitutes a 60-day supply.

The DPH regulations specifically authorize RMDs to dispense an amount equal to the proportionate sixty-day supply for a qualifying patient based on the certification time period:

- (a) For a registered qualifying patient certified for less than 60 days, the amount of marijuana dispensed, including marijuana contained in MIPs, shall be no more than the appropriate proportion of a 60-day supply, as defined in 105 CMR 725.004 (e.g., a patient certified for 15 days may receive up to 2.5 ounces of marijuana).
- (b) For a registered qualifying patient certified for 60 days or longer, the amount of marijuana dispensed, including marijuana contained in MIPs, shall be no more than a 60-day supply in each 60-day period as defined in 105 CMR 725.004 (e.g. a patient certified for 90 days may receive up to ten ounces in the first 60 days and five ounces in the remaining 30 days, while a patient certified for 180 days may receive up to ten ounces in each 60-day period).

105 CMR 725.105 (F) (2).

Together, the Act and regulations specify that a patient may possess no more than 10 ounces of marijuana (unless the patient has a physician certification authorizing more than 10 ounces) and an RMD may dispense a proportionate share of the 10 ounce supply based upon the patient's certification time period. The regulations specifically authorize an RMD to dispense an

amount in excess of the 1-ounce-per-visit limit in Section 2942 of the by-law. Section 2942 of the by-law therefore conflicts with the DPH regulations and must be disapproved. *See* 105 CMR 725.600 (B) (allowing for local regulation only when it “does not conflict or interfere with the operation of 105 CMR 725.000”).

D. Potential Conflicts between Article 11 and the Act or Regulations, or other State Law.

We approve the following provisions in Article 11, but the Town should take care to apply them in a manner that does not conflict with the Act or regulations.

1. Limit on Cultivation Amount.

Section 2943 limits the amount of marijuana which an RMD may cultivate as follows:

An RMD may not maintain, cultivate, or store more than ninety-nine (99) cannabis plants in up to 100 square feet of total garden canopy measured by the combined vegetative growth area.

It is not clear whether this provision is intended to limit the amount of plants to 99 per 100 square feet, or whether it is setting a finite limit of 99 plants and 100 square feet. The Town may wish to amend this provision for clarity at a future Town Meeting. Regardless of which meaning the Section carries, the Town may not apply this Section in a manner that conflicts with the requirement in 105 CMR 725.105 (G) (1) that “[an] RMD must limit its inventory of seeds, plants, and usable marijuana to reflect the projected needs of registered qualifying patients.” For example, if an RMD can demonstrate to DPH (not the Town) that it needs more than 99 plants per 100 square feet to service the projected needs of its registered qualifying patients, the Town may not limit the RMD’s inventory to 99 plants per 100 square feet. To do so would interfere with the operation of 105 CMR 725.000. We suggest the Town consult with Town Counsel regarding the lawful application of Section 2943.

2. Potential Denial of Special Permit Based on Federal Law.

Section 2911, third paragraph, states that “[n]othing in this Bylaw shall be construed to supersede federal and state laws governing the sale and distribution of narcotic drugs.” We approve this text, but it may not be applied in a way that amounts to a total ban on RMDs in the Town. The Town has the authority to adopt regulations regarding RMDs but may not prohibit them entirely because such a complete ban would frustrate the purpose of the Act to allow qualifying patients reasonable access to medical marijuana. (*See* AGO Decision on Wakefield Case # 6601 issued March 13, 2013; currently under appeal in Wakefield v. Attorney General, SUCV2013-01684).

For example, the Town may wish to assert its authority to deny a special permit for an RMD on the basis that such facilities are illegal under federal law. We recognize that marijuana remains a Schedule I drug and that the federal government is empowered to enforce the Controlled Substances Act (CSA) against those possessing or cultivating medical marijuana. Gonzales v. Raich, 545 U.S. 1 (2005). However, no Massachusetts appellate level court has

considered whether a municipality may effectively ban RMDs based on the asserted inconsistency with between state and federal law where our state law specifically allows RMDs and evidences an intent that qualifying patients have reasonable access to them. Ordinarily, it is the duty of public officials to act in accordance with duly enacted state statutes, not to decline to implement them based on the view that they are inconsistent with federal law. Such determinations belong to the courts.¹

Moreover, at least one court has held that claimed federal preemption of a state's medical marijuana law is not a valid basis for upholding a municipal zoning ordinance banning medical marijuana dispensaries that are authorized by that state law. Qualified Patients Ass'n v. City of Anaheim, 187 Cal. App. 4th 734, 761-62, 115 Cal. Rptr. 3d 89, 109 (Cal. App. 4 Dist. 2010) ("a city may not stand in for the federal government and rely on purported federal preemption to implement federal legislative policy that differs from corresponding, express state legislation concerning medical marijuana").² See also Ter Beek v. City of Wyoming, 823 N.W.2d 864 (Mich. App. 2012) (city ordinance banning land uses that are contrary to federal law, including CSA, and thus preventing qualified patient from growing marijuana in home as permitted under Michigan Medical Marijuana Act (MMMA), was inconsistent with purposes of MMMA and thus invalid; rejecting city's defense that relevant section of MMMA was preempted by federal CSA), leave to appeal granted, 828 N.W.2d 381 (Mich. 2013). The same reasoning would seem to apply to a decision of a local board (such as the Dighton Planning Board) to disapprove an RMD special-permit application on the basis of claimed federal illegality of RMDs.³ For these reasons, the Town should consult closely with Town Counsel when applying this provision in Section 2911.

¹ Cf. National Revenue Corp. v. Violet, 807 F.2d 285, 289 (1st Cir. 1986) (state attorney general should not agree to judgment that statute is unconstitutional, but may inform court if of the opinion that statute is flawed, leaving final determination to court); Cote-Whitacre v. Department of Public Health, 446 Mass. 350, 374 (2006) (Spina, J., concurring) ("The duty of a public official is simply to enforce duly enacted and presumptively constitutional statutes"); Tsongas v. Sec'y of the Comm., 362 Mass. 708, 713 (1972) (officials "had no authority to depart from the statutes on the ground that the statutes were unconstitutional"); Assessors of Haverhill v. New Eng. Tel. & Tel. Co., 332 Mass. 357, 362 (1955) ("In general an administrative officer cannot refuse to proceed in accordance with statutes because he believes them to be unconstitutional," citing Smith v. State of Indiana, 191 U.S. 138, 148 (1903)).

² In response to the claim that California's medical marijuana law was preempted because it posed an obstacle to accomplishing the full purposes and objectives of Congress, the Qualified Patients' Ass'n court explained that "obstacle preemption only applies if the state enactment undermines or conflicts with federal law to such an extent that its purposes cannot otherwise be accomplished"; but the need to remove state and local obstacles to federal objectives "is not a license to commandeer state or local resources to achieve federal objectives." 187 Cal. App. 4th at 761, 115 Cal. Rptr. 3d at 108 (emphasis added).

³ The Supreme Court of California's recent decision in City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc., 300 P.3d 494, 512 n.14 (2013) did not reach the issue of federal preemption of California's medical marijuana statutes.

Note: Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date that these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were voted by Town Meeting, unless a later effective date is prescribed in the by-law.

Very truly yours,
MARTHA COAKLEY
ATTORNEY GENERAL

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Section 6

SAMPLE REGULATION **RESTRICTING THE SALE OF MARIJUANA**

This template expands the local regulatory scope over the sale of medical marijuana under Chapter 369 of the Acts of 2012 (An Act for the Humanitarian Medical Use of Marijuana) and 105 CMR 725 (Implementation of an Act for the Humanitarian Medical Use of Marijuana). The general aim of this template is enable communities to further regulate, improve compliance, deter illegal sales, and eliminate illegal use of marijuana by non-approved persons.

INSTRUCTIONS FOR USE:

1. Fill in [city or town] name.
2. Fill in [ordinance, bylaw, regulation] type.
3. If measure is to be a bylaw or an ordinance edit the following: (a) replace “regulation” with “bylaw” or “ordinance”; (b) remove references to “board of health”; and (c) remove “Authority” section.
4. Fill in any bolded decisions with appropriate answer.
5. If sections are removed, re-letter/re-number accordingly.
6. Fill in effective date.

NOTES ON THIS SAMPLE:

1. **DRAFT POLICIES, USING THIS SAMPLE OR NOT, SHOULD BE REVIEWED BY YOUR MUNICIPAL ATTORNEY BEFORE ENACTMENT.**
2. The general intent of this regulation is two-fold: (1) to complement those state-controlled components of the state law by providing for local licensing and enforcement of dispensaries and (2) to ensure that the Registered Marijuana Dispensary (referred in the Massachusetts Department of Public Health (DPH) rules as “RMD”) environment is strictly controlled to meet the requirements of the state law but go no further. Language in the DPH rules is not preemptive. Section 105 CMR 725.600 reads: “The Department does not mandate any involvement by municipalities or local boards of health in the regulation of RMDs, Qualifying Patients with hardship cultivation registrations, or any other aspects of marijuana for medical use. However, nothing in 105 CMR 725.000 shall be construed so as to prohibit lawful local oversight and regulation, including fee requirements, that does not conflict or interfere with the operation of 105 CMR 725.000.”
3. **SECTION B (AUTHORITY):** This regulation is formatted as a health regulation. If your board of health is not going to be the primary enforcing agents, but your police department or another municipal department will be, then this measure may be better suited as a city ordinance or a town bylaw.
4. **SECTION C (DEFINITIONS):** The definitions listed are either from 105 CMR 725 or the current local tobacco regulation sample.
5. **SECTION D (DISPENSARY LICENSURE):** The Commonwealth has a requirement that anyone holding a retail liquor license must be a U.S. Citizen, a resident of Massachusetts and at least 21 years old. These requirements have not been added to this section but cities and towns may choose to add them.
6. **SECTION D (DISPENSARY LICENSURE):** The list of requirements found here for local licensure is not exhaustive. Your municipality may have additional requirements for other licenses/permits that you may want to add to this section. Many of the requirements listed are similar to those required of retailers selling tobacco in your municipality. The sample disallows the sale of tobacco, liquor, lottery or the in-house consumption of food in an attempt to limit the purpose of dispensaries to only that found in MGL Ch. 369.

7. **SECTION E (DISPENSARY SALES)**: reflects controls to place on the Registered Marijuana Dispensary retail environment that have proven to be helpful in controlling the retail environment regarding tobacco sales. The broad intent is to ensure that there is a face-to-face transaction where the sale is between a qualified seller and a qualified buyer only.
8. **SECTION F (DISPENSARY AGENT LICENSURE)**: Requiring a local permit for state-approved Dispensary Agents will provide a municipality with a list of all Dispensary Agents operating within that municipality and permit local enforcement of persons permitted to sell and/or delivery marijuana at a Registered Marijuana Dispensary. This permit is for individuals only. Registered Marijuana Dispensaries must abide by the Licensing requirements found in Section D.
9. **SECTION H (SALES BY OTHERS)**: reflects the fact that non-qualifying sales of marijuana are controlled by other sections of the state law and may already be addressed in municipal laws you already have.
10. **SECTION I (MARIJUANA POSSESSION)**: addresses the limitations of the state law regarding who can possess marijuana.
11. **SECTION J (MARIJUANA USE)**: Subsection (1) addresses “smoking” of marijuana that is controlled by the state’s Smoke-free Workplace Law (MGL Ch. 270 §22). The smoking definition in the law, and found in this sample, bans the smoking of any substance intended to be “combusted and inhaled”. This prohibits the smoking of marijuana in those workplaces, public places, restaurants and bars that have been required to be smoke-free since July of 2004. Subsection (2) expands the prohibition on school property to not only smoking but to all forms of marijuana use.
12. **SECTION K (VIOLATIONS)**: is the general penalty scheme used for tobacco with the following changes and caveats: (1) Subsections 1, 2, 3, and 4 focus on Registered Marijuana Dispensaries only and section 5 focuses on individuals; (2) Almost all local tobacco regulations use a \$100/200/300 fining scheme as that is what is provided in the state law regarding sales to minors. This sample has a \$300 flat fine to eliminate keeping track of fining levels but a progressive fining scheme is a viable alternative; (3) The state has a maximum cap of \$300 for non-criminal disposition use. However, it is not necessary to only use this civil ticketing method and cities and towns can go beyond the \$300 but any fining appeals will be in criminal court, not civil court; (4) The tolling periods used in tobacco regulations ranges from 12 to 60 months. The longer the period, the longer you are requiring a retailer to be without repeat penalties in order to “clean their record”; (5) The suspension periods are the typical ones found in tobacco measures. They are an important part of tobacco enforcement as many retailers find fines alone as just the “cost of doing business”. This will be more applicable for a substance like marijuana that is likely to be far more expensive than tobacco. Suspensions are a more effective enforcement tool in compelling compliance with this measure. These suspension terms in this sample can be shortened or lengthened but keep in mind that a suspension effectively closes the dispensary down; and (6) The \$100 flat fine for the individual mimics the language found in the state’s Smoke-free Workplace Law. The fine can be decreased or increased (up to \$300 if you wish to use non-criminal disposition ticketing).
13. **SECTION L (NON-CRIMINAL DISPOSITION)**: permits both criminal and non-criminal methods of fining (as indicated by the use of the word “may”). The state’s Smoke-free Workplace Law provides for the issuance of non-criminal disposition tickets WITHOUT bylaw or ordinance authorization. However, all civil tickets issued for violations that are not issued for illegal marijuana smoking in public places or workplaces require ordinance or bylaw authorization.
14. **SECTION M (ENFORCEMENT)**: If this measure is to be a health regulation, it cannot go into effect until a summary is printed in a local newspaper per MGL Ch. 111, §31. For bylaws, this measure will need Attorney General approval before going into effect.

Regulation of the [city/town] Board of Health Restricting the Sale of Marijuana

A. Statement of Purpose:

Whereas the citizens of Massachusetts voted in November of 2012 to declare there should be no punishment under state law for Qualifying Patients and health care professionals, Personal Caregivers for patients, or Registered Marijuana Dispensary Agents for the medical use of marijuana.

Whereas the [city/town] of [city/town] aims to abide by the aim of this law and ensure that Registered Marijuana Dispensaries abide by further regulations to ensure the public health and public safety of our residents.

Now, therefore it is the intention of the [city/town] of [city/town] to regulate the sale of marijuana.

B. Authority:

This regulation is promulgated pursuant to the authority granted to the [city/town] Board of Health by Massachusetts General Laws Chapter 111, Section 31 that "Boards of Health may make reasonable health regulations".

C. Definitions:

For the purpose of this regulation, the following words shall have the following meanings. Terms not herein defined shall be used as defined in 105 CMR 725.

Blunt Wrap: Any tobacco product manufactured or packaged as a wrap or as a hollow tube made wholly or in part from tobacco that is designed or intended to be filled by the consumer with loose tobacco or other fillers.

Business Agent: An individual who has been designated by the owner or operator of any establishment to be the manager or otherwise in charge of said establishment.

Card Holder: A registered Qualifying Patient, a Personal Caregiver, or a Dispensary Agent of a Registered Marijuana Dispensary who has been issued and possesses a valid Registration Card.

Cigar: Any roll of tobacco that is wrapped in leaf tobacco or in any substance containing tobacco with or without a tip or mouthpiece not otherwise defined as a cigarette under Massachusetts General Law, Chapter 64C, Section 1, Paragraph 1.

Dispensary Agent: A board member, director, employee, executive, manager, or volunteer of a Registered Marijuana Dispensary, who is at least 21 years of age and who has received approval from the state under 105 CMR 725.030. Employee includes a consultant or contractor who provides on-site services to a Registered Marijuana Dispensary related to the cultivation, harvesting, preparation, packaging, storage, testing, or dispensing of marijuana.

E-Cigarette: Any electronic nicotine delivery product composed of a mouthpiece, heating element, battery and/or electronic circuits that provides a vapor of liquid nicotine to the user, or relies on vaporization of solid nicotine or any liquid. This term shall include such devices whether they are manufactured as e-cigarettes, e-cigars, e-pipes or under any other product name.

Employee: Any individual who performs services for an employer.

Employer: Any individual, partnership, association, corporation, trust or other organized group of individuals that uses the services of one (1) or more employees.

Hardship Cultivation Registration: A registration issued to a registered Qualifying Patient under the requirements of 105 CMR 725.035.

License To Operate a Registered Marijuana Dispensary (hereafter referred to as “License”): A license issued by the [city/town] of [city/town], to be renewed annually, that permits a Registered Marijuana Dispensary to operate.

License Holder: Any person engaged in the sale marijuana who applies for and receives a License or any person who is required to apply for a License pursuant to these regulations, or his or her business agent.

Marijuana: All parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake or the sterilized seed of the plant which is incapable of germination. The term also includes Marijuana-Infused Products (MIPs) except where the context clearly indicates otherwise.

Marijuana-Infused Product (MIP): A product infused with marijuana that is intended for use or consumption, including but not limited to edible products, ointments, aerosols, oils, and tinctures. These products, when created or sold by a Registered Marijuana Dispensary, shall not be considered a food or a drug as defined in M.G.L. c. 94, s. 1.

Nicotine Delivery Product: Any manufactured article or product made wholly or in part of a tobacco substitute or containing nicotine that is expected or intended for human consumption, but not including a product approved by the United States Food and Drug Administration for sale as a tobacco use cessation or harm reduction product or for other medical purposes and which is being marketed and sold solely for that approved purpose. Nicotine delivery products include, but are not limited to, e-cigarettes.

Non-Residential Roll-Your-Own (RYO) Machine: A mechanical device made available for use (including to an individual who produces rolled marijuana products solely for the individual's own personal consumption or use) that is capable of making rolled marijuana products. RYO machines located in private homes used for solely personal consumption are not Non-Residential RYO machines.

Paraphernalia: “Drug paraphernalia” as defined in M.G.L. Ch. 94C, §1.

Personal Caregiver: A person, registered by the Massachusetts Department of Public Health, who is at least 21 years old, who has agreed to assist with a registered ’s medical use of marijuana, and is not the registered Qualifying Patient’s certifying physician. An employee of a hospice provider, nursing, or medical facility or a

visiting nurse, personal care attendant, or home health aide providing care to a Qualifying Patient may serve as a Personal Caregiver, including to patients under 18 years of age as a second caregiver.

Qualifying Patient: A Massachusetts resident 18 years of age or older who has been diagnosed by a Massachusetts licensed certifying physician as having a debilitating medical condition, or a Massachusetts resident under 18 years of age 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, as having a debilitating medical condition that is also a life-limiting illness, subject to 105 CMR 725.010(J).

Registered Marijuana Dispensary: A not-for-profit entity registered under 105 CMR 725.100 that acquires, cultivates, possesses, processes (including development of related products such as edible MIPs, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered Qualifying Patients or their Ns. Unless otherwise specified, Registered Marijuana Dispensaries refers to the site(s) of dispensing, cultivation, and preparation of marijuana.

Registration Card: An identification card issued by the Department, valid for one year from the date of issue, to a registered Qualifying Patient, Personal Caregiver, or Dispensary Agent. The Registration Card verifies either that a certifying physician has provided a written certification to the Qualifying Patient and the patient has been registered with the Department; that a patient has designated the individual as a Personal Caregiver; that a patient has been granted a hardship cultivation registration; or that a Dispensary Agent has been registered with the Department and is authorized to work at a Registered Marijuana Dispensary. The Registration Card allows access into appropriate elements of a Department-supported, interoperable database in which detailed information regarding certifications and possession criteria are stored. The Registration Card identifies for the Department and law enforcement authorities, those individuals who are exempt from Massachusetts criminal and civil penalties for the medical use of marijuana in compliance with 105 CMR 725.000 and MGL Ch. 369.

Self-Service Display: Any display from which customers may select a marijuana product without assistance from a Dispensary Agent or store personnel.

Sixty-Day Supply: That amount of marijuana, or equivalent amount of marijuana in MIPs, that a registered Qualifying Patient would reasonably be expected to need over a period of 60 calendar days for his or her personal medical use, which is ten ounces, subject to 105 CMR 725.010(I).

Smoking: The lighting of a cigar, cigarette, pipe or other tobacco product or possessing a lighted cigar, cigarette, pipe or other tobacco or non-tobacco product designed to be combusted and inhaled.

Tobacco Product: Cigarettes, cigars, chewing tobacco, pipe tobacco, bidis, snuff, blunt wraps or tobacco in any of its forms.

Vending Machine: Any automated or mechanical self-service device, which upon insertion of money, tokens or any other form of payment, dispenses or makes marijuana products.

Written Certification: A form submitted to the Department by a Massachusetts licensed certifying physician, describing the Qualifying Patient's pertinent symptoms, specifying the patient's debilitating medical condition, and stating that in the physician's professional opinion the potential benefits of the medical use of marijuana would likely outweigh the health risks for the patient.

D. License to Operate a Registered Marijuana Dispensary:

1. No person shall sell or otherwise distribute marijuana or marijuana products within the **[city/town] of [city/town]** without first obtaining a License to Operate a Registered Marijuana Dispensary (License) issued annually by the **[city/town]**. Only Registered Marijuana Dispensaries with a permanent, non-mobile location in **[city/town]**, meeting zoning restrictions, are eligible to apply for a License to maintain a supply of marijuana or marijuana products at the specified location in **[city/town]**.
2. As part of the License application process, the applicant will submit the detailed summary of operating policies and procedures for the Registered Marijuana Dispensary as submitted with their Phase II application per 105 CMR 725.100, including, but not limited to, provisions for security, prevention of diversion, storage of marijuana, transportation of marijuana, inventory procedures, procedures for quality control and testing of product for potential contaminants, procedures for maintaining confidentiality as required by law, personnel policies, dispensing procedures, record-keeping procedures, plans for patient education, and any plans for patient or Personal Caregiver home-delivery.
3. As part of the License application process, the applicant will be provided with this **[ordinance, bylaw, regulation]**. Each applicant is required to sign a statement declaring that the applicant has read said **[ordinance, bylaw, regulation]** and that the applicant is responsible for instructing any and all Dispensary Agents who will be responsible for sales.
4. Each applicant is required to provide proof of a current Registered Marijuana Dispensary registration, issued by the Commonwealth of Massachusetts, before a License can be issued.
5. As a condition of License issuance, the Registered Marijuana Dispensary agrees to provide to the **[city/town] of [city/town]** a copy of their Certificate of Registration, annual renewals thereafter, any changes to the business as described in 105 CMR 725.100(F) and current written operating procedures required in 105 CMR 725.105.
6. No applicant is permitted to sell alcohol, tobacco products and/or Nicotine Delivery Products and must not be in possession of either a tobacco sales permit or a liquor license issued by **[city/town]**.
7. No applicant is permitted to hold a **[food service permit/Common Victualler license]** issued by **[city/town]** for on-premises food consumption.
8. No applicant is permitted to be a Massachusetts lottery dealer.
9. The fee for a License shall be determined by the **[city/town] of [city/town]** annually.
10. A separate License is required for each retail establishment selling marijuana and/or marijuana products and for each location, not being the same address as the retail establishment, where the Registered Marijuana Dispensary is approved by the state to cultivate marijuana or prepare MIPs.
11. Each License shall be displayed at the retail establishment in a conspicuous place.
12. Issuance and maintaining a License shall be conditioned on an applicant's consent to unannounced, periodic inspections of his/her retail establishment to ensure compliance with this **[ordinance, bylaw, regulation]**.
13. Issuance and maintaining a License shall be conditioned on an applicant's ongoing compliance with current Commonwealth of Massachusetts requirements and policies regarding marijuana sales.

14. Applicant agrees to maintain a closed-circuit camera system that records all sales transactions and any recording from the previous 24-hour period must be provided to any law enforcement official or municipal agent who requests such recording.
15. License Holders agree that a Registered Marijuana Dispensary will not open for business before **X:00 a.m.** and shall close no later than **X:00 pm** daily.
16. No License Holder shall allow any Dispensary Agent to sell marijuana or marijuana products until such Dispensary Agent reads this **[ordinance, bylaw, regulation]** regarding the sale of marijuana and signs a statement, a copy of which will be placed on file in the office of the License Holder, that he or she has read the **[ordinance, bylaw, regulation]**.
17. Dispensary Agents must present their Registration Card to any law enforcement official or municipal agent who questions the agent concerning their marijuana-related activities.
18. A License is non-transferable. A new owner of a Registered Marijuana Dispensary must apply for a new License. No new License will be issued unless and until all outstanding penalties incurred by the previous License Holder are satisfied in full.
19. A License will not be renewed if the License Holder has failed to pay all fines issued and the time period to appeal the fines has expired and/or has not satisfied any outstanding License suspensions.
20. At any given time, there shall be no more than **[number (XX)]** Licenses issued in **[city/town]**.

E. Marijuana Sales by Registered Marijuana Dispensaries:

1. No person shall sell marijuana from any location other than at a Registered Marijuana Dispensary that possesses a valid License to Operate a Registered Marijuana Dispensary issued by the **[city/town]**.
2. Registered Marijuana Dispensaries shall only permit Dispensary Agents to transport marijuana or MIPs on their behalf, whether between dispensaries, dispensary sites, or to registered Qualifying Patients or Personal Caregivers and follow Massachusetts Department of Public Health guidelines found in 725.110(E) which shall be made available to the **[city/town]** Police Department upon request.
3. Registered Marijuana Dispensaries shall permit entry to the Registered Marijuana Dispensary, to specifically engage in activity expressly or by necessary implication permitted by the MGL Ch. 369 and 105 CMR 725.000, to only registered Qualifying Patients, Personal Caregivers, Dispensary Agents, persons authorized by 105 CMR 725.105(P) and, subject to the requirements of 105 CMR 725.110(C)(4), outside vendors, contractors and visitors.
4. Registered Marijuana Dispensaries shall limit entry to their “Limited Access Areas” to Dispensary Agents and outside vendors, contractors and visitors meeting the requirements found at 105 CMR 725.110(C).
5. Dispensary Agents shall verify the Registration Card of the Card Holder by means of a valid government-issued photographic identification. No separate identification is required for valid Registration Cards bearing a photograph of the Holder.

6. All retail sales of marijuana must be face-to-face between the Dispensary Agent and the Card Holder and occur at the licensed location.
7. No person shall distribute, or cause to be distributed, any free samples marijuana or marijuana products. No means, instruments or devices that allow for the redemption of marijuana or marijuana products are prohibited.
8. Registered Marijuana Dispensaries are prohibited from using self-service displays, vending machines or Non-Residential Roll-Your-Own machines.
9. The owner or other person in charge of a Registered Marijuana Dispensary shall conspicuously post signage at all entrances indicating that the entry to persons not possessing a valid Registration Card is prohibited. The signage shall be provided by **[city/town]**. The notice shall be no smaller than 8.5" by 11" and shall be posted conspicuously in the retail establishment or other place in such a manner so that they may be readily seen by a person approaching the Registered Marijuana Dispensary.

F. Dispensary Agent Permit:

1. No Dispensary Agent shall sell or otherwise distribute marijuana or marijuana products within the **[city/town] of [city/town]** without first obtaining a Dispensary Agent Permit (Permit) issued annually by **[city/town]**.
2. As part of the Permit application process, the applicant will be provided with this **[ordinance, bylaw, regulation]**. Each applicant is required to sign a statement declaring that the applicant has read said **[ordinance, bylaw, regulation]**.
3. Each applicant is required to provide proof by means of a valid government-issued photographic identification containing the bearer's date of birth that the applicant is 21 years old or older.
4. Each applicant is required to provide proof of a current Dispensary Agent registration, issued by the Commonwealth of Massachusetts, before a Permit can be issued.
5. The fee for a Permit shall be determined by the **[city/town] of [city/town]** annually.
6. Issuance and maintaining a Permit shall be conditioned on an applicant's on-going compliance with current Commonwealth of Massachusetts requirements and policies regarding marijuana sales.
7. A Permit will not be renewed if the Permit Holder has failed to pay all fines issued and the time period to appeal the fines has expired and/or has not satisfied any outstanding Permit suspensions.
8. Dispensary Agents must present their state Registration Card and Dispensary Agent Permit to any law enforcement official or municipal agent who questions the agent concerning their marijuana-related activities.
9. Dispensary Agents shall verify the Registration Card of the Card Holder by means of a valid government-issued photographic identification. No separate identification is required for valid Registration Cards bearing a photograph of the Holder.

10. All retail sales of marijuana must be face-to-face between the Dispensary Agent and the Card Holder and occur at the licensed location.
11. No Dispensary Agent shall distribute, or cause to be distributed, any free samples marijuana or marijuana products. No means, instruments or devices that allow for the redemption of marijuana or marijuana products are prohibited.

G. Registration Card Holders

1. A Qualifying Patient, Personal Caregiver or a Dispensary Agent must notify the [city/town] Police Department after he or she discovers that his or her Registration Card has been lost or stolen.
2. A Qualifying Patient, Personal Caregiver or a Dispensary Agent must carry his or her Registration Card at all times while in possession of marijuana.
3. A registered Qualifying Patient with a hardship cultivation registration, or his or her Personal Caregiver(s), must abide by the provisions of 105 CMR 725.035.

H. Marijuana Sales by Individuals:

1. The sale of marijuana by any person outside of a Registered Marijuana Dispensary, including Card Holders and Dispensary Agent Permit holders, is prohibited and shall be punishable in accordance with applicable state and local laws.
2. The use of marijuana by persons who are not Card Holders, including Personal Caregivers who are Card Holders, shall be punishable in accordance with applicable state and local laws.

I. Marijuana Possession:

1. A Card Holder must present his or her Registration Card to any law enforcement official who questions the patient or caregiver regarding use of marijuana.
2. A Card Holder must not possess an amount of marijuana that exceeds his/her sixty-day supply.
3. Growing marijuana is prohibited except for those possessing a valid Hardship Cultivation Registration issued by the Commonwealth of Massachusetts.

J. Marijuana Use:

1. The smoking of any marijuana is prohibited in locations governed by the Massachusetts Smoke-Free Workplace Law (MGL Ch. 270 §22) and by any local laws or regulations that further ban smoking.
2. The use of marijuana by all persons, including Card Holders, is prohibited in public schools, on public school grounds and on public school buses.

K. Violations:

1. It shall be the responsibility of the License Holder, his or her business agent and/or Permit Holder to ensure compliance with all sections of this **[ordinance, bylaw, regulation]** pertaining to his or her distribution of marijuana and/or marijuana products. The violator shall receive:
 - a In the case of a first violation, a fine of three hundred dollars (\$300.00).
 - b In the case of a second violation within **[24, 36, 48, 60]** months of the date of the current violation, a fine of three hundred dollars (\$300.00) and the License or Permit shall be suspended for seven (7) consecutive business days.
 - c In the case of three or more violations within a **[24, 36, 48, 60]** month period, a fine of three hundred dollars (\$300.00) and the License or Permit shall be suspended for thirty (30) consecutive business days.
2. Refusal to cooperate with inspections pursuant to this **[ordinance, bylaw, regulation]** shall result in the suspension of the License or Permit for thirty (30) consecutive business days.
3. In addition to the monetary fines set above, any License Holder or Permit Holder who engages in the sale or distribution of marijuana or marijuana products while his or her License or Permit is suspended shall be subject to the suspension of all **[city/town]** -issued permits and licenses for thirty (30) consecutive business days.
4. The **[city/town department]** shall provide notice of the intent to suspend a License or Permit, which notice shall contain the reasons therefor and establish a time and date for a hearing which date shall be no earlier than seven (7) days after the date of said notice. The License Holder or its business agent or Permit Holder shall have an opportunity to be heard at such hearing and shall be notified of the **[city/town]**'s decision and the reasons therefore in writing. After a hearing, the **[city/town]** shall suspend the License or Permit if the **[city/town]** finds that a violation of this **[ordinance, bylaw, regulation]** occurred. For purposes of such suspensions, the **[city/town]** shall make the determination notwithstanding any separate criminal or non-criminal proceedings brought in court hereunder or under the Massachusetts General Laws for the same offense. All marijuana and marijuana products shall be removed from the retail establishment upon suspension of the License. Failure to remove all marijuana and marijuana products shall constitute a separate violation of this regulation.
5. An individual or person who violates Sections I and J of this **[ordinance, bylaw, regulation]** shall be subject to a penalty of one hundred dollars (\$100.00) for each violation.

L. Non-Criminal Disposition:

Whoever violates any provision of this regulation may be penalized by the non-criminal method of disposition as provided in Massachusetts General Laws, Chapter 40, Section 21D or by filing a criminal complaint at the appropriate venue.

Each day any violation exists shall be deemed to be a separate offense.

M. Enforcement:

Enforcement of this regulation shall be by the **[list here the city/town departments]**.

Any resident who desires to register a complaint pursuant to the regulation may do so by contacting the **[city/town department]** or its designated agent(s) and they shall investigate.

N. Severability:

If any provision of these regulations is declared invalid or unenforceable, the other provisions shall not be affected thereby but shall continue in full force and effect.

O. Effective Date:

This regulation shall take effect on _____, 2013.

- | | |
|----------|----------|
| 1. _____ | 4. _____ |
| 2. _____ | 5. _____ |
| 3. _____ | |

Section 7

BLATMAN, BOBROWSKI & MEAD, LLC
ATTORNEYS AT LAW
Concord • Millis • Newburyport

DESCRIPTION OF THE FIRM

The firm of *Blatman, Bobrowski & Mead, LLC*, offers the Commonwealth's cities and towns expertise in general municipal law and land use law. The firm's practice is focused on these areas, providing its clients with relevant, timely, and sound counsel. Most of the firm's clients are town governments, boards, and housing authorities. The firm provides counsel in all areas of municipal and land use law, except labor law and with offices located in Concord, Millis, and Newburyport, the firm is able to effectively serve all of its municipal clients.

The firm's attorneys provide general municipal counsel as well as project-based special counsel services. The team is thoroughly familiar with the day-to-day workings of municipal government and the myriad of challenges facing localities as they manage daily operations, emergency situations, long-term planning and strategic efforts. The firm presently serves as Town Counsel to a growing number of municipalities, including the Towns of Ashland, Chatham, Bellingham, Berkley, Deerfield, Douglas, Easton, Grafton, Kingston, Marblehead, Maynard, Newbury, Rehoboth and Southbridge. The firm has also represented well over 100 municipalities in the past 20 years on Special Counsel assignments. The firm has had ongoing relationships of over ten years with a number of our municipal clients.

Although well-versed in the full scope of services offered, the attorneys' areas of expertise in the municipal context are as follows:

Mark Bobrowski: Land use and planning law, trial and appellate court advocacy

Lisa L. Mead: Municipal law; land use and planning law; renewable energy

Jason R. Talerman: Municipal law; land use, planning, wetlands and environmental law; renewable energy, trial and appellate court advocacy

Bettye Ann Blatman: All phases of real estate law, estate planning

Ginny S. Kremer: Municipal Law; land use and planning law; trial and appellate court advocacy

Adam J. Costa: Municipal law; land use and planning law, trial and appellate court advocacy

Michael J. Kennefick: Municipal law; municipal labor and employment law; trial and appellate court advocacy; renewable energy

Sarah Bellino: Municipal law; municipal labor and employment law

Arielle Cecala: Real estate and estate planning

Sarah Kmiecik: Real estate, estate planning, land use and planning law

Mark Bobrowski

Partner

Mark Bobrowski, a founding partner, is an attorney with over 20 years of experience in land use and related municipal matters, and is the author of *The Handbook of Massachusetts Land Use and Planning Law* (1993 & supplemented annually). He is a professor of Administrative Law, Land Use, Local Government, and Property at New England School of Law in Boston. Mark has represented dozens of municipalities and others with land use concerns, and has written extensively on issues affecting municipal government. As a member of the New England School of Law faculty since 1986, he has worked with many communities across the region on community growth control, economic development and resource protection. Mark was also a member of the Massachusetts task force examining affordable housing law.

Education:

- B.A., Ithaca College (Ithaca, New York)
- M.A., University of Oregon (Eugene, Oregon)
- J.D., New England School of Law (Boston, Massachusetts)

Selected Publications:

- *Handbook of Massachusetts Land Use and Planning Law*, 2nd Edition, Aspen Law & Business (2002). Supplemented annually.
- "Affordable Housing v. Open Space: A Proposal for Reconciliation," 30 Boston College Env. Affairs L. Rev. 487 (2003).
- "Reform of the Zoning Act: An Open Letter to the Legislature," 33 Suffolk U. L. Rev. 19 (2000).
- "The Zoning Act's 'Person Aggrieved' Standard: From Barvenik to Marshlian," 18 W. New Eng. L. Rev. 385 (1996).
- "Local Protection of the Scenic Landscape," 22 B.C. Env't'l. Aff. L. Rev. 697 (1995). This article was included in Boardman's *Handbook of Planning and Zoning Law* (1996), an annual compilation of noteworthy articles.
- *Handbook of Massachusetts Land Use and Planning Law*, Little, Brown & Co. (1993). Supplemented 1994-2000.
- "Planners and Lawyers: Toward a Division of Labor," Urban Lawyer (Summer 1990). Reprinted as "Planners and Lawyers: Toward a Division of Labor," Land Use Law and Zoning Digest, Vol. 43, Issue 3 (1991) and "Planners and Lawyers: Toward a Division of Labor," Boardman's *Handbook of Planning and Zoning Law* (1991 & 2000 Supplement).

Lisa L. Mead

Partner

Lisa L. Mead, a founding partner, is an attorney and former City Solicitor for the City of

Somerville, and is also a former three-term Mayor of the City of Newburyport and a former two-term City Councilor for the City of Newburyport. Lisa also served as State Director for Senator John Kerry's Massachusetts operations. Earlier, she worked in a private practice specializing in real estate, banking, securities and corporate law, and as Assistant General Counsel for the Massachusetts Department of Public Welfare. Having served as both the chief elected officer for a municipality and City Solicitor for a major urban city, Lisa is broadly qualified to assist municipalities as they address a variety of local legal issues, including: procurements, finances, licensing, zoning, affordable housing development, permitting, public construction, renewable energy, litigation, state and federal relations and public construction.

Education

- B.A., University of Massachusetts (Amherst, Massachusetts)
- J.D., New England School of Law (Boston, Massachusetts)

Selected Publications and Presentations:

- Local Investment Accounts Ensure Funding, "American City and County Magazine" (March 2002). Co-authored with Stephen Lisauskas.
- A New Look at the Old 40B, A Municipal Perspective, Suffolk University's Moakley Institute, September 2008.
- Keeping Current with chapter 40B, Citizens Housing & Planning Institute and Department of Housing and Community Development, October, 2008
- Developing a Green Legal Thumb Emerging Practice Issues; Green Real Estate, How to Handle Zoning and Permitting, October 2009.
- Massachusetts Managers Association, Annual Boot-Camp; Strategies for Building Relationships among the Board of Selectmen, Town Manager and Town Counsel, October 2009 and 2010.
- Boston Bar Association, Local Permitting and the Wind Siting Reform Act, December 2011.

Bettye Ann Blatman

Partner

Bettye Ann Blatman, a founding partner, has more than ten years of experience in Real Estate Law. She has substantial experience in all forms of sophisticated real estate matters. She assists the firm's clients in reviewing all forms of restrictions, easements, deeds and other related documents.

Education:

- B.A., Brown University (Providence Rhode Island)
- M.A., Columbia University (New York, New York)
- J.D., Boston College Law School (Newton, Massachusetts)

Jason R. Talerman
Of Counsel

Jason R. Talerman, Of Counsel, has more than a decade of experience in the area of municipal law. Prior to joining the firm, Jay was a partner at Kopelman & Paige, where he provided Town Counsel services to nearly a third of the cities and towns in the Commonwealth. Jay has wide experience in a variety of municipal practice areas and has specific expertise in the areas of environmental law, land use and affordable housing. He has a strong litigation background and has practiced before the Housing Appeals Committee, Appellate Tax Board, Department of Environmental Protection, District Court, Land Court, Superior Court and Appeals Court. Additionally, Jay has experience litigating in administrative agencies and the federal courts, including the Environmental Appeals Board, U.S. District Court, First Circuit Court of Appeals and Bankruptcy Court. Jay is a resident of the Town of Norfolk, where he has served as a member on a variety of local boards and committees, including the Conservation Commission, Community Preservation Committee, Bylaw Review Committee, Council on Aging and Master Plan Committee.

Education:

- B.A., University of Massachusetts (Amherst, Massachusetts)
- J.D., Boston College Law School (Newton, Massachusetts)
- Trinity College, Oxford University (Oxford, England)

Selected Presentations & Publications:

- Speech: "Affordable Housing in Massachusetts," Annual Conference of the American Planners' Association (2006).
- Speech: "Chapter 40B Update," CLE International Land Use Forum (2005-06).
- Speech: "Ask the Experts," Affordable Housing Seminar (co-sponsored by DHCD, MassHousing, CHAPA & MHP) (2004-06).
- Speech: "Housing Everyone in the Commonwealth," Harvard University Kennedy School of Government (2003).
- "Life After 40B," Architecture Boston Magazine (May/June 2003).
- "Planned Production Implementation," MMA Annual Conference (2009).
- Community Preservation Act – Presentations to SE and Western Mass Moderators Associations.
- Featured Panelist – 2012 REBA Annual Conference

Ginny Sinkel Kremer
Of Counsel

Ginny Sinkel Kremer served as an Assistant Attorney General for eight years in the Government

Bureau of the Massachusetts Attorney General's Office. In that capacity, she provided legal representation directly to the Commonwealth's officials and agencies, most often in the context of litigation, in the state and federal trial and appellate courts. This representation encompassed a wide variety of complex subject areas, and required expertise in all areas of litigation, brief writing, and settlement negotiations/mediations of complex lawsuits. Since leaving the Attorney General's Office, Ginny has maintained a municipal law practice, serving as counsel to state agencies and municipalities. Ginny has served as lead Town Counsel since 2007, providing a full range of high-quality municipal legal services with unsurpassed responsiveness.

Selected Significant Cases and Reported Decisions:

- Hancock v. Commissioner of Department of Education, served as trial counsel for the Commonwealth in the complex constitutional challenge to the Massachusetts School Finance law and formula (2001-04)
- Goodridge v. Department of Public Health, served on the brief writing team for the Commonwealth of Massachusetts in the same-sex marriage case (2004)
- Rolland v. Cellucci, served as trial counsel in the federal constitutional class action challenging the Massachusetts Medicaid financing formula and policies for individuals with disabilities (1999-2003)
- Becker v. Town of Newbury, 72 Mass. App. Ct. 807 (2008) (successfully represented Town against challenge to Town's calculation of 111F benefits and denial of 85H benefits)
- Covell v. Department of Social Services, 439 Mass. 766 (2003) (successfully represented Department of Social Services against challenge to policy of registry listing of alleged perpetrator)
- Greaney v. Massachusetts State Police, 52 Mass. App. Ct. 781 (2001) (successfully represented State Police against challenge to Colonel's orders of demotion)
- Hosking v. Contributory Retirement Appeals Board, 732 N.E.2d 346 (Mass. App. Ct. 2000) (successfully representing the Massachusetts Turnpike Authority in challenge to denial of early retirement)

Education

- B.A., University of Massachusetts, *cum laude* (Amherst, Massachusetts)
- J.D., Boston University School of Law (Boston, Massachusetts)

Adam J. Costa

Associate

Adam J. Costa is an associate with more than six years' experience in our Concord and Newburyport offices. A graduate of Wake Forest University School of Law, Adam was active in appellate advocacy and was a recipient of the N.C. Academy of Trial Lawyers Award for his outstanding achievements in trial advocacy. As a junior associate with a North Carolina law firm, he helped young municipalities draft zoning ordinances, plan for future growth and manage other land use matters. Adam's practice includes both land use and municipal law. He is admitted to

the bar in Massachusetts and New Hampshire.

Education:

- B.A., University of New Hampshire (Durham, New Hampshire)
- J.D., Wake Forest University School of Law (Winston-Salem, North Carolina)

Michael Kennefick

Associate

Attorney Kennefick has significant trial experience before the district, housing, superior, and land courts and also represents clients before local and state boards. His practice areas include general municipal, employment, and land use and planning law.

After graduating from law school, Attorney Kennefick worked in a general practice law firm in Taunton, Massachusetts from 2000 through 2006. He was employed with Perry, Hicks, Crotty and Deshaies, LLC, and then the Law Offices of Thomas P. Crotty & Associates, PLLC, from May 2006 until January 2013, when he joined Blatman, Bobrowski & Mead, LLC. He was a member of the Rochester Zoning Board of Appeals from 2006 through 2013 and sat as the Chairman of the Board of Public Works for the Town of Acushnet from 2002 through 2005.

Education:

- B.A., University of New Hampshire (Durham, New Hampshire)
- J.D., Roger Williams University (Bristol, RI)

Selected Presentations & Publications:

Guest lecturer at the University of Massachusetts School of Law regarding zoning, local and state licensing, and municipal employment issues.

Arielle Cecala

Associate

Arielle Cecala joined the firm in 2010 with a background in sophisticated estate planning and real estate transactions. She graduated summa cum laud from the University of New Hampshire and received her law degree from the New England School of Law. During her studies, Arielle served as a legal intern and research assistant at the Massachusetts Department of Environmental Protection. She currently assists with all phases of real estate law, estate planning and Community Preservation Act matters.

Education:

- B.A., University of New Hampshire (Durham, New Hampshire)

- J.D., New England School of Law (Boston, Massachusetts)

Sarah Bellino

Associate

Prior to joining the firm in 2013, Sarah was Assistant City Solicitor for the City of Brockton. There, she handled complex contract negotiations, union employee grievances, and general litigation. Sarah also has extensive experience in the Boston Housing Court representing both landlords and tenants. She currently assists with all aspects of the firm's municipal clients' needs. She is licensed to practice law in Massachusetts and New Hampshire.

- B.A., Wells College (Aurora, New York)
- J.D., Roger Williams University (Bristol, Rhode Island)

Sarah Kmiecik

Associate

Sarah recently joined the firm in 2013 after graduating Cum Laude from New England Law School in Boston. During her studies, Sarah interned for Chief Justice Judith Cutler in the Land Court and the Honorable Bonnie MacLeod-Mancuso in the Superior Court. Sarah also interned for the firm during her third year of law school assisting with real estate transactions. Currently she assists with all phases of real estate law, estate planning, land use and municipal law.

- B.A., Trinity College (Hartford, Connecticut)
- J.D., New England Law Boston (Boston, Massachusetts)