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The Massachusetts Register

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THE COMMONWEALTH OF MASSACHUSETTS

Secretary of the Commonwealth - William Francis Galvin

The Massachusetts Register

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60.00 Air Pollution Control for Mobile Sources 73

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458 CMR Department of Family and Medical Leave

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Changes are due to (a) the need to amend 458 CMR 2.02 to reflect statutory changes to definitional terms recently enacted by the Legislature; (b) the fact that eligibility for job-protected, paid leave will begin on January 1, 2021; and (c) the corresponding need to clarify these statutory changes for covered individuals, covered business entities, and employers prior to the start of eligibility for job-protected, paid leave.

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3.00 COVID-19 Emergency Regulations 77

Changes due to (a) the need to clarify the treatment of leave applications submitted after M.G.L. c. 175M's effective date of January 1, 2021 that seek family leave for bonding related to births, adoptions, and foster care placements that occurred in calendar year 2020; (b) the need for the department to account for accrued eligibility for family leave to bond with an individual's child based on qualifying circumstances occurring both in 2020 and 2021; and (c) the continuing danger to public health and welfare presented by the COVID-19 pandemic emergency and the corresponding need to maximize staffing capacity for acute care hospitals in the Commonwealth.

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153.00 Community Mitigation Fund 95

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935 CMR Cannabis Control Commission

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Acts 2020

CHAPTER NUMBER	BILL NUMBER	TITLE	DATE
227	H 5164	Making Appropriations for the Fiscal Year 2021 for the Maintenance of the Departments, Boards, Commissions, Institutions and Certain Activities of the Commonwealth, for Interest, Sinking Fund and Serial Bond Requirements and for Certain Permanent Improvements. *This bill was returned on December 11, 2020 , by the Governor to the House of Representatives, the branch in which said bill was orginated, with his objections in writing to the following items therein:* *Items Disapproved:* *SECTION 2: 1231-1000, 1599-2003, 1599-4417, 3000-7055, 4510-0112, 4515-2020, 4590-1504, 7003-0606, 7003-1207, 7010-1194, 7010-1202, 7061-9401, 7066-1400, 7100-0801, 7100-4000, 7509-0101, 7518-0120, 0320-0003, 0320-0010, 0321-0001, 0321-0100, 0321-2100, 0322-0100, 0330-0101, 0330-0300, 0330-0344, 0330-0599, 0331-0100, 0334-0001, 0337-0002, 0339-1001, 0339-1003, 0339-1005, 0339-2100, 0340-0100, 0340-0198, 0340-0200, 0340-0203, 0340-0298, 0340-0300, 0340-0398, 0340-0400, 0340-0498, 0340-0500, 0340-0598, 0340-0600, 0340-0698, 0340-0700, 0340-0798, 0340-0800, 0340-0898, 0340-0900, 0340-0998, 0340-1000, 0340-1098, 0340-1100, 0340-1198, 0340-2100, 0511-0000, 0540-1000, 0540-1100, 0540-1200, 0540-1300, 0540-1400, 0540-1500, 0540-1600, 0540-1700, 0540-1800, 0540-1900, 0540-2000, 0540-2100, 0610-0000, 0640-0096, 0710-0000, 0710-0100, 0710-0200, 0710-0225, 0710-0300, 0810-0004, 0900-0100, 0910-0200, 0910-0220, 0910-0300, 0920-0300, 0940-0100, 0950-0000, 0950-0050, 0950-0080, 1070-8040, 1107-2501, 2300-0101, 2820-0101, 3000-1042, 3000-7050, 3000-7060, 4003-0122, 4110-1000, 4590-0300, 7000-9402, 7000-9406, 7000-9506, 7000-9508, 7002-0017, 7003-0500, 7007-0952, 7008-1300, 7027-1004, 7028-0031, 7035-0035, 7061-0029, 7109-0100, 7115-0100, 7116-0100, 7503-0100, 7508-0100, 7512-0100, 7515-0100, 7518-0100, 8324-0000, 8910-0102, 8910-0107, 8910-0110, 8910-0145, 8910-1010, 8910-1020, 8910-1030, 8910-8200, 8910-8500, 8910-8630, 8950-0001.* *Section 2E: Items reduced in amount: 1595-6370* *Section 2: Items reduced in amount and by striking wording: 2200-0100, 2260-8870, 2810-0100, 4000-0700, 4590-0250, 7061-0027.* *Section 2: Items disapproved by striking wording: 2000-0101, 2800-0500, 3000-1044, 4000-0300, 4403-2000, 4408-1000, 7004-0101, 7004-0108, 7004-9316, 7100-0200, 8900-0001, 8900-0010.* *Pursuant to Article 56, as amended by Article 90, Section 3, of the Amendments to the Constitution, the Governor sent a separate letter to the Senate and the House of Representatives setting forth recommended amendments to Sections 23, 40, 43, 69, 79, 80, 88, 90, 93, 99, 101, 103, 104, 107, 108, 110, and 116.* *The remainder of the bill was approved by the Governor on December 11, 2020 at one o'clock and thirty-five minutes, P.M.*	12/11/2020
228	H 4473	Authorizing the City of Salem to Establish a Means-Tested Senior Citizen Property Tax Exemption.	12/21/2020

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Acts 2020

CHAPTER NUMBER	BILL NUMBER	TITLE	DATE
229	H 4753	Authorizing the Town of Somerset to Grant 4 Additional Licenses for the Sale of Wine and Malt Beverages to Be Drunk on the Premises.	12/21/2020
230	H 4476	Authorizing the Town of Winchester to Establish a Senior Property Tax Exemption.	12/21/2020
231	H 4438	Relative to Certain Affordable Housing in the Charlestown Section of the City of Boston.	12/22/2020
232	H 4842	Authorizing the City of Framingham to Erect a Pavilion in Mary Dennison Park.	12/22/2020
233	H 4864	Exempting Certain Positions in the Police Department of the City of Framingham from the Civil Service Law.	12/22/2020
234	H 5067	Authorizing the Town of Brookline to Grant Additional Licenses for the Sale of All Alcoholic Beverages to Be Drunk on the Premises in Certain Target Commercial Areas.	12/22/2020
235	H 4983	Relative to an Agricultural Deed Restriction in the Town of Westborough.	12/23/2020
236	H 5146	Establishing a Sick Leave Bank for James F. King, an Employee of the Department of Correction.	12/23/2020
237	H 4955	Exempting the Police Department of the Town of Webster from the Civil Service Law.	12/23/2020
238	H 5061	Authorizing the Town of Plainville to Grant Additional Licenses for the Sale of Alcoholic Beverages.	12/23/2020
239	S 2847	Relative to the Position of Deputy Chief of Police in the Town of Carver.	12/23/2020
240	H 4219	Authorizing the Commissioiner of Capital Asset Management and Maintenance to Convey an Easement in Certain Land in the City of Peabody.	12/23/2020
241	H 4982	Authorizing the City Known as the Town of West Springfield to Grant a Conservation Restriction to Watershed Lands to the Department of Conservation and Recreation and the Massachusetts Audubon Society, Inc.	12/28/2020
242	H 4919	Creating a Fire Department Cadet Program in the City of Boston.	12/28/2020

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STATE REGISTER OF HISTORIC PLACES

WEEKS OF: November 21, 2020 – December 11, 2020

For further information call the Massachusetts Historical Commission (617-727-8470)

ACTIONS TAKEN UNDER 950 CMR 71.00

Town/Property/Agency	Finding	Date
NONE		

ADDITIONAL LISTINGS UNDER 950 CMR 71.00

Town/Name/Address	Designation	Date	Number of Properties
Mendon Mendon Center Local Historic District Hastings, Elm, Main and Maple Sts	LHD	5/5/2017	66
Mendon Taft Homestead Local Historic District 40 Millville Rd	LHD	5/5/2017	1
New Bedford Rural Cemetery 149 Dartmouth St	PR	3/13/2020	1
Ware Ware Town Hall 126 Main St	PR	11/24/2020	1

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The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
One Ashburton Place
Boston, Massachusetts 02108

CHARLES D. BAKER
Governor

KARYN E. POLITO
Lieutenant Governor

MARYLOU SUDDERS
Secretary

Administrative Bulletin 20-87

101 CMR 322.00: Durable Medical Equipment, Oxygen and Respiratory Therapy Equipment

Effective July 6, 2020

Addition of KU Modifier

Under the authority of 101 CMR 322.01(5) and 322.03(16), the Executive Office of Health and Human Services is issuing this administrative bulletin to add the modifier KU to certain existing codes related to wheelchair accessories and seat/back cushions used with complex rehabilitative manual wheelchairs. The KU modifier is applied to accessories for the following codes: K0005, K0008, E1161, E1231, E1232, E1233, E1234, E1235 E1236, E1237, and E1238. The list of accessories subject to the KU modifier is in the table below. The code updates are effective for dates of services on and after July 6, 2020. In accordance with 101 CMR 322.01(5), new codes with associated Medicare fees are set at a percentage of prevailing Medicare fees described in 101 CMR 322.03(16).

The appearance of a code in the table below does not constitute authorization for or approval of the procedures or services for which rates are determined pursuant to 101 CMR 322.00. Governmental units that purchase care are responsible for the definition, authorization, and approval of care to publicly aided individuals.

For additional, previously adopted, wheelchair accessory codes eligible for use with the KU modifier, please reference Administrative Bulletin 18-09 at https://www.mass.gov/regulations/101-CMR-32200-durable-medical-equipment-oxygen-and-respiratory-therapy-equipment.

Code	Rate	Description
E0958 KH KU	43.08	Manual wheelchair accessory, one-arm drive attachment, each
E0958 KI KU	43.08	Manual wheelchair accessory, one-arm drive attachment, each
E0958 KJ KU	32.31	Manual wheelchair accessory, one-arm drive attachment, each
E0958 NU KU	430.80	Manual wheelchair accessory, one-arm drive attachment, each
E0958 UE KU	323.10	Manual wheelchair accessory, one-arm drive attachment, each
E0959 NU KU	51.35	Manual wheelchair accessory, adapter for amputee, each
E0959 RR KU	4.54	Manual wheelchair accessory, adapter for amputee, each
E0959 UE KU	38.87	Manual wheelchair accessory, adapter for amputee, each
E0961 NU KU	34.56	Manual wheelchair accessory, wheel lock brake extension (handle), each
E0961 RR KU	3.07	Manual wheelchair accessory, wheel lock brake extension (handle), each
E0961 UE KU	14.65	Manual wheelchair accessory, wheel lock brake extension (handle), each

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Code	Rate	Description
E0966 NU KU	82.91	Manual wheelchair accessory, headrest extension, each
E0966 RR KU	7.69	Manual wheelchair accessory, headrest extension, each
E0966 UE KU	62.18	Manual wheelchair accessory, headrest extension, each
E0967 NU KU	76.30	Manual wheelchair accessory, hand rim with projections, any type, replacement only, each
E0967 RR KU	7.64	Manual wheelchair accessory, hand rim with projections, any type, replacement only, each
E0967 UE KU	57.20	Manual wheelchair accessory, hand rim with projections, any type, replacement only, each
E0971 NU KU	50.40	Manual wheelchair accessory, anti-tipping device, each
E0971 RR KU	5.05	Manual wheelchair accessory, anti-tipping device, each
E0971 UE KU	37.83	Manual wheelchair accessory, anti-tipping device, each
E0974 NU KU	86.04	Manual wheelchair accessory, anti-rollback device, each
E0974 RR KU	8.21	Manual wheelchair accessory, anti-rollback device, each
E0974 UE KU	64.53	Manual wheelchair accessory, anti-rollback device, each
E0992 NU KU	110.56	Manual wheelchair accessory, solid seat insert
E0992 RR KU	9.21	Manual wheelchair accessory, solid seat insert
E0992 UE KU	82.91	Manual wheelchair accessory, solid seat insert
E1015 NU KU	133.26	Shock absorber for manual wheelchair, each
E1015 RR KU	13.32	Shock absorber for manual wheelchair, each
E1015 UE KU	99.94	Shock absorber for manual wheelchair, each
E1225 KH KU	44.63	Wheelchair accessory, manual semi-reclining back, (recline greater than 15 degrees, but less than 80 degrees), each
E1225 KI KU	44.63	Wheelchair accessory, manual semi-reclining back, (recline greater than 15 degrees, but less than 80 degrees), each
E1225 KJ KU	33.47	Wheelchair accessory, manual semi-reclining back, (recline greater than 15 degrees, but less than 80 degrees), each
E1225 NU KU	446.30	Wheelchair accessory, manual semi-reclining back, (recline greater than 15 degrees, but less than 80 degrees), each
E1225 UE KU	334.73	Wheelchair accessory, manual semi-reclining back, (recline greater than 15 degrees, but less than 80 degrees), each
E1226 NU KU	538.82	Wheelchair accessory, manual fully reclining back, (recline greater than 80 degrees), each
E1226 RR KU	55.45	Wheelchair accessory, manual fully reclining back, (recline greater than 80 degrees), each
E1226 UE KU	404.07	Wheelchair accessory, manual fully reclining back, (recline greater than 80 degrees), each
E2201 NU KU	433.46	Manual wheelchair accessory, nonstandard seat frame width, greater than or equal to 20 inches but less than 24 inches
E2201 RR KU	43.35	Manual wheelchair accessory, nonstandard seat frame width, greater than or equal to 20 inches but less than 24 inches
E2201 UE KU	325.09	Manual wheelchair accessory, nonstandard seat frame width, greater than or equal to 20 inches but less than 24 inches
E2202 NU KU	550.63	Manual wheelchair accessory, nonstandard seat frame width, 24-27 inches
E2202 RR KU	55.07	Manual wheelchair accessory, nonstandard seat frame width, 24-27 inches
E2202 UE KU	412.99	Manual wheelchair accessory, nonstandard seat frame width, 24-27 inches
E2203 NU KU	556.54	Manual wheelchair accessory, nonstandard seat frame depth, greater

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Code	Rate	Description
		than or equal to 20 inches but less than 22 inches
E2203 RR KU	55.65	Manual wheelchair accessory, nonstandard seat frame depth, greater than or equal to 20 inches but less than 22 inches
E2203 UE KU	417.37	Manual wheelchair accessory, nonstandard seat frame depth, greater than or equal to 20 inches but less than 22 inches
E2204 NU KU	944.97	Manual wheelchair accessory, nonstandard seat frame depth, 22 - 25 inches
E2204 RR KU	94.51	Manual wheelchair accessory, nonstandard seat frame depth, 22 - 25 inches
E2204 UE KU	708.72	Manual wheelchair accessory, nonstandard seat frame depth, 22 - 25 inches
E2205 NU KU	37.95	Manual wheelchair accessory, handrim without projections (includes ergonomic or contoured), any type, replacement only, each
E2205 RR KU	3.78	Manual wheelchair accessory, handrim without projections (includes ergonomic or contoured), any type, replacement only, each
E2205 UE KU	28.48	Manual wheelchair accessory, handrim without projections (includes ergonomic or contoured), any type, replacement only, each
E2206 NU KU	47.25	Manual wheelchair accessory, wheel lock assembly, complete, replacement only each
E2206 RR KU	4.70	Manual wheelchair accessory, wheel lock assembly, complete, replacement only each
E2206 UE KU	35.44	Manual wheelchair accessory, wheel lock assembly, complete, replacement only each
E2211 NU KU	47.53	Manual wheelchair accessory, pneumatic propulsion tire, any size, each
E2211 RR KU	4.59	Manual wheelchair accessory, pneumatic propulsion tire, any size, each
E2211 UE KU	34.05	Manual wheelchair accessory, pneumatic propulsion tire, any size, each
E2212 NU KU	6.82	Manual wheelchair accessory, tube for pneumatic propulsion tire, any size, each
E2212 RR KU	.73	Manual wheelchair accessory, tube for pneumatic propulsion tire, any size, each
E2212 UE KU	5.13	Manual wheelchair accessory, tube for pneumatic propulsion tire, any size, each
E2213 NU KU	35.34	Manual wheelchair accessory, insert for pneumatic propulsion tire, (removable) any size, each
E2213 RR KU	3.55	Manual wheelchair accessory, insert for pneumatic propulsion tire, (removable) any size, each
E2213 UE KU	26.49	Manual wheelchair accessory, insert for pneumatic propulsion tire, (removable) any size, each
E2214 NU KU	41.82	Manual wheelchair accessory, pneumatic caster tire, any size each
E2214 RR KU	4.59	Manual wheelchair accessory, pneumatic caster tire, any size each
E2214 UE KU	31.25	Manual wheelchair accessory, pneumatic caster tire, any size each
E2215 NU KU	11.15	Manual wheelchair accessory, tube for pneumatic caster tire, any size each
E2215 RR KU	1.11	Manual wheelchair accessory, tube for pneumatic caster tire, any size each
E2215 UE KU	8.35	Manual wheelchair accessory, tube for pneumatic caster tire, any size each
E2216 NU KU	52.92	Manual wheelchair accessory, foam filled propulsion tire, any size each
E2216 RR KU	5.30	Manual wheelchair accessory, foam filled propulsion tire, any size each
E2216 UE KU	39.68	Manual wheelchair accessory, foam filled propulsion tire, any size each
E2217 NU KU	46.83	Manual wheelchair accessory, foam filled caster tire, any size each

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Code	Rate	Description
E2217 RR KU	4.68	Manual wheelchair accessory, foam filled caster tire, any size each
E2217 UE KU	35.13	Manual wheelchair accessory, foam filled caster tire, any size each
E2218 NU KU	52.92	Manual wheelchair accessory, foam propulsion tire, any size each
E2218 RR KU	5.30	Manual wheelchair accessory, foam propulsion tire, any size each
E2218 UE KU	39.68	Manual wheelchair accessory, foam propulsion tire, any size each
E2219 NU KU	46.83	Manual wheelchair accessory, foam caster tire, any size each
E2219 RR KU	4.68	Manual wheelchair accessory, foam caster tire, any size each
E2219 UE KU	35.13	Manual wheelchair accessory, foam caster tire, any size each
E2220 NU KU	33.15	Manual wheelchair accessory, solid (rubber/plastic) propulsion tire, any size, replacement only, each
E2220 RR KU	3.20	Manual wheelchair accessory, solid (rubber/plastic) propulsion tire, any size, replacement only, each
E2220 UE KU	25.35	Manual wheelchair accessory, solid (rubber/plastic) propulsion tire, any size, replacement only, each
E2221 NU KU	29.68	Manual wheelchair accessory, solid (rubber/plastic) caster tire (removable), any size, replacement only, each
E2221 RR KU	3.01	Manual wheelchair accessory, solid (rubber/plastic) caster tire (removable), any size, replacement only, each
E2221 UE KU	22.27	Manual wheelchair accessory, solid (rubber/plastic) caster tire (removable), any size, replacement only, each
E2222 NU KU	24.48	Manual wheelchair accessory, solid (rubber/plastic) caster tire with integrated wheel, any size each
E2222 RR KU	2.42	Manual wheelchair accessory, solid (rubber/plastic) caster tire with integrated wheel, any size each
E2222 UE KU	18.36	Manual wheelchair accessory, solid (rubber/plastic) caster tire with integrated wheel, any size each
E2224 NU KU	113.92	Manual wheelchair accessory, propulsion wheel excludes tire, any size, replacement only, each
E2224 RR KU	11.96	Manual wheelchair accessory, propulsion wheel excludes tire, any size, replacement only, each
E2224 UE KU	85.44	Manual wheelchair accessory, propulsion wheel excludes tire, any size, replacement only, each
E2225 NU KU	20.21	Manual wheelchair accessory, caster wheel excludes tire, any size, replacement only each
E2225 RR KU	2.01	Manual wheelchair accessory, caster wheel excludes tire, any size, replacement only each
E2225 UE KU	15.15	Manual wheelchair accessory, caster wheel excludes tire, any size, replacement only each
E2226 NU KU	44.07	Manual wheelchair accessory, caster fork, any size, replacement only each
E2226 RR KU	4.41	Manual wheelchair accessory, caster fork, any size, replacement only each
E2226 UE KU	33.06	Manual wheelchair accessory, caster fork, any size, replacement only each
E2228 KH KU	108.75	Manual wheelchair accessory, wheel braking system and lock, complete, each
E2228 KI KU	108.75	Manual wheelchair accessory, wheel braking system and lock, complete, each
E2228 KJ KU	81.53	Manual wheelchair accessory, wheel braking system and lock, complete, each
E2228 NU KU	1087.50	Manual wheelchair accessory, wheel braking system and lock, complete,

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Code	Rate	Description
		each
E2228 UE KU	815.62	Manual wheelchair accessory, wheel braking system and lock, complete, each
E2231 NU KU	178.53	Manual wheelchair accessory, solid seat support base (replaces sling seat), includes any type mounting hardware
E2231 RR KU	17.86	Manual wheelchair accessory, solid seat support base (replaces sling seat), includes any type mounting hardware
E2231 UE KU	133.88	Manual wheelchair accessory, solid seat support base (replaces sling seat), includes any type mounting hardware
K0050 NU KU	32.55	Ratchet assembly, replacement only
K0050 RR KU	3.24	Ratchet assembly, replacement only
K0050 UE KU	24.62	Ratchet assembly, replacement only
K0195 KH KU	17.94	Elevating leg rests, pair (for use with capped rental wheelchair base)
K0195 KI KU	17.94	Elevating leg rests, pair (for use with capped rental wheelchair base)
K0195 KJ KU	13.46	Elevating leg rests, pair (for use with capped rental wheelchair base)
K0195 NU KU	179.40	Elevating leg rests, pair (for use with capped rental wheelchair base)
K0195 UE KU	134.55	Elevating leg rests, pair (for use with capped rental wheelchair base)

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The Commonwealth of Massachusetts
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Administrative Bulletin 20-88

101 CMR 320.00: Clinical Laboratory Services

Effective on dates found in table below.

Procedure Code Update

Pursuant to 101 CMR 320.01(3): *Coding Updates and Corrections*, the Executive Office of Health and Human Services (EOHHS) is adding new procedure codes for clinical laboratory services relating to testing for Coronavirus Disease 2019 (COVID-19). As set forth in 101 CMR 320.01(3)(c), rates for newly added codes are calculated according to the rate methodology used in setting clinical laboratory rates. Added codes without Medicare fees are reimbursed at individual consideration (I.C.). The rate listed in this administrative bulletin is applicable until revised rates are issued by the EOHHS.

The following table includes the added codes, rates, descriptions and effective dates:

Code	Rate	Description	Effective Dates of Service On or After
86408	I.C.	Neutralizing antibody, severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) (Coronavirus disease [COVID-19]); screen	08/10/2020
86409	I.C.	Neutralizing antibody, severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) (Coronavirus disease [COVID-19]); titer	08/10/2020

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Code	Rate	Description	Effective Dates of Service On or After
86413	I.C.	Severe acute respiratory syndrome coronavirus 2 (SARSCoV-2) (Coronavirus disease [COVID-19]) antibody,quantitative	09/08/2020
87636	I.C.	Infectious agent detection by nucleic acid (DNA or RNA); severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) (Coronavirus disease [COVID-19]) and influenza virus types A and B, multiplex amplified probe technique	10/07/2020
87637	I.C.	Infectious agent detection by nucleic acid (DNA or RNA); severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) (Coronavirus disease [COVID-19]), influenza virus types A and B, and respiratory syncytial virus, multiplex amplified probe technique	10/07/2020
87811	I.C.	Infectious agent antigen detection by immunoassay with direct optical (i.e., visual) observation; severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) (Coronavirus disease [COVID-19])	10/07/2020

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CHIA.
center for health information and analysis

ADMINISTRATIVE BULLETIN 20-11

957 CMR 8.00: All Payer Claims Database (APCD) and Case Mix and Charge Data Submission

Effective December 17, 2020

The Center for Health Information and Analysis (CHIA) is issuing this Administrative Bulletin pursuant to 957 CMR 8.07(1) to notify hospitals required to submit data to CHIA in accordance with 957 CMR 8.00 of changes to the Case Mix and Charge Data file submission guidelines.

By virtue of this Administrative Bulletin, CHIA is updating the Case Mix and Charge Data submission requirements. Effective December 17, 2020, the Hospital Inpatient Discharge data submission is revised to include a supplemental filing of COVID-19 Test Results. The Hospital Inpatient Discharge supplemental data filing will be due at CHIA on the 7th of every month.

The supplemental filing of COVID-19 Test Results specifications will be provided within a Data Submission Guide. The fields required will include:

Data Element Name
Hospital Submitter OrgID
Hospital Name
Period Starting Date (CCYYMMDD)
Period Ending Date (CCYYMMDD)
Number of Records
Medical Record Number
Date of Admission
Date of Discharge
Date of Test
Test Result Status

SECRETARY OF STATE
REGULATIONS DIVISION
2020 DEC 17 PM 12:56

Approved:

Ray A. Campbell III

Dec 17, 2020

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THE COMMONWEALTH OF MASSACHUSETTS
HUMAN RESOURCES DIVISION

RULES GOVERNING PAID LEAVE AND OTHER BENEFITS FOR MANAGERS AND CONFIDENTIAL EMPLOYEES

January 1, 2021

http://www.mass.gov/anf/docs/hrd/policies/publications/pol-redbk.rtf

As authorized by Massachusetts General Laws, Chapter 7, Section 28

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HUMAN RESOURCES DIVISION

RULES GOVERNING PAID LEAVE AND OTHER BENEFITS FOR MANAGERS AND CONFIDENTIAL EMPLOYEES

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1.00 GENERAL

1.01 Authority

These rules are issued by the Personnel Administrator in accordance with M.G.L. Chapter 7, §28. The Personnel Administrator shall resolve all questions arising out of the operation of these rules.

1.02 Purpose

These rules regulate the awarding of vacation leave, sick leave, and other leave with pay; overtime compensation; payments in lieu of any of the preceding; travel and meals for persons traveling within and outside of Massachusetts; charges to state employees; prevention of accidents and occupational diseases; and other miscellaneous benefits.

1.03 Effective Date

These rules are effective January 1, 2021. Any previous rules or policies of the Personnel Administrator or the Secretary of Administration and Finance governing vacation leave, sick leave, travel, court leave, military leave, other leave with pay, hours of employment and overtime, or charges to persons are hereby revoked, but no rule shall reduce the vacation, personal or sick leave allowances to which a person was entitled on the effective date of these rules.

1.04 Applicability

With the exception mentioned below, these rules shall apply to all employees and managers employed in the Executive Branch of the Commonwealth whose positions are classified by the Personnel Administrator in accordance with M.G.L. Chapter 30, §45, except those employees covered by collective bargaining agreements based upon M.G.L. Chapter 150E, or whose compensation or expenses while performing their duties is expressly provided for by law in a manner other than that provided by these rules.

The rules concerning meal reimbursement while traveling on state business apply to all persons employed by offices, departments, boards, commissions and other agencies receiving state appropriations, as stated in M.G.L. Chapter 7, §28.

1.05 Appeal

Any person subject to these rules or any Appointing Authority, if aggrieved, may appeal in accordance with the procedure set out in M.G.L. Chapter 30, §§53 to 57.

1.06 Attendance Records

All Appointing Authorities having employees who are subject to these rules shall maintain attendance records in a format as directed by the Personnel Administrator. Attendance records will incorporate reasons for any absences from scheduled work periods. Such records shall be

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open to inspection by the Secretary of Administration and Finance, the Personnel Administrator, and the State Auditor as well as the affected employee.

If an employee subject to these rules is absent for reasons other than those authorized by these rules or by special approval of the Appointing Authority, such absence from scheduled work shall be charged off in same manner as described for sick leave charges in Rule 4.05.

1.07 Definitions of Terms

The definitions here listed are intended for use only with the rules contained herein. In construing these rules, the following words shall have the meaning herein given, unless a contrary intention clearly appears in the rule:

ABSENCE WITHOUT PAY: Any unauthorized absence from scheduled work.

APPOINTING AUTHORITY: A person, board or commission with the power to appoint or employ personnel; or their designee.

CABINET SECRETARY: The head of an executive office, as defined in M.G.L. Chapter 6A.

CALENDAR MONTH: The month of January, the month of February, etc., and is synonymous to the word "month."

COMPENSATED TIME: Time during which compensation for regularly scheduled work is paid.

CREDITABLE SERVICE: A period of service or experience related to a particular benefit, as defined within Rule 2.00.

DAY: When used in overtime rules it will mean work day, a period of 24 consecutive hours from the start of a "tour of duty," and therefore the word " day" need not be identical to a calendar day. For the purpose of all leave benefits and holidays, the term "day" with respect to employees who work an irregular work day or whose regular work day is longer than the normal seven and a half or eight hours shall mean seven and one-half or eight hours, whichever is appropriate.

DEPARTMENT: Office, department, division, board or commission.

EMPLOYEE: An employee or manager to whom these rules apply, pursuant to Rule 1.04.

FISCAL YEAR: Fiscal Year for pay purposes as determined by the various Appropriation Acts.

HUMAN RESOURCES DIVISION: The central human resources agency for Executive Branch departments, as authorized by Chapter 151 of the Acts of 1996.

INTERMITTENT EMPLOYEE: An employee who is expected to work less than fifty-percent (50%) of the hours in a work week of a regular full-time employee in the same title, or who is

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expected to work less than fifty-percent (50%) of a work year of a full-time employee (compare to REGULAR PART-TIME EMPLOYEE).

LEAVE OF ABSENCE WITH PAY: Any authorized absence with pay from scheduled work, synonymous with “Leave with Pay.”

LEAVE OF ABSENCE WITHOUT PAY: Any authorized absence from scheduled work but without pay.

NOTICE OF AUTHORIZATION: Monthly premiums report - direct payment of insurance premiums to State Employees’ Group Insurance Commission as provided by statute.

PERSONNEL ADMINISTRATOR: The head of the Human Resources Division as defined in M.G.L. Chapter 7, §4A, or their designee.

POLITICAL SUBDIVISION OF THE COMMONWEALTH: All branches and agencies of state, local and county government, including the legislative and judicial branches, municipalities, state and local authorities, constitutional offices, state colleges and universities, and district attorneys. Does not include the federal government or its agencies.

REGULAR PART-TIME EMPLOYEE: An employee who is expected to work fifty-percent (50%) or more of the hours in a work week of a regular full-time employee in the same title (e.g., at least 18.75 hours for a 37.5 hour weekly tour of duty), and who is employed for at least fifty-percent (50%) of a work year.

RULES: These rules, as mandated by M.G.L. Chapter 7, §28, unless the connotation is expressly otherwise.

SERVICE: Service in any position in the Commonwealth covered by these rules, unless otherwise indicated. Service shall also include any approved paid leave of absence as described in these rules, and industrial accident leave.

TRANSITION YEAR: Fiscal year in which an employee becomes eligible for additional vacation leave credits, based on years of creditable service.

VACATION ALLOWANCE: Vacation credits earned during any year.

VACATION CREDITS: The number of days of vacation earned and available under the rules in Section 2.00, not necessarily limited to a year.

VACATION STATUS: The amount of vacation credits that can be earned in a year.

VETERAN: As defined in M.G.L. Chapter 4, §7, clause 43.

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WEEK: For the purpose of vacation rules, will mean five days, excluding holidays; for the rules pertaining to overtime, it will mean a “calendar week” i.e., a week extending from Sunday to Saturday inclusive.

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2.00 VACATION LEAVE

2.01 Accrual of Vacation Leave

The vacation year shall be the first full pay period in January through the last full pay period inclusive of December 31st of the same calendar year.

Vacation leave with pay shall be credited to full-time employees employed by the Commonwealth at the end of each pay period as follows:

Total Years of Service	Scheduled hours	Accrued Credit Bi-Weekly
Less than 9.5 years	7.5	4.326975 hours
	8.0	4.61544 hours
9.5 years but less than 19.5 years	7.5	5.7693 hours
	8.0	6.15392 hours
19.5 years or more	7.5	7.21155 hours
	8.0	7.69232 hours

Employees will be credited with the next higher level of accrual status during the pay period that includes July 1 of the fiscal year that the employee reaches the higher accrual status. On July 1st of a transition year, the higher standard monthly accrual rate will begin. Example: If an employee reaches 9.5 or 19.5 years of creditable service in December, the higher accrual rate will begin the preceding July.

Vacation credits shall not accumulate for service in excess of either 37.5 or 40 hours a week as determined by Rule 10.01.

2.02 Part-Time Employees

Regular part-time employees shall accumulate vacation credits in the same proportion that their part-time service bears to full-time service.

Intermittent employees are not eligible for paid vacation.

2.03 Vacation Status and Creditable Service

All service beginning on the first working day in a state agency and all service thereafter is considered toward “total years of service,” or “creditable service.”

Creditable service, for the purpose of vacation status only, shall include prior relevant employment experience in all employment sectors, including work for all private and public employers. Such experience must be full-time and will be credited on the basis of one year of experience for one year of creditable service. At the time of hire or promotion from a bargaining

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unit position, employees shall begin to accrue vacation credits at a rate commensurate with their creditable service, as described in this paragraph. Agencies shall take into consideration the requirements of the Massachusetts Equal Pay Act when determining vacation placement. Requests for a vacation status accrual rate that exceeds an individual's creditable service are subject to the approval of the Personnel Administrator. Requests for adjustments to vacation status at any time other than the time of hire or promotion are subject to the approval of the Personnel Administrator. The provisions of this section are subject to G.L. c. 7, § 28.

2.04 Reductions to Vacation Status

A full-time employee on leave without pay and/or absent without pay during the pay period shall earn vacation leave credits based on the hours paid within the bi-weekly pay period.

2.05 Conversion of Vacation Credits During Receipt of Workers' Compensation Benefits

If an employee who is receiving workers' compensation benefits has available vacation credits which have not been used and if they, because of the two (2) year rule against carryover of vacation, would lose such vacation credits, the Appointing Authority shall convert such vacation credits to sick leave credits in the new calendar year beginning with the first full pay period in January of the year in which such vacation credits would be lost if not taken. Such additional sick leave shall be added to any sick leave the employee may have accumulated.

2.06 Annual Crediting of Accumulated Vacation

On a bi-weekly basis, vacation leave shall be credited the first full pay period in January of every year through the last full pay period inclusive of December 31st of the same calendar year.

2.07 Approval of Vacation Leave

Appointing authorities will grant vacation leave at such times during the vacation year as will best serve the public interest. Preference should be given to employees on the basis of years of employment by the Commonwealth.

2.08 Carryover of Vacation Accrual

The Appointing Authority will grant vacation leave in the year in which it becomes available, unless in its opinion it is impossible or impractical to do so because of work schedules or other emergencies. Unused vacation leave earned during the previous two years can be carried over to the new calendar year beginning with the first full pay period in January. Annual earned vacation leave credit not used by the last full pay period inclusive of December 31st of the second year it was earned will be forfeited. The Appointing Authority is charged with the responsibility of ensuring that vacation is taken in the succeeding years so that the employee may not lose vacation credits; except as provided in rule 2.05. In extraordinary circumstances, an agency head may request the Personnel Administrator to permit an employee to carry over more than two (2) years of vacation credits. The approval of such a request shall be at the discretion of the Personnel Administrator.

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2.09 Use of Vacation Credits for Sick Leave Purposes

Absences due to illness in excess of those authorized under the rules thereof for personal reasons not provided for under sick leave rules may, at the discretion of the Appointing Authority, be charged to vacation leave.

2.10 Payment of Unused Vacation Credits Upon Death of Employee

Upon the death of an employee, payment will be made in an amount equal to no more than two (2) years of unused earned vacation leave provided that no monetary or other allowance has already been made therefor. The Personnel Administrator may, upon request of the Appointing Authority of the deceased person, authorize the payment of such compensation upon the establishment of a valid claim, in the following order of precedence:

First: To the surviving beneficiary or beneficiaries, if any, lawfully designated by the person under the state employees' retirement system

Second: If there is no such designated beneficiary, to the estate of the deceased. (M.G.L. Chapter 29, §31A).

2.11 Cash Out of Unused Vacation Credits Upon Termination

Employees whose services terminated by resignation, by dismissal through no fault or delinquency of their own, by retirement, or by entrance into the defense forces, shall be paid an amount equal to the vacation leave which has been credited but not used by the employee up to the time of separation, provided that no monetary or other allowance has already been made therefor.

2.12 *(Repealed 1/1/21)*

2.13 Transfer of Vacation Leave Credits from other State Agencies

Employees who enter positions covered by these rules from other state agencies not covered by these rules (including the judicial or legislative branches of state government, institutions of higher education, the Constitutional Offices, certain sheriffs' departments, the district attorneys, and other state agencies, but excluding state authorities and all other political subdivisions), and who had unused accumulated vacation credits at the time of their termination from such other state agencies, may be allowed to transfer such unused accumulated vacation leave credits upon approval in writing by the Appointing Authority and the Personnel Administrator.

This transfer of credits will be allowed provided that there has been less than a three (3)year break in service from the date of termination of the employment in such other state agency, and provided that the employee has not already been compensated for such credits by the previous employer.

The amount of credits to be transferred will be limited to the amount allowed for creditable service under rule 2.01 and limited by the two (2) year carryover rule (2.08). For example, an employee who was previously employed for one year by a district attorney and who earned 15 days of

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vacation credits in that year would only be able to transfer twelve (12) days of such credits upon entering a position covered by these rules.

2.14 Advanced Vacation for New Employees

Subject to the approval of the Personnel Administrator, newly hired employees who have completed one (1) month of state service have the option to request an advance of no more than five (5) vacation days. Employees who opt to receive an advance of vacation leave shall not accrue additional vacation credits until sufficient time has passed to offset the amount of vacation credits that were advanced. Employees may exercise the option to advance vacation credits only once during the first twelve (12) months of employment. In the event that an employee who exercises this option separates from the employment of the Commonwealth with a deficit of vacation credits, said employee's final pay remittance will be reduced by an amount corresponding to the negative balance of vacation credits.

2.15 School Employees in Non-Teaching Positions

Employees in non-teaching positions in any school within any department, whose regular service is rendered between September 1st and June 30th, may be granted the vacation leave to which they are entitled either during the period of their regular service, or after the expiration of said period, as is determined by the Appointing Authority. Such employees shall be credited with 10/12 of vacation allowance per school year.

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3.00 PERSONAL LEAVE

3.01 Accrual of Personal Leave

During the first full pay period in January employees will be credited annually with three (3) days of personal leave credits which may be taken by the last Saturday prior to the first full pay period in January of the next year. Full-time employees, beginning state service on or after the first day of the calendar year, shall be credited with paid personal leave as follows:

Date of Employment	Personal Leave Granted
January 1 through March 31	3 days
April 1 through June 30	2 days
July 1 through September 30	1 day
October 1 through December 31	0 day

3.02 Use of Personal Leave

Personal leave may be taken during the calendar year when its use is requested by an employee and upon approval by their Appointing Authority. Any personal time not taken by the last Saturday prior to the first full pay period in January of the next year will be forfeited by the employee. An employee who cannot utilize personal leave in the months of November and December, due to the operational needs of the agency, shall be permitted to carry over one (1) day of personal leave not utilized to the next calendar year.

3.03 Part-Time Employees

Regular part-time employees shall accumulate personal leave credits in the same proportion that their part-time service bears to full-time service.

Intermittent employees are not eligible for paid personal leave.

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4.00 SICK LEAVE

4.01 Accrual of Sick Leave

A full-time employee shall accumulate sick leave with pay credits at the following rate for each bi-weekly pay period of employment:

Scheduled Hours	Sick Leave Accrued
75 hours bi-weekly	4.326975 hours
80 hours bi-weekly	4.61544 hours

Any employee on any leave with pay or who is receiving workers' compensation benefits shall accumulate sick leave credits. There shall be no limit to the number of unused sick leave credits which an employee may accumulate.

4.02 Reductions/Limits to Sick Leave Credits

A full-time employee shall not accrue full sick leave credits for any bi-weekly pay period in which they were on leave without pay or absent without pay. Instead the employee shall earn sick leave credits based on the hours paid within the bi-weekly pay period.

Sick leave shall not accumulate for service in excess of either 37.5 or 40 hours a week as determined by Rule 10.01.

4.03 Part-Time Employees

Regular part-time employees shall accumulate sick leave credits in the same proportion that their part-time service bears to full-time service.

Intermittent employees are not eligible for paid sick leave beyond that provided by M.G.L. c. 149 § 148(C).

4.04 Conversion of Vacation Credits During Receipt of Workers' Compensation Benefits

If an employee receiving workers' compensation benefits has available vacation credits which have not been used and if they, because of the two (2) year rule against carryover of vacation, would lose such vacation credits, the Appointing Authority shall convert such vacation credits to sick leave credits on December 31st of the year in which such vacation credits would be lost if not taken. Such additional sick leave shall be added to any sick leave the employee may have accumulated.

4.05 Limit of Paid Sick Leave

When an employee is absent due to illness, such absence will be charged off against any sick leave credits they may have. All absences due to illness must be charged off in fifteen (15) minute increments, but in no case at less than the actual time off because of absence due to illness.

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If such employee has no sick leave credits, such absence shall be charged at the discretion of their Appointing Authority to leave without pay, to absence without pay or to vacation or personal leave but shall be charged off on the same basis as above.

No employee shall be entitled to a leave of absence with pay due to illness in excess of the accumulated sick, vacation and personal leave then due.

Sick leave credits accumulated following a return to duty after leave without pay or absence without pay shall not be applied against such leave or absence.

4.06 Accrual While on Paid Leave

Employees on any type of leave with pay covered by these rules, or who are receiving workers' compensation benefits, will continue to accumulate sick leave credits while on such leave.

4.07 Approved Use of Sick Leave

Sick leave shall be granted, at the discretion of the Appointing Authority, to employees only under the following conditions:

- When they are unable to perform their duties due to illness or injury.

- When through exposure to contagious disease the presence of the employee at their work location would jeopardize the health of others.

- When appointments with licensed medical or dental professionals cannot reasonably be scheduled outside of normal working hours for purposes of preventative care, medical treatment or diagnosis of an existing medical or dental condition.

- When an employee, who is absent due to excessive use of alcohol or narcotics, becomes and continues to be an active participant in an approved counseling service program.

- An employee may use up to a maximum of sixty (60) days of sick leave per calendar year (concurrent with any FMLA entitlement used) for the purpose of:

  - Caring for an employee's seriously ill: spouse, child, foster child, step child, parent, an individual who stood in loco parentis to the employee when the employee was minor, step parent, brother, sister, grandparent, grandchild of the employee, or domestic partner.

  - Routine medical appointments with licensed medical or dental professionals that cannot reasonably be scheduled outside of normal working hours for an employee's child, spouse, parent or parent of spouse.

  - Parental leave due to the birth or adoption of a child, to be concluded within twelve (12) months of the date of the birth or adoption. Eligible employees utilizing sick leave under

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this section shall not be required to submit a medical certification, unless the Appointing Authority has reason to believe that the birth or adoption claim was not genuine. This leave benefit shall be in addition to the ten (10) days of paid leave set forth in section 5.02 (A).

- Where an eligible full or part-time employee and their eligible spouse are both employees of the Commonwealth, they may be each granted a total of not more than sixty (60) days of accrued sick leave as set forth above for the care of a seriously ill parent or for parental leave due to birth or adoption.

- An employee may use up to a maximum of ten (10) days of accrued sick leave in a calendar year for the purpose of attending to necessary preparations and legal requirements related to the employee's adoption of a child, except that in no event may an employee charge more than a total of sixty (60) days in a calendar year for adoption related purposes.

  - An employee may use up to a maximum of ten (10) days of sick leave per calendar year for the purpose of attending to necessary preparations and/or legal proceedings related to foster care of DCF children, such as foster care reviews, court hearings and MAPS training for pre-adoptive parents (this is in addition to the ten (10) days of paid leave [Rule 5.02] for the initial foster placement); HRD may approve a waiver of the ten (10) day limit for difficult placements. See also 8.06, Other Leaves of Absence with Pay.

The granting of sick leave is solely at the discretion of the Appointing Authority. If an employee is granted sick leave, the provisions of this rule must be followed.

4.08 Notification

Notification of absence due to illness shall be given as early as possible on the first day of absence. If such notification is not made, such absence may, at the discretion of the Appointing Authority, be considered an absence without pay.

Appointing authorities may request medical documentation consistent with the Executive Department's Earned Sick Leave Policy. For any period of absence due to illness not otherwise covered by the Earned Sick Leave Policy, the Appointing Authority may require a physician's certificate for the necessity of such absence. If such certificate is not filed within seven (7) calendar days after a request is made, such absence may be considered, at the discretion of the Appointing Authority, to be an absence without pay. The use of sick leave for the birth, adoption or foster care placement of a child does not require a doctor's certificate.

The Personnel Administrator shall regularly review reports of sick leave usage within each Department. The Personnel Administrator may require further evidence that such leave comes within the provisions of these rules; and if, upon examination of such evidence, the Personnel Administrator is of the opinion that said leave is not in accordance with these rules, the Personnel Administrator shall so notify the Appointing Authority. Upon receipt of such notice, said leave shall be changed from sick leave to leave without pay, to absence without pay, or to vacation leave.

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4.09 Fitness for Duty

Upon return to duty following extended sick leave in excess of five (5) consecutive working days, the Appointing Authority may require a physical examination to determine the employee's fitness to perform their duties. At such examination the employee, if they so desire, may be represented by a physician of their own selection.

4.10 Cash out of Sick Leave Credits Upon Retirement

Employees who retire directly from active employment and who have accumulated unused sick leave credits shall be paid an amount equal to twenty percent (20%) of the value of such credits, computed by multiplying the number of days sick leave available times the daily rate of salary received by the employee at the time of their retirement. Such payment for unused sick leave shall not affect the amount of retirement allowance available to such employee. See 4.13 for an exception to this rule.

No cash out of sick leave will be allowed for employees who defer their date of retirement.

4.11 Payment of Sick Leave Credits Upon Death of Employee

If an employee dies while actively employed, the surviving beneficiary/beneficiaries, if any, lawfully designated by the employee under the state employees' retirement system, or, if there is no such beneficiary/beneficiaries, then their estate, shall be paid twenty percent (20%) of the value of the unused sick leave credits accumulated by the employee as of the date of death.

Such payment as described within this paragraph will not change the employee's pension benefit.

4.12 Crediting of Prior Service Upon Reinstatement or Reemployment

Employees who are reinstated or who are re-employed shall be credited with the amount of sick leave credits remaining at the termination of their previous service. No credit for previous service may be allowed where reinstatement or re-employment occurs after an absence of three (3) years or more unless the Appointing Authority secures the approval of the Personnel Administrator for any of the following reasons:

- Illness of the employee and not because of illness of their immediate family.
- Termination due to layoff or dismissal through no fault or delinquency attributable solely to the employee.
- Injury while in the employment of the Commonwealth and for which such employee would be entitled to receive Workers' Compensation benefits.

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4.13 Sick Leave in Coordination with Workers' Compensation

In addition to sick leave benefits provided for in these rules, employees shall be entitled to additional disability benefits provided for by law upon completion of the leave of absence with pay due to illness.

An employee who is entitled to any sick leave allowance may take such of their sick leave allowance payment as, when added to the amount of any disability compensation provided by statute, will result in the payment of their full salary (M.G.L. Chapter 152, §69). An employee who is receiving weekly benefits for total incapacity under M.G.L. Chapter 152 may not use sick leave for this purpose that has been accrued during the time of total incapacity (M.G.L. Chapter 32, §14).

If an employee is injured in the line of duty, and such injury could result in a potential claim under M.G.L. Chapter 152, they shall be paid sick leave, vacation leave and/or personal leave up to the extent of their credits until payments under the Workers' Compensation Law begin. Any adjustments due because of the effects of this rule shall be made thereafter. Any absence resulting from such injury that is in excess of available sick, vacation or personal credits shall be deemed absence without pay (M.G.L., Chapter 30, §58). Whenever an employee is given a leave of absence because of operation of this rule, the Appointing Authority shall immediately furnish the employee with a "notice of authorization" that the employee must pay to the Group Insurance Commission the appropriate full insurance premium as provided for in M.G.L. Chapter 32A.

Notwithstanding the above provision of this rule, an employee who, while in the line of duty, receives bodily injuries resulting from acts of violence of patients or prisoners in their custody, and who as a result of such injury would be entitled to benefits under M.G.L. Chapter 152, shall be paid the difference between the weekly cash benefits to which they would be entitled under M.G.L. Chapter 152 and their regular salary, without such absence being charged against available sick leave credits, even if such absence may be for less than six (6) calendar days' duration. (M.G.L. Chapter 30, §58; and Chapter 152, §69).

In computing a week's salary for purposes of refunds or adjustments in the case of Workers' Compensation, the periods being compared shall include in both cases the same calendar days used in making such adjustments, irrespective of the number of days in the regularly scheduled work week. At no time may an employee receive more than their regular salary for period in question as the result of Workers' Compensation, except in the case of vacation or overtime credits payable under M.G.L. Chapter 152, §69. An employee who is receiving weekly benefits for total incapacity under M.G.L. Chapter 152, and who subsequently retires from active service, may not consider the amount of sick leave that was accrued during the time of total incapacity for cash out purposes (M.G.L. Chapter 32, §14).

4.14 Transfer of Sick Leave Credits from other Political Subdivisions.

Employees who enter positions covered by these rules from other state agencies not covered by these rules (including the judicial or legislative branches of state government, institutions of higher education, the Constitutional Offices, certain sheriffs' departments, the district attorneys, and other

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state agencies, but excluding state authorities and all other political subdivisions), and who had unused accumulated sick leave credits at the time of their termination from such other state agencies, may be allowed to transfer such unused accumulated sick leave credits upon approval in writing by the Appointing Authority and the Personnel Administrator.

This transfer of credits will be allowed provided that there has been less than a three (3)-year break in service from the date of termination of employment in such other state agency, and that the employee has not already been compensated for such credits by the previous employer.

The amount of credits to be transferred will be limited to the amount that the employee would have been eligible to accrue under Rule 4.01 and reduced by the amount of credits actually used during such previous employment. For example, a full-time employee who worked one year for a college, earned sick leave credits at the rate of two days per month for a total of 24 days and used three of those days would only be able to transfer 12 of the remaining 21 days (based on the 15 day/year accrual rate in Rule 4.01).

4.15 Employee Assigned Duties of Position in Higher Grade

Upon the vacancy of any position covered by these rules, the Appointing Authority shall, if it assigns an employee in a classification of lower grade and pay to that vacancy for a period of more than thirty (30) calendar days, request approval of the Personnel Administrator for the temporary appointment of the employee to the position. The employee so appointed shall be entitled to the compensation of the higher grade from the first day of assignment. This rule does not apply to assignment of an employee to cover a higher position when the incumbent of the higher position is absent on vacation leave, but is intended to apply only when the incumbent of the higher position is on sick leave (M.G.L. Chapter 30, §24B).

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5.00 FAMILY AND MEDICAL LEAVE

5.01 Applicability

A. Rules 5.01 through 5.11 are administered in accordance with regulations issued by the U.S. Department of Labor under the authority of the Family and Medical Leave Act (FMLA) of 1993, M.G.L. Chapter 175M (Paid Family Medical Leave or PFML) and any other applicable state law.

B. The FMLA, M.G.L. Chapter 175M and this Rule provide for periods of time where an employee can be on a leave of absence for their own serious health condition, that of a family member or for another qualifying reason. Wage replacement related to these absences may be available pursuant to Rules 2.00, 3.00 and 4.00 or through an approval of a paid leave benefit under PFML from the Department of Family and Medical Leave (DFML).

C. M.G.L. Chapter 175M defines family member as: the spouse, domestic partner, child, parent, or parent of a spouse or domestic partner of the employee; an individual who stood in loco parentis to the covered individual when the employee was a minor child; or a grandchild, grandparent or sibling of the employee.

D. Commonwealth of Massachusetts provides employees an unpaid leave of no more than twenty-six (26) weeks in the aggregate in a benefit year with the following limitations:

   a. <u>Up to twenty-six (26) weeks continuous leave:</u>
      (i) Birth and care of the employee's child or placement for adoption or foster care of a child with the employee;
      (ii) To care for a spouse, child, or parent who has a serious health condition; or
      (iii) For the employee's own serious health condition.

   b. <u>Up to twenty (20) weeks intermittent leave</u>:
      (i) For the employee's own serious health condition.

   c. <u>Effective July 1, 2021, up to twelve (12) weeks continuous leave:</u>
      (i) Serious health condition of family members as defined in M.G.L. Chapter 175M, unless otherwise indicated above in subsection (a).

   d. <u>Up to twelve (12) weeks intermittent leave:</u>
      (i) To care for a spouse, child or parent of the employee with a serious health condition;
      (ii) Effective July 1, 2021, to care for any family member with a serious health condition as defined in M.G.L. Chapter 175M, unless otherwise indicated in subsection (d)(i) above; or
      (iii) Military exigency leave.

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e. Up to twenty-six (26) weeks continuous or intermittent leave:
(i) Covered service member leave.

E. An employee is not entitled to more than twenty-six (26) weeks of family and medical leave combined in a twelve (12)-month period. All leaves taken pursuant to these Rules, the FMLA, PFML, Massachusetts Parental Leave Act and any other relevant law will run concurrently to the extent possible.

F. In order to be eligible for this leave, the employee must meet the eligibility requirements in M.G.L. Chapter 175M or must have been employed for three (3) consecutive months, whichever is sooner.

G. Effective until December 31, 2020, a rolling 12-month period will be used, measured backward from the date of commencement of the leave to determine an employee's entitlement for family and medical leave in a given year (benefit year). Effective on January 1, 2021, the benefit year will be forward looking; fifty-two (52) consecutive weeks beginning on the Sunday prior to the first day of job protected leave.

H. Refer to Rule 15.00 for information on the Adoption Assistance Program.

5.02 Use of Family or Medical Leave

A. Family Leave

An Appointing Authority shall grant to a full-time or part-time employee who has been employed for at least three (3) consecutive months, an unpaid leave of absence for up to twenty-six (26) continuous weeks in conjunction with the birth, adoption or foster placement of a child as long as the leave concludes within twelve (12) months following the date of the birth, adoption or foster placement. During family leave taken in conjunction with the birth, adoption or foster placement of a child, an employee shall receive their regular salary for ten (10) days of said leave, at a time requested by the employee. These ten (10) days of paid leave may be used on an intermittent basis over the up to twenty-six (26) weeks of allowable family leave, except that the leave may not be charged in increments of less than one (1) day. The sixty (60) days of parental sick leave an employee may take for the birth or adoption of a child (Rule 4.07) is in addition to these ten (10) days of paid family leave.

Unless otherwise specified in the paragraph above, intermittent leave for the birth and care of the employee's child or placement for adoption or foster care of a child with an employee may be approved at the sole discretion of the Appointing Authority.

The employee shall provide proof of the birth, placement or adoption of a child upon request by the Appointing Authority.

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B. Medical Leave – Continuous

a. When presented with adequate supporting healthcare certification, an Appointing Authority shall grant to a full-time or part-time employee, an unpaid leave of absence for up to twenty-six (26) weeks of continuous leave to care for a spouse, child or parent who has a serious health condition or to care for a family member, as defined by M.G.L. Chapter 175M, who is a covered service member who experienced an illness or injury in the line of duty or while on active duty or for a serious health condition which prevents the employee from being able to perform the function of their position.

b. Effective July 1, 2021, when presented with adequate supporting healthcare certification, an Appointing Authority shall grant to a full-time or part-time employee, an unpaid leave of absence for up to twelve (12) weeks of continuous leave to care for a family member, as defined by M.G.L. Chapter 175M who has a serious health condition and not otherwise addressed in Section B(a) above.

C. Medical Leave - Intermittent

a. When presented with adequate supporting healthcare certification, an Appointing Authority shall grant to a full-time or part-time employee, an unpaid leave of absence for up to twenty (20) weeks to be used intermittently for a serious health condition that prevents the employee from being able to fully perform the functions of their position. Employees requesting an intermittent leave shall attempt to work out a schedule for leave without unduly disrupting the Appointing Authority's operations.

b. Consistent with the effective dates in Section 5.01(D)(d)(ii), when presented with adequate supporting healthcare certification, an Appointing Authority shall grant to a full-time or part-time employee, an unpaid leave intermittent absence for up to twelve (12) weeks to be used intermittently for a serious health condition for any family member. Employees requesting an intermittent leave shall attempt to work out a schedule for leave without unduly disrupting the Appointing Authority's operations

c. When presented with adequate supporting healthcare certification, an Appointing Authority shall grant to a full-time or part-time employee, an unpaid leave of absence for up to twenty (26) weeks to be used intermittently to care for a family member, as defined by M.G.L. Chapter 175M, who is a covered service member who experienced an illness or injury in the line of duty or while on active duty. Employees requesting an intermittent leave shall attempt to work out a schedule for leave without unduly disrupting the Appointing Authority's operations.

D. Military Exigency - Intermittent

a. An Appointing Authority shall grant to a full-time or part-time employee, an unpaid intermittent leave of absence for up to twelve (12) weeks for a qualifying exigency arising out of the fact that the employee's family member has been notified of a qualifying impending call or other to active duty in the Armed Forces.

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E. One-Time Catastrophic Leave

a. Upon the submission of satisfactory medical evidence that demonstrates the employee has an existing catastrophic illness the Appointing Authority shall grant the employee, on a one-time basis, up to an additional twenty-six (26) weeks of non-intermittent, medical leave. This leave is unpaid unless the employee otherwise is eligible to utilize their accruals or other benefit.

5.03 ***(repealed 11/7/05)***

5.04 Notice Requirements for Family and Medical Leave

At least thirty (30) days in advance of a need for leave, the employee shall submit to the Appointing Authority a written notice of their intent to take family or medical leave and the dates and expected duration of the leave. If thirty (30) days' notice is not possible, the employee shall give notice as soon as practicable.

5.05 Continuation of Benefits During Family Leave

Employees taking a leave of absence under Section 5.02(A) will accumulate sick and vacation leave benefits only for the first eight (8) weeks of such unpaid leave. The period of family leave granted under these rules shall not affect the employee's right to receive any benefits for which the employee was eligible at the start of their leave.

5.06 Satisfactory Evidence for Family and Medical Leave

Family Leave:

The employee shall provide upon request by the Appointing Authority:

- Within fifteen (15) days following the birth of their child, employees must submit proof of the date of their child's birth (e.g., hospital birth record, birth certificate).
- Documentation from the adoption or foster care agency involved with the placement. Documentation from the Department of Children and Families must confirm the foster care placement and the date of placement.

Medical Leave:

The employee shall provide upon request by the Appointing Authority, the following satisfactory healthcare certification: that includes:

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- The name, address, telephone number and fax number of the health care provider and type of medical practice/specialization.
- The approximate date on which the serious health condition commenced.
- Description of the appropriate medical facts regarding the medical condition for which the FMLA leave is sought. This may include, but is not limited to, symptoms, diagnosis, hospitalizations, doctor visits, whether medication has been prescribed, any referrals or evaluations, or regime of continuing treatment.
- If employee is the patient, information sufficient to establish the employee cannot perform the essential functions of the employee's job as well as the nature of any other work restrictions and likely duration of the disability.
  If the patient is a family member, information sufficient to establish that the family member is in need of care, and an estimation of the frequency and duration of the leave required to care for the family member.
- If intermittent, information necessary to establish the medical necessity for an intermittent leave, including but not limited to the dates and duration of treatment and recovery.

If the Appointing Authority has reason to doubt the validity of the healthcare certification provided, the Appointing Authority may obtain a second opinion at its own expense. If there is a conflict between the second opinion and the original healthcare certification, the Appointing Authority and the employee may resolve the conflict by obtaining the opinion of a third medical provider, who is approved jointly by the Appointing Authority and the employee, at the Appointing Authority's expense.

5.07 Intermittent Leave and Modified Work Schedules

Intermittent leave usage and modified work schedules may be granted for an employee's own serious health condition, a qualifying military exigency, when a family member, as defined by M.G.L. Chapter 175M, who is a covered service member has experienced an illness or injury in the line of duty or while on active duty, or when a family member as defined in Rule 5.01(C) or (D) has a serious medical condition and is dependent upon the employee for care. When such changes to the work schedule are medically necessary, the employee and the Appointing Authority shall attempt to work out a schedule that meets the needs of the employee without unduly disrupting the operations of the workplace.

The Appointing Authority shall maintain the ability to transfer an employee to an alternative position with no reduction of pay or benefits in order to avoid disruption of operations. Wherever practicable, an employee who transfers pursuant to this paragraph shall be given ten (10) days' notice of such transfer.

Upon the expiration of the intermittent medical leave, modified work schedule, or job assignment that was agreed upon, the employee shall be returned to the same or equivalent position with the same status, pay and length of service credit as of the date of the employee's leave.

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5.08 Use of Paid Leave to Offset Unpaid Family or Medical Leave

Employees may use accumulated sick, vacation or personal leave credits to offset unpaid family or medical leave, subject to any limits otherwise specified for family leave in Rules 4.07 and 5.01 through 5.11.

Employees may apply for paid leave benefits under M.G.L. Chapter 175M through the Department of Family and Medical Leave (DFML). Employees approved for paid leave from the DFML may not utilize sick, vacation, or other personal leave credits for the same absence.

5.09 Payment for Holiday During Family or Medical Leave

Between periods of unpaid family or medical leave, if an employee returns to work for a period of less than two (2) weeks, and if a holiday occurs during that return to work, no holiday pay or compensatory time shall be granted for that holiday.

5.10 Continuation of Group Insurance Benefits During Family or Medical Leave

Employees are entitled to the same group health insurance coverage and benefits that they received at the start of their unpaid leaves, provided the employee continues to pay the required employee share of premium while on leave, for the entire period of unpaid leave, unless prohibited by law.

If the employee fails to return from leave, the Commonwealth may recover, as provided under FMLA, the cost it incurred in maintaining insurance coverage under its group health plan for the duration of the employee's leave.

5.11 Reemployment Rights under Family and Medical Leave

At the expiration of family or medical leave, the employee shall be returned to the same or equivalent position with the same status, pay and length of service credit as of the start of their leave. If during the period of the leave, employees in an equivalent position have been laid off through no fault of their own, the employee will be extended the same rights or benefits, if any, extended to employees of equal length of service in the equivalent position in the department.

5.12 - 5.16 (*Repealed 1/1/21)*

5.17 Small Necessities Leave Act: Applicability

Rules 5.17 through 5.20 are administered in accordance with Massachusetts General Law Chapter 149, Section 52D, which became effective on August 4, 1998.

5.18 Use of Small Necessities Leave

An employee shall be entitled to a total of 24 hours of unpaid leave during any 12-month period, in addition to leave available under the Family and Medical Leave Act of 1993, for the following purposes:

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(1) to participate in school activities directly related to the educational advancement of a son or daughter of the employee, such as parent-teacher conferences or interviewing for a new school;

(2) to accompany the son or daughter of the employee to routine medical or dental appointments, such as check-ups or vaccinations; and

(3) to accompany an elderly relative of the employee to routine medical or dental appointments or appointments for other professional services related to the elder's care, such as interviewing at nursing or group homes.

5.19 Use of Paid Leave to Offset Unpaid Small Necessities Leave

If an employee has accumulated sick, personal, or vacation credits at the commencement of their small necessities leave, the employee may use such credits for which they may be eligible under the applicable rules. The Small Necessities Leave Act does not require employers to provide paid sick leave or paid medical leave in any situation where the employer would not normally provide such paid leave.

5.20 Notice Requirements for Small Necessities Leave

At least seven (7) days in advance, the employee shall submit to the Appointing Authority a written notice of their intent to take small necessities leave and the date and expected duration of the leave. If seven (7) days' notice is not possible, the employee shall give notice as soon as practicable.

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6.00 MILITARY LEAVE

6.01 Paid Military Leave

Employees are entitled to receive their regular pay while performing certain duties as members of the armed forces of the Commonwealth or a reserve component of the armed forces of the United States. The employee's regular pay may be reduced by compensation received as base pay for military service under certain circumstances and subject to time limits that are outlined in G. L. c. 33, § 59. Employees shall present their signed, official military orders to their agency or department head.

6.02 Call to Active Duty from U.S. Armed Forces Reserves

Employees who are members of a reserve component of the armed forces of the United States are entitled to receive their regular pay reduced by compensation received as base pay for military service, while called to active duty for the time periods specified in G. L. c. 33, § 59 and shall be subject to the provisions of Chapter 708 of the Acts of 1941 as amended, Chapter 805 of the Acts of 1950 as amended, or Chapter 671 of the Acts of 1966 and amendments thereto. Such employees are also subject to the provisions of 38 U.S.C. Chapter 43, §§ 4311 - 4316, as amended, and shall be entitled to all rights and benefits derived therefrom.

6.03 Unpaid Military Leave Due to Active Duty

- An employee who tenders their resignation or otherwise terminates their service for the purpose of serving in the armed forces of the United States or the armed forces of the Commonwealth and who does so serve or is rejected for such service, shall be considered to be on unpaid military leave, except as otherwise provided by Chapter 708 of the Acts of 1941 as amended or 38 U.S.C. Chapter 43, §§ 4311, as amended.

- No such employee shall be considered to have resigned from employment with Commonwealth or to have terminated such service, until the expiration of two (2) years from the termination of their military or naval service in the uniformed services.

6.04 Part-Time Employees

Regular part-time employees shall be entitled to all of the above military leave benefits.

6.05 Employees Called Up to Active Duty

Upon returning to their state positions, employees who have been called to active military service by the United States of America shall be entitled to sick leave, vacation leave and personal leave that they would have accrued and would have been available to them had they been on the payroll during their absence for military leave.

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7.00 COURT LEAVE

7.01 Court Leave for Jury Duty

Employees called for jury duty shall be granted court leave. Notice of service shall be filed with the Appointing Authority upon receipt of summons. This applies to both full and regular part-time employees.

7.02 Jury Fees

If jury fees received by an employee from the court equal or exceed the employee's regular rate of compensation, the employee may retain the excess of such fees and shall turn over to the Appointing Authority the regular rate of compensation with a court certificate of service and shall be deemed to be on leave of absence with pay.

7.03 Court Leave Due to Witness Summons

- Employees who are summoned to appear as witnesses on behalf of the Commonwealth, or any town, city, or county of the Commonwealth, or on behalf of the Federal Government, shall be granted court leave. Notice of service shall be filed with the Appointing Authority upon receipt of summons. Employees who are on court leave for this purpose and who receive witness fees for services during their regular office hours shall pay those fees to the Commonwealth.

- If an employee is summoned to appear as a witness because of the duties of an additional position with a public jurisdiction other than the Commonwealth, the employee shall not be granted court leave.

7.04 Court Leave Not Granted

Court leave shall not be granted when an employee is the defendant, is summonsed as a witness for a defendant (except as in 7.03) or is engaged in personal litigation.

7.05 Court Leave While on Vacation

If an employee is called for jury duty or witness service and such jury duty or witness service occurs during the employee's vacation, the employee need not pay those fees to the Commonwealth.

7.06 Expense Reimbursement

Expenses reimbursed for travel, meals, room hire, etc. for the purpose of jury duty or witness service shall be retained by the employee and shall not be considered as part of the jury or witness fees.

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7.07 Return to Work

When an employee has been granted court leave for jury duty or witness service, and is excused by proper court authority, the employee shall report back to official place of duty whenever the interruption in jury duty or witness service will permit four (4) or more consecutive hours of employment.

7.08 Employment Rights

Court leave shall not affect employment rights, opportunities or benefits.

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8.00 OTHER LEAVE

8.01 Bereavement Leave

A. Upon evidence satisfactory to the Appointing Authority of the death of:

Spouse Child
Foster child
Step-child living in household

An employee shall be entitled to a maximum of seven (7) days of leave without loss of pay to be used at the option of the employee within thirty (30) calendar days from the date of the death of a child and within ninety (90) calendar days from the date of the death of the employee's spouse.

B. Upon evidence satisfactory to the Appointing Authority of the death of:

Parent
Step-parent
Brother
Sister
Grandparent
Grandchild
Person for whom the employee is legal guardian
Parent of spouse
Child of spouse
Person living in household

An employee shall be entitled to a maximum of four (4) days of leave without loss of pay to be used at the option of the employee within thirty (30) calendar days from the date of said death.

C. Upon evidence satisfactory to the Appointing Authority of the death of:

Grandparent in-law
Grandchild in-law
Brother in-law
Sister in-law

An employee shall be granted one (1) day of leave without loss of pay to attend the funeral.

In extraordinary circumstances, at the discretion of the Appointing Authority or Personnel Administrator, bereavement leave may be used after periods of time described above.

8.02 Funerals of Veterans

Veterans who are members of firing squads, color details, pallbearers, buglers or escorts shall be granted leave of absence with pay to participate in funeral services for other veterans.

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8.03 Inoculations

Employees shall be granted leave of absence with pay for loss of time due to prophylactic inoculation required as a result of their employment. If such leave with pay exceeds one (1) week, the Appointing Authority shall immediately initiate a Workers' Compensation claim, and paid leave because of such prophylactic inoculation shall cease.

8.04 Quarantine

Employees shall be granted leave of absence with pay for the period of absence due to quarantine because of exposure to contagious disease in the regular performance of duty.

8.05 The Extended Illness Leave Bank (EILB)

Employees who become members of the EILB are eligible for a maximum of 120 days of paid leave over a two (2)-year period in accordance with M.G.L. Chapter 7, §4P and established procedures when experiencing an extended illness or injury. Intermittent employees are not eligible to join the EILB.

8.06 Other Leaves of Absence With Pay

Full-time and regular part time employees shall be granted leave of absence with pay due to the following reasons for absence. Intermittent employees are not eligible for any of the following leaves of absence with pay:

- Employees may take up to four hours of leave of absence with pay, subject to approval by their supervisors, for the purpose of donating blood to the Massachusetts State Employee's Blood Program (MSEBP). The leave must be taken on the day that the blood donation occurs. Employees will not accrue compensatory time in lieu of such leave. This leave may be allowed for a maximum of up to five times annually, during the period of October 1 through September 30 each year. Employees invited to attend the MSEBP awards ceremonies may take 4 hours of leave for that purpose.

- Oral, written, and physical examinations for state service conducted by the Human Resources Division or the Division of Professional Licens

- Appeal hearings for state service conducted by the Human Resources Division or the Division of Professional Licensure.

- Attendance at hearings before the Department of Industrial Accidents as the injured person or as a witness. (Any witness fees received shall be refunded to the Commonwealth.)

- To render services of a voluntary nature during regular working hours to a public elementary, secondary or vocational-technical school in order to assist in the improvement of a student's or school's educational program, or to act as a mentor in a program through The Mass

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Mentoring Partnership, not to exceed one (1) work day a month and based upon a schedule approved by their supervisor (M.G.L. Chapter 29, §31E).

  - The one (1) day a month of paid voluntary leave may be applied for necessary preparations and legal proceedings related to foster care of DCF children.

- Domestic Violence Policy: Fifteen (15) days of paid leave, forty (40) hours of earned sick leave, (and up to six (6) months of unpaid leave) for victims to attend to issues resulting from domestic violence.

- The Personnel Administrator may approve emergency paid leave for an employee as a result of a state or national emergency. An employee on a prior approved leave of absence or scheduled vacation, sick, personal, or compensatory leave during the emergency closing shall not have their leave changed to emergency leave.

- For participation in a bone marrow donor program or an organ donor transplant, a maximum of five (5) days of leave of absence with pay shall be granted to undergo the medical procedure and for associated physical recovery time.

- State employees can qualify for paid Organ Donor Leave for up to 30 days in a calendar year. It applies to leave taken by an employee to provide live organ donation to be transplanted to another individual. If foreseeable, 7 days of advanced notice should be given.

- A leave of absence with pay for the purpose of serving as an American Red Cross volunteer in specialized disaster relief services in connection with any disaster at the request of the American Red Cross for such an employee's services. The leave shall be approved at the sole discretion of the employee's supervisor and shall be limited to a total of fifteen (15) calendar days per calendar year. Authorized leaves of absence shall be limited to only those employees who are registered as certified disaster service volunteers of the American Red Cross disaster services human resources network.

- Employees may be granted a paid leave of absence in accordance with the policies of the Appointing Authority for educational purposes to attend conferences, seminars, briefing sessions or other functions of a similar nature that are intended to improve or upgrade the individual's skill or professional ability. The employee shall not suffer any loss of seniority or benefits as a result of such leave.

8.07 Delegates to Conventions of Veterans' Organizations

Employees who are delegates or alternates to state or national conventions of veterans' organizations recognized by the Department of Veterans' Services shall be granted leave of absence with pay to attend those conventions.

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8.08 Skeleton Force

Leave with pay may be granted for so-called "Skeleton Force." Compliance with the "Skeleton Force" authorization shall only be accomplished by the Appointing Authority subject to the conditions that the work of the department or institution will not be hampered and that the statutory requirements pertaining to office hours will be followed. Employees required to work during "Skeleton Force" shall not be granted compensatory time off or additional pay in lieu thereof.

If a Skeleton Force is authorized on a day on which an employee is not scheduled to work or if the employee had received approval, prior to the Skeleton Force authorization, to use sick, vacation or personal leave credits, the employee shall be treated the same as if a Skeleton Force had not been authorized.

8.09 Voting Leave

Full-time and regular part-time employees whose hours of work preclude them from voting in a town, city, state or national election shall, upon prior written approval of the Appointing Authority, be granted a voting leave with pay not to exceed two (2) hours, for the sole purpose of voting in such election.

8.10 Authorized Leave of Absence Without Pay

The Department/Agency Head, or their designee, may grant an employee a leave of absence without pay, or an extension of such a leave, upon written request of the employee. The request shall include a detailed statement of the reason for the requested leave and, if the absence is caused by illness or injury, shall be accompanied by substantiating proof of such illness or injury. A copy of the approved request shall be placed in the employee's personnel file.

A leave of absence shall not be granted for a period in excess of three (3) months without prior approval by the Appointing Authority.

If an employee shall fail to return to their position upon completion of the period for which a leave of absence without pay has been granted, the Appointing Authority shall, within fourteen (14) days after the completion of such period, give notice that the employee is considered to be terminated.

Based on the operational needs and at the discretion of the Appointing Authority, Employees enrolled in a degree program may be granted an unpaid leave of absence(s) up to (12) twelve months for course work required by the program.

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9.00 TRAVEL EXPENSES AND MEAL REIMBURSEMENT

9.01 Out of State Travel

No expenses for out-of-state travel, including the use of state-owned cars, shall be reimbursed unless prior approval is given by the Appointing Authority and Cabinet Secretary (M.G.L. Chapter 30, §25B).

9.02 Economy of Travel Expenses

In every case the means of transportation which is least expensive to the Commonwealth and which is in the interest of economy, with proper consideration to the circumstances, should be used. Railroads or buses are preferred to transportation by plane, taxi or privately-owned automobile. Commutation and reduced-rate round trip tickets shall be used when possible. The cost of transportation shall include fares less federal taxes. Pullman charges will not be reimbursable for distances less than 100 miles; when they are used, Pullman check or voucher shall be submitted. Reference should be made to the detailed procedures for cost-effective authorized travel as issued from time to time by the Secretary of Administration and Finance.

9.03 Travel Between Home and Work Assignment

- Transportation of any kind between an employee's home and permanently assigned office (official headquarters) is not reimbursable (M.G.L. Chapter 30, §25).

- If employees travel from home to temporary assignments rather than to their permanently assigned offices, transportation expenses shall be allowed either for the distance from their homes to places of temporary assignment, or from their permanently assigned offices to places of temporary assignment, whichever is nearer.

- In all instances in which the Appointing Authority assigns the employee's home as their permanent office, prior approval must be given by the Personnel Administrator before such assignment becomes valid.

- The designation of the permanently assigned office for purposes of this rule by the Appointing Authority with the approval of the Personnel Administrator shall be final unless the employee files an appeal within ten (10) days in accordance with Rule 1.05.

9.04 Full Travel Status

This is defined as temporary absence from home on assignment to duty for more than twenty-four (24) hours. The following items shall be reimbursable while on full travel status:

- Reasonable charges for hotel rooms, based upon submission of receipted hotel bill.
- Reasonable tips other than those for meals.
- Reasonable work related internet connection or telephone charges.

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9.05 Unallowable Travel Expenses

Reimbursement shall not be made for expenses incurred for the sole benefit of the traveler, such as valet service, entertainment, laundry service, etc.

9.06 Duration of Full Travel Status

Full travel status, other than out-of-state travel, for any employee shall not exceed a period of thirty (30) consecutive days unless prior approval is given by the Personnel Administrator.

9.07 Use of State-Owned Automobiles

- State-owned cars shall be used on official business only. They shall not be operated outside the necessary working hours (working hours to include time required to travel to and from place of authorized garaging).

- Pleasure riding or use for private purposes is absolutely forbidden.

- No operator of a state-owned motor vehicle shall transport a passenger or passengers other than those traveling on official business except with the approval of the Appointing Authority.

9.08 Liability When Using State-Owned Automobiles

Operators are personally responsible for damage liabilities arising from accidents occurring during non-work related travel or involving passengers not traveling on official business. Any accident in which a state-owned vehicle is involved shall be reported immediately to the Secretary of Administration and Finance. Any such accident involving death or personal injury shall be reported immediately in writing to the Registrar of Motor Vehicles. (M.G.L. Chapter 90, §26).

9.09 Reimbursement of Expenses of State-Owned Automobiles

Reimbursement shall be allowed for expenses incurred in the operation of state-owned cars, including charges for gas, oil, and reasonable charges for minor repairs, public garage and parking fees, toll charges, and reasonable charges for car washing.

9.10 Privately-Owned Automobiles and Mileage Rate

When use of a person's private automobile is necessary and has been authorized by the Appointing Authority, the approved mileage rate will be allowed. In addition to the approved mileage rate, reimbursement will be allowed for reasonable charges for tolls, garaging and parking.

- From time to time, the Secretary of Administration and Finance may adjust the mileage rate up or down, depending upon current conditions.

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- For each trip, the city or town visited must be reported. If several addresses are visited within a city or town, state the number visited and total mileage covered.

- Mileage reported shall be based upon actual odometer readings or computed from a recognized mileage chart.

- Private automobile mileage reimbursement shall be payable only to one of two or more employees traveling together in the same vehicle.

9.11 Unallowable Expenses for Automobiles

- No reimbursement shall be allowed or obligation incurred for the private garaging of a state-owned automobile operated by an employee as transportation from the place of employment to the vicinity of residence.

- No payment shall be made or obligation incurred for the garaging of any automobile in private garages under any circumstances except upon prior approval by the Secretary of Administration and Finance.

- No charges for simonizing, polishing, or repainting will be allowed unless approved in advance by the State Purchasing Agent.

9.12 Meal Reimbursement

- The rules on meal reimbursement (Rules 9.12 to 9.18) apply to all persons employed by offices, departments, boards, commissions and other agencies receiving state appropriations (see Rule 1.04 and M.G.L. Chapter 7, §28).

- Reimbursement shall be allowed for meals while on full travel status.

9.13 Amount of Meal Reimbursement

Employees who are required to travel to other locations for business shall receive a per diem payment of $30.00 for meals for each whole day during which they are on such assignment.

1. A whole day shall be a 24-hour period commencing at midnight;
2. The duration of travel shall begin from the employee's departure from their home or work location directly to the destination of the travel assignment, and shall conclude with the employee's arrival at their home or work location directly from such travel assignment.

The rates above shall apply only when meals are not included in the rate charged for lodging or otherwise included in registration or conference fees.

For travel for partial day periods (see rules 9.15 through 9.17), individual meal allowances are as follows:

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Breakfast:	$6.00
Lunch:	$8.00
Dinner:	$16.00

9.14 Meal Reimbursement for Certain Unclassified Employees

- Rule 9.13 shall not apply to any Cabinet Secretary or Department Director.

- Reimbursement for those persons shall be the reasonable and necessary meal expenses as may be allowed by the Appointing Authority or person designated by statute to approve expenses.

9.15 When Meals May be Reimbursed

For travel status of 24 hours or more, the following are the allowances on the first day:

- When travel status begins before 6:00 A.M., the person will be entitled to the entire per diem amount.

- When travel status begins between 6:00 A.M. and noon, the person will be entitled to midday and evening meals.

- When travel status begins between noon and evening, the person will be entitled to the evening meal.

For travel status of 24 hours or more, the following are the allowances on the final day:

- When travel status ends between 6:00 A.M., and noon, the person will be entitled to breakfast.

- When travel status ends between noon and 6:00 P.M., breakfast and midday meals will be allowed.

- When travel status ends after 6:00 P.M., the entire per diem amount will be allowed.

Breakfast at the beginning and evening meal at the end of travel status will not be allowed unless the charge is accompanied by a statement of necessity for early departure or late return.

9.16 Meal Reimbursement for Travel Less Than 24 Hours in Duration

- For travel of one (1) day's duration starting two (2) hours or more before compensated time, the person will be entitled to the breakfast allowance. Voucher must state time of departure and time compensation commenced.

- For travel of one (1) day's duration ending two hours or more after compensated time, the person will be entitled to the evening meal allowance. Voucher must state the time compensation ceases and time of arrival home.

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- In no event will the midday meal be allowed for travel of less than 24 hours' duration.

- Voucher must state necessity for early departure or late return as well as a statement giving the regularly scheduled work hours.

- In computing travel under this rule, the two (2)-hour travel time must be computed from the person's permanently assigned office or home, whichever is nearer to the place of temporary assignment.

9.17 Meals Reimbursement for Inmates/Patients

Reimbursement at the rates in Rule 9.13 shall be made for meal expenses incurred by an employee who purchases a meal or meals for inmates or patients who are being transferred from one institution to another, or an employee who is assisting in the performance of official duties. In all such cases, the name or the number of the inmate or patient must be stated.

9.18 Unallowable Meal Reimbursement

Meals served by airlines at no charge to the traveler or where the price of passage includes a meal or meals shall not be reimbursable.

9.19 Foreign Travel

- Employees traveling in foreign countries shall report their expenditures by items in dollars, noting on hotel bills and other receipts submitted with vouchers the equivalent value in dollars at the then current rate of exchange.

- Supplemental expenses such as fees for passports, visas, photographs, birth and marriage certificates, and inoculations shall be reimbursable.

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10.00 HOURS OF EMPLOYMENT AND OVERTIME

10.01 Tour of Duty

The regular hours of work of full-time employees are restricted to five (5) tours of duty in any one workweek, and to not less than 37.5 hours (except in the case of part-time employment) nor more than 40 hours, and with like hours for like tour of duty classes, as determined by the Personnel Administrator in accordance with M.G.L. Chapter 30, §45.

The tour of duty is hereby restricted to eight (8) hours, and such tour of duty shall be arranged to fall within a period not exceeding ten (10) consecutive hours.

This rule shall not apply to the following:

- Employees in functions described in M.G.L. Chapter 149, §30A.
- Employees on full travel status (see Rule 9.04).
- Employees on a pre-approved flexible schedule or alternative work schedule, consistent with agency policy.

A tour of duty is the period of time elapsing in the performance of assigned tasks and immediately preceded and followed by a period of time of non-scheduled work of at least eight (8) hours duration in both instances.

When necessary, an employee may be assigned more than one 'tour of duty' on the same workday provided that an interval of at least sixteen (16) hours elapsed between the start of the first tour of duty and the start of the second tour of duty. For reporting purposes, each tour of duty shall be treated separately and charged to the calendar day on which it began just as though all service in each tour of duty had been performed on the day to which charged.

10.02 Overtime

Employees who perform service in excess of a tour of duty of seven and one-half (7.5) hours or eight (8) hours within a period of ten (10) consecutive hours shall receive additional compensation at the regular rate up to and including eight (8) hours in one day or total service of 40 hours per work week.

Employees who perform service in excess of eight (8) hours in any one tour of duty or 40 hours in any one workweek shall be compensated at the rate of one and one-half (1.5) times the regular hourly rate of said employee for every hour or fraction thereof of such services rendered.

Employees may only be paid overtime compensation upon the prior written approval of the Appointing Authority, and the Cabinet Secretary where applicable (M.G.L. Chapter 30, §24C).

This rule shall not apply to the following:

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- Employees in functions described in M.G.L. Chapter 149, §30B.
- Employees on full travel status (see Rule 9.04).
- Managers in positions classified at M-IX and above.
- Managers in positions classified at M-V through M-VIII, unless the position has received prior approval for overtime compensation by the Personnel Administrator and Secretary of Administration and Finance.

The provisions of the U.S. Fair Labor Standards Act shall be followed where applicable.

10.03 Payment of Overtime

An Appointing Authority will make reasonable efforts to send out compensation for overtime no later than the payroll period following the payroll period of the overtime worked.

10.04 Compensatory Time

Compensatory time in lieu of overtime will not be allowed for managers. An Appointing Authority shall grant confidential employees compensatory time, in lieu of payment for overtime, in a manner consistent with the pertinent provisions of the collective bargaining agreements that would otherwise cover the employees' job titles.

An Appointing Authority has discretion to permit the use of compensatory time at the employee's request, provided the use of compensatory time does not unduly disrupt the operation of a department or agency.

Upon termination, an employee shall be paid for all unused compensatory time at the final regular rate of pay.

10.05 Intermittent Employees

Intermittent employees are hereby exempted from the five (5) tours of duty in any work week as well as the eight (8) hour tour of duty in ten (10) consecutive hours in any work day. All such employees are, however, not exempt from the provisions of the 37.5 or 40-hour work week.

10.06 Curtailment of Hours and Changes in Schedule

Curtailment of the hours of service scheduled in one tour of duty to offset excess hours of service performed in another tour of duty is prohibited.

Whenever, an Appointing Authority desires to change the work schedule of an employee under their jurisdiction, they must give any employee affected at least five (5) days' notice in writing of such contemplated change, except in cases of emergency involving the protection of the property

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of the Commonwealth and the health and safety of those persons entrusted to its care and/or custody, but not for the purpose of avoiding the payment of overtime.

This section shall not apply to an employee on a pre-approved flexible schedule or alternative work schedule.

10.07 Service for Overtime Purposes

Service for overtime purposes shall include all compensated time except sick time and additional holiday compensation provided in M.G.L. Chapter 30, §24A.

Whenever a claim for meals consumed is made under the provisions of Rule 10.10, the time involved in partaking of such meals shall not be included in the time for which overtime compensation is claimed. Actual time, but not less than one-half (1/2) hour in any instance shall be excluded for this purpose.

10.08 Hourly Rate

"Hourly rate," as used in this Rule, shall be the employee's regular rate of compensation if the service is rendered in their salary grade.

10.09 Out of Grade Overtime Work

An employee rendering overtime service out of the grade in which they are regularly employed shall receive:

- The employee's regular salary unless it is lower than the minimum of the grade in which overtime is served, in which case they shall be paid at the minimum rate of the grade in which service is rendered.

- The employee's regular salary unless it is higher than the maximum of the grade in which overtime is rendered, in which case they shall be paid at the maximum rate for the grade in which service is rendered.

- The employee's regular salary unless there is no equivalent salary rate in the grade in which overtime service is rendered, in which case they shall be paid the next higher salary rate in said grade, or

- The employee's regular salary if the duties performed in the lower grade are, in the opinion of the Appointing Authority, essentially a part of the duties of the higher grade, in which case the employee may receive their regular rate of salary in the higher grade.

10.10 Meal Expenses for Overtime Work

Employees shall not be eligible for reimbursement for meals consumed during their regular hours of employment, except as provided for under the Travel Rules contained in Section 9.00.

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Expenses incurred for authorized meals as a result of approved overtime work shall be reimbursed in addition to overtime compensation.

Reimbursement shall be allowed for actual meal expenses incurred, including tips, not to exceed the following:

Breakfast	$5.00
Lunch (midday meal)	$6.50
Supper (evening meal)	$13.00
Midnight Meal	$5.00

For the purposes of these rules, the following shall be considered as meal periods:

Breakfast period:	From 3:01 AM to 9:00 AM
Lunch period:	From 9:01 AM to 3:00 PM
Supper period:	From 3:01 PM to 9:00 PM
Midnight meal period:	From 9:01 PM to 3:00 AM

If an employee works a regular tour of duty, and, in addition, works three (3) or more hours, exclusive of meal time, they shall be entitled to reimbursement, in accordance with this Rule, for the meal covered by the period in which such additional work begins.

If an employee works a regular tour of duty, and, in addition, works seven (7) or more hours, exclusive of meal time, they shall be entitled to reimbursement, in accordance with this Rule, for two (2) meals, starting with the meal covered by the period in which such additional work begins.

If an employee works a regular tour of duty, and, in addition, works eleven (11) or more hours, exclusive of meal time, they shall be entitled to reimbursement, in accordance with this Rule, for three (3) meals, starting with the meal covered by the period in which such additional work begins.

If an employee works on a day on which they are not scheduled to work, the employee shall be entitled to reimbursement, in accordance with this Rule, for meals as follows:

Hours worked (exclusive of meal time)	Number of meals, beginning with the meal covered by the period in which such work begins
3 or more	1
7 or more	2
11 or more	3
15 or more	4

For an additional four (4) hours worked not including time for meals an additional meal shall be allowed.

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11.00 HOLIDAYS

11.01 Definition of Holidays

The following days shall be paid holidays for employees:

New Year's Day
Martin Luther King Jr. Day
Presidents' Day
Patriots' Day
Memorial Day
Juneteenth Independence Day
Independence Day
Labor Day
Columbus Day
Veterans' Day
Thanksgiving Day
Christmas Day

11.02 Holidays Occurring on Regularly Scheduled Workdays

When a holiday occurs on the regularly scheduled workday of a full-time employee, the employee, if not required to work that day, shall be entitled to receive their regular day's pay for such holiday.

11.03 Holidays Occurring on Days Other Than Regularly Scheduled Work Days

An employee whose usual workweek is five (5) or more days and whose regular day off falls on any of the aforementioned holidays except when such holiday occurs on Saturday, shall be allowed an additional day off or payment in lieu of one day.

Legal holidays that fall on a Saturday shall be observed on that day. All offices under the jurisdiction of any department of state government shall be open to the public for business on the Friday preceding any Saturday holiday. State Agencies may recommend that employees take off the preceding Friday or following Monday of the Saturday holiday. Employees who work both the preceding Friday and following Monday of the Saturday holiday will earn a compensatory day to be taken at a time approved by the agency head within 60 days of the Saturday holiday. This rule shall not apply to heads of departments and divisions, superintendents of institutions in the departments of Mental Health, Mental Retardation, Public Health, Corrections, Youth Services, Soldiers' Home in Massachusetts, and Soldiers' Home in Holyoke, and principal officers in correctional institutions (M.G.L. Chapter 30, §24A).

A legal holiday shall be observed the day following when said holiday shall occur on Sunday.

Except as provided above, when a holiday occurs on a day that is not an employee's regular workday, the employee, at the option of the Appointing Authority, shall receive pay for one day

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at their regular rate or one compensatory day off with pay within sixty (60) days following the holiday to be taken at a time approved by the agency head.

11.04 Employees Required to Work on Holidays

An employee required to work on a holiday as defined in Section 11.01 shall receive a compensatory day off with pay within sixty (60) days following the holiday to be taken at a time approved by the agency head or if a compensatory day cannot be granted by the Appointing Authority due to a shortage of personnel or other reasons, then the employee shall be entitled to pay for one (1) day at their regular rate of pay in addition to pay for the holiday worked.

11.05 Amount of Holiday Pay

Holiday pay as provided in M.G.L. Chapter 30, §24A shall not exceed compensation paid for one tour of duty.

11.06 Holiday Pay for Part-Time Employees

A part-time employee shall earn pay for a holiday or compensatory time in the same proportion that their part-time service bears to full-time. A part-time employee who is scheduled, but not required to work on a holiday, who receives less holiday credit than the number of hours they are required to work, may use other available leave time, or upon the request of the employee and approval by the Appointing Authority, subject to operational needs, may make up the difference in hours that same workweek. The scheduling of these hours will be at a time requested by the employee and approved by the Appointing Authority, subject to operational needs.

11.07 Holiday Pay for Full-Time Employees on a Compressed Workweek

Full-time employees on a compressed workweek whose daily work schedules exceed the normal standard of seven and a half (7.5) or eight (8) hours (whichever standard applies to the position in question) shall receive holiday pay for the number of hours normally worked daily by those full-time employees who are not on a compressed work schedule. When a holiday falls on a scheduled workday, the employee may make up the difference between the allotted holiday pay and the scheduled workday by using available leave. When a holiday falls on a scheduled day off, the employee will receive seven and a half (7.5) or eight (8) hours (whatever amount applies to the position in question) of compensatory time off, to be used within sixty (60) days following the holiday.

11.08 Restrictions on Holiday Pay

- An employee who is on leave without pay or absent without pay for that part of their scheduled workday immediately preceding or immediately following a holiday that occurs on a regularly scheduled workday for which the employee is not required to work, shall not receive holiday pay for that holiday. This restriction on holiday pay will not apply to an employee who is on an unpaid status and the leave or absence is due to a furlough or other work reduction initiative relating to the mitigation of layoffs.

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The above procedure may be waived by the Appointing Authority if an employee is tardy due to severe weather conditions or if an employee is tardy for not more than two (2) hours due to events beyond the control of the employee.

- An employee scheduled to work on a holiday, who fails to report for work on that day shall be deemed to be absent without pay unless the employee provides evidence of illness by a doctor's certificate. When an employee produces such evidence of illness, sick leave credits, if any, shall be charged for that day and no holiday pay shall be paid or an additional day off granted.

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12.00 CHARGES TO STATE PERSONNEL

12.01 Rental of State Facilities

Employees may be allowed to rent living quarters in state facilities only in accordance with regulations and rental schedules issued by the Secretary of Administration and Finance as authorized by M.G.L. Chapter 7, §3B.

12.02 Meals at State Institutions for Employees

Employees of state institutions may purchase meal tickets for meals consumed in institution dining rooms or cafeterias; the rates for such tickets will be determined by the Secretary of Administration and Finance in accordance with regulations authorized by M.G.L. Chapter 7, §3B.

12.03 Meals at State Institutions for Volunteers

Appointing Authorities in the Departments of Mental Health, Mental Retardation, Public Health, Corrections, Education, Youth Services and the Soldiers' Homes may, where the services rendered by the individuals are, in their opinion, of material benefit to the respective institution and to the Commonwealth, allow meals free of charge to Affiliate Student Nurses, Social Service Students, Medical Students, Medical Student Interns, other student or volunteer workers, or any other persons who receive no compensation from the Commonwealth.

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13.00 TUITION REMISSION

13.01 Applicability

Tuition remission shall apply to full-time employees who have completed at least six (6) months of service and their spouses only.

13.02 Tuition Remission Benefits

- Full tuition remission shall apply to enrollment in a state-supported course or program at the undergraduate or graduate level at any Community College, State College or State University (excluding the M.D. program at the University of Massachusetts Medical School).

- Fifty-percent (50%) tuition remission shall apply to enrollment in a non-state supported course or program offered through continuing education at any Community College, State College or State University (excluding the M.D. program at the University of Massachusetts Medical School).

13.03 Limitations and Approval

- Tuition remission is subject to space available and to the usual admission policies of the college or university.

- Prior approval must be granted by both the Personnel Administrator and the Board of Higher Education in accordance with their Tuition Remission policies and procedures.

- It is understood that any program of spousal eligibility developed by the Board of Higher Education in conjunction with the Human Resources Division will require the subordination of spousal eligibility rights to those remission benefit rights extended to full-time state employees.

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14.00 PREVENTION OF ACCIDENTS AND OCCUPATIONAL DISEASES

14.01 Inspections and Maintenance; Reports

- It shall be the duty of all Appointing Authorities to provide a safe, clean, wholesome surrounding in all places of employment coming under their jurisdiction. They shall at least once every week cause the inspection of premises to maintain good housekeeping in every place of employment under their jurisdiction and shall have a written report thereof made to them at least once a month by the person or persons to whom such task is assigned.

- Appointing Authorities shall cause all places of employment maintained by their respective departments to be inspected as to lighting, floors, ceilings and walls, stairs, roof, ladders, tables, filing cabinets, lifting devices, benches, chairs, heating equipment, electric fans, storage spaces, trucks, conveyor belts, containers, packing cases, machines, tools, and any other physical property used in such place of employment. In worksites in which employees use video display terminals, the Division of Occupational Hygiene shall inspect VDT equipment.

- Appointing Authorities shall inform employees of any toxic or hazardous materials in the workplace in accordance with M.G.L. Chapter 111F (Right to Know Law).

- Appointing Authorities shall make an annual report to the Personnel Administrator within sixty (60) days after July 1st of each year in which they shall furnish information regarding the weekly inspection referred to above.

- These reports shall furnish information regarding the number of industrial accidents which occurred in such departments, showing their cause, action taken to prevent recurrence, a copy of any instructions issued to supervisors regarding unsafe equipment or methods as provided in Rule 14.02, number of lost days in each accident, the name and title of employee involved, the amount of sick leave in days and dollars used by such employee because of industrial accident, and if accident was caused by violence of prisoner or patient, the amount of salary paid and the effort made to ascertain if and when the employee would be able to return to their position, the replacement, if necessary, for such employee during the receipt of workers' compensation benefits because of this industrial accident, and the activity put into motion to prevent industrial accidents during the year.

- In the case of locations such as manholes where valves or other control devices may be located, the supervisor shall ascertain that no noxious or poisonous gases are present therein before permitting other workers to descend therein for any purpose whatsoever.

- When such noxious or poisonous gases are present, such conditions must be remedied before any worker is permitted to descend into such enclosure. The use of harnesses or other protective devices must be used where any danger is present.

- In the case of bursting water mains requiring excavation to make necessary repairs, the supervisor shall make sure that proper shoring has been provided to protect against possible "cave-in."

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14.02 Unsafe Equipment

Appointing Authorities shall cause instructions to be issued to all supervisors in their departments not to permit any unsafe equipment to be used nor any unsafe work methods to be used in any instance to the end that accidents will not occur because of such equipment or method.

14.03 Defective and Worn-out Tools

If a tool, machine, or piece of equipment is found to be defective, worn-out or dangerous to operate because of its condition, the immediate supervisor shall be instructed not to permit its use until it is authorized by the Appointing Authority.

14.04 Use of Tools

Appointing Authorities shall at all times be concerned with the safety and health of all persons under their jurisdiction. They must not permit any person who is not adequately experienced or familiar with the use of tools, machinery, or equipment to use such material until adequate experience or familiarity with such material is possessed by said person.

14.05 Issuance of Instructions

Appointing Authorities shall issue instructions to supervisors to carry out the provisions of these rules to the end that accidents and industrial or occupational diseases are kept at a minimum.

14.06 Reports of Accidents and Diseases to the Human Resources Division

Whenever an accident or industrial or occupational disease claim is filed with the Division of Industrial Accidents by an employee, a copy of the report form and claim shall be sent to the Human Resources Division by the Appointing Authority.

14.07 Division of Industrial Accidents- Hearings

The Division of Industrial Accidents, within twenty-one (21) calendar days of receipt of such claim, shall notify the Human Resources Division whether or not it is taking jurisdiction of the claim and, if necessary, when hearing will be given to claimant.

14.08 Decisions of Division of Industrial Accidents - Forwarding

The Division of Industrial Accidents shall forward to the Human Resources Division a copy of its decision in all claims filed with it by employees and referred to in Rule 14.06. Such decision shall state the approximate duration of such award, if any. If such decision is modified, amended or repealed, the Division of Industrial Accidents shall notify the Human Resources Division of such change.

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14.09 Reporting of Unsafe Conditions

- Employees shall report to their immediate supervisors any condition which they believe endangers their health or creates hazard in their employment. Such immediate supervisors shall correct the conditions complained of, if within their authority to do so, or shall report such complaints to their supervisors in report referred to in Rule 14.01, above.

14.10 Posting of Rules

All Appointing Authorities shall cause to be posted in a conspicuous place in every place of employment under their jurisdiction a copy of all these rules pertaining to prevention of accidents and industrial or occupational diseases.

14.11 Complaints - Forwarding to Head of Department

- Whenever a written complaint is filed by an employee with the Personnel Administrator describing in detail and accompanied by supporting evidence of any allegedly unsafe or unsanitary condition relating to the work of such employee, the Personnel Administrator shall cause a copy of such complaint to be sent to the Appointing Authority for their immediate comments.

- The Personnel Administrator shall investigate such complaint and shall report thereon with their recommendations to the Secretary of Administration and Finance with a copy thereof to the employee filing the complaint and to the Appointing Authority involved.

14.12 Rules to be Supplemental

All the above rules do not change or alter any rules previously issued on the subject matter of reporting accidents or industrial or occupational diseases issued by any department prior to the effective date of these rules but are in addition thereto.

14.13 Incorporation by Reference - Enforcement

Rules and regulations issued by the Division of Industrial Accidents and any other rule or regulation adopted by the Department of Labor and Workforce Development governing the prevention of accidents or industrial diseases, are all hereby incorporated into these rules and regulations and shall be in full force in all departments. Appointing Authorities are hereby charged with the responsibility to enforce these rules and regulations and shall see that the rules are adhered to in all places of employment coming under their jurisdiction.

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15.00 ADOPTION ASSISTANCE PROGRAM

15.01 Eligibility

Employees shall be eligible for the Adoption Assistance Program based upon guidelines issued by the Human Resources Division in cooperation with the Department of Children and Families and the Board of Higher Education.

The program will provide certain benefits to employees who adopt a child from the Department of Children and Families.

15.02 Leave Benefits

Such employees will be eligible for the following leaves in connection with such adoption:

- Up to twenty-six (26) weeks of FMLA unpaid leave of which:
  - Up to ten (10) days of Adoptive Assistance Leave (paid leave) per adopted child may be taken (see also Rule 5.02) (under FMLA rules), and;
  - Up to sixty (60) days of accrued paid sick leave may be taken for the purpose of parental leave due to adoption under FMLA rules, to be concluded within twelve (12) months of the adoption (see also Rule 4.07).
- Up to ten (10) days of accrued paid sick leave per calendar year may be taken for the purpose of attending to necessary preparations and legal requirements related to the adoption (see Rule 4.07).

15.03 Educational and Other Benefits

Other benefits include:

- For the employee: Adoption Support Services as provided by the Department of Children and Families.
- For the adopted child: College/university tuition remission at a Massachusetts State College/University or Community College (see Tuition Remission rules in section 13.00), and corporate sponsorship arranged by the Department of Children and Families.

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Executive Office for Administration & Finance
COMMONWEALTH OF MASSACHUSETTS
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LIEUTENANT GOVERNOR

December 23, 2020

Steven P. Kfoury, Fourth Deputy Secretary
State Publications and Regulations Division
Secretary of the Commonwealth
State House, Room 117
Boston, MA 02133

Dear Mr. Kfoury:

As required by G.L. c. 30A, § 6D, I am providing the following list of regulations that either the Executive Office for Administration and Finance ("A&F") or one of its constituent agencies anticipate, at this time, will be adopted or amended within the next twelve months. This listing does not cover any regulations that may be required to be promulgated as a result of legislation passed during the 2021-2022 legislative session.

In addition to the matters listed below, pursuant to Executive Order 562, A&F will be continuing its periodic comprehensive review of certain regulations promulgated by all executive agencies throughout 2021. Many of the below anticipated regulatory changes have been identified as part of that process.

- **Executive Office for Administration and Finance**

  801 CMR 4.02 – Fees for Licenses, Permits, and Services to be Charged by State Agencies

- **Department of Revenue**

  The Department is under a statutory obligation to post, at least quarterly, notices of regulations and other written statements that are currently under development. Mass. G.L. c. 14, § 6. The Department's most recent posting is available here: http://www.mass.gov/dor/businesses/help-and-resources/legal-library/public-written-statements-currently-under.html. Some of the issues or regulations identified on this list may be promulgated or amended within the next twelve months.

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- **Group Insurance Commission**

  805 CMR 1 – General Provisions
  805 CMR 5 – Miscellaneous
  805 CMR 8 – Municipal Health Coverage
  805 CMR 9 – Eligibility and Participation

- **Division of Capital Asset Management and Maintenance**

  810 CMR 2 – Asset management board
  810 CMR 4 – Certification of contractors and sub-bidders to bid on public building construction contracts
  810 CMR 8 – Awarding authority responsibility for evaluation of contractors' performance on public building projects bid pursuant to MGL c. 149, § 44A though 44J and MGL c. 149A

- **Designer Selection Board**

  No anticipated regulatory changes.

- **Appellate Tax Board**

  No anticipated regulatory changes.

- **Human Resources Division**

  No anticipated regulatory changes.

- **Operational Services Division**

  425 CMR 2 – Certification

- **State Library of Massachusetts**

  No anticipated regulatory changes.

- **Division of Administrative Law Appeals**

  No anticipated regulatory changes.

- **Civil Service Commission**

  No anticipated regulatory changes.

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- **Bureau of the State House**

  No anticipated regulatory changes.

This list is subject to revision. If you need more information, please feel free to contact me at patrick.e.lynch@mass.gov or by phone, at 617-727-2040.

Sincerely,

/s/ Patrick E. Lynch

Patrick E. Lynch
Deputy General Counsel
Executive Office for Administration and Finance

cc: Kevin Brown, General Counsel, DOR
Natalie Sawyer, General Counsel, DCAMM
Mark DeFrancisco, General Counsel, ATB
Michele Heffernan, General Counsel, HRD
Andrew Stern, General Counsel, GIC
William McAvoy, General Counsel, OSD

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December 28, 2020

BY EMAIL

Steven P. Kfoury
Executive Director
State Publications and Regulations Division
Secretary of the Commonwealth
State House, Room 117
Boston, Massachusetts 02108

Re: Annual List of Prospective Regulations

Dear Mr. Kfoury:

As required by G.L. c. 30A, section 6D, I am providing the following list of Education Secretariat regulations that either the Executive Office of Education (EOE) or one of the three education departments within EOE anticipate will be amended or rescinded in the next 12 months:

Executive Office of Education

No anticipated regulatory changes.

Department of Early Education and Care
CMR 1.00/606 CMR 1.00 - Enforcement Standards and Definitions for Licensure or Approval *(possible revisions)*

606 CMR 3.00 - Standards for the Licensure or Approval of Residential Programs Serving Children and Teen Parents *(possible revisions)*

606 CMR 7.00 - Regulations for Family, Group & School Age Child Care Programs *(possible revisions)*

606 CMR 10.00 - Subsidized Child Care *(possible revisions)*

606 CMR 15.00 –Early Education and Out of School Time Capital Fund Program *(possible revisions)*

Department of Elementary and Secondary Education
603 CMR 1.00 – Charter Schools *(possible revisions)*

603 CMR 4.00 – Vocational Technical Education *(possible revisions)*

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603 CMR 27.00 – Student Learning Time *(possible revisions)*

Department of Higher Education
610 CMR 2.00 - Degree-Granting Regulations for Independent Institutions of Higher Education *(possible revisions)*

This list is subject to revision. If you need further information, please contact me at matthew.j.connolly@mass.gov.

Sincerely,

/s/Matthew J. Connolly
Matthew Connolly
General Counsel

cc: Constantia Papanikolaou, General Counsel, Department of Higher Education
Rhoda E. Schneider, General Counsel, Department of Elementary and Secondary Education
Tom Myers, Acting General Counsel, Department of Early Education and Care

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The Commonwealth of Massachusetts
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To: Steven P. Kfoury, Fourth Deputy Secretary, State Publications and Regulations Division
From: Benjamin Goldberger, General Counsel, Executive Office of Energy and Environmental Affairs
Re: Annual List of Prospective Regulations
Date: December 23, 2020

On behalf of the Energy and Environmental Affairs Secretariat, I provide the following list of regulatory changes expected to be promulgated during the next twelve months, pursuant to the requirements of M.G.L. c. 30A.

Department of Fish and Game

Division of Fisheries and Wildlife

321 CMR 3.02(2)	Migratory Game Bird Regulations

Division of Marine Fisheries

322 CMR 4.00	Fishing and Shellfish Equipment
322 CMR 6.00	Regulation of Catch
322 CMR 7.00	Permits
322 CMR 8.00	Coastal Fisheries Conservation and Management
322 CMR 12.00	Protected Species
322 CMR 16.00	Shellfish Sanitation, Harvest, Handling and Management

Department of Conservation and Recreation

302 CMR 10.00	Dam Safety
302 CMR 11.00	Parkways, Traffic, and Pedestrian Rules
302 CMR 12.00	Parks and Recreation Rules
302 CMR 16.00	Forest Cutting Practices
302 CMR 17.00	Classification and Rating of Prospective Bidders
302 CMR 18.00	Aquatic Nuisance Control
302 CMR 20.00	Stormwater Drainage Systems

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304 CMR 12.00	Forest and Parks Rules *(to be rolled into 302 CMR11)*
313 CMR 11.00	Watershed Protection
350 CMR 3.00	Pedestrian Rules *(to be rolled into 302 CMR11)*
350 CMR 4.00	Traffic Rules *(to be rolled into 302 CMR 11)*
350 CMR 5.00	Parking and Penalties Therefor *(to be rolled into 302 CMR 11)*
350 CMR 8.00	Land Within Watershed Reservations (*to be rolled into 313 CMR 11*)

Department of Agricultural Resources

330 CMR 34.00	Produce Safety and Market Access Regulations
330 CMR 8.00	Apiary
330 CMR XX	Agricultural Preservation Restriction Improvement Program
330 CMR XX	Farm Viability Covenant
330 CMR XX	Hemp
333 CMR 9.00	Licensing Pesticide Dealers
333 CMR 10.00	Certification and Licensing of Pesticide Applicators
333 CMR 14.00	Protection of Families and Children From Harmful Pesticides

Department of Public Utilities

220 CMR 8.00	Sales of Electricity by Qualifying Facilities and On-Site Generating Facilities to Distribution Companies, and Sales of Electricity by Distribution Companies to Qualifying Facilities and On-Site Generation Facilities
220 CMR 18.00	Net Metering
220 CMR 20.00	Steam Distribution Companies
220 CMR 31.00	Optional Formula for Determining Allowed Rates of Return on Equity for Water Companies
220 CMR 45.00	Pole Attachment, Duct, Conduit and Right-of-way Complaint and Enforcement Procedures
220 CMR 105.00	Use of Professional Engineers for Gas Utility Work
220 CMR 151.00	Rail Fixed Guideway System: System Safety/Security Program Standard
220 CMR 272.00	Rates for the Towing of Motor Vehicles
220 CMR 274.00	Transportation Network Companies
980 CMR 1.00	Rules for the Conduct of Adjudicatory Proceedings
980 CMR 2.00	General Information and Conduct of Board Business
980 CMR 4.00	Freedom of Information: Protection of Trade Secrets
980 CMR 5.00	Environmental Assessment and Environmental Impact Reports
980 CMR 6.00	Certification of Environmental Impact and Public Need
980 CMR 7.00	Long-Range Forecasts and Supplements
980 CMR 8.00	Notices of Intention to Construct an Oil Facility
980 CMR 9.00	Coastal Zone Facility Site Selection, Evaluation and Assessment
980 CMR 10.00	Siting of Intrastate Liquefied Natural Gas Storage
980 CMR 11.00	Licensing of Hydropower Generating Facilities
980 CMR 12.00	Technology Performance Standards

Department of Energy Resources

225 CMR 14.00	Renewable Energy Portfolio Standard - Class I
225 CMR 15.00	Renewable Energy Portfolio Standard - Class II

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225 CMR 16.00	Alternative Portfolio Standard

Department of Environmental Protection

310 CMR 1.00	Adjudicatory Proceedings
310 CMR 3.00	Access to and Confidentiality of Department Records
310 CMR 4.00	Timely Action and Fees
310 CMR 7.24	Stage I Enhanced Vapor Recovery
310 CMR 7.40	Low Emission Vehicles Standards
310 CMR 7.71	Greenhouse Gas Reporting
310 CMR 7.73	Natural Gas Pipelines
310 CMR 7.75	Clean Energy Standard
310 CMR 9.00	Waterways
310 CMR 10.00	Wetlands Protection
310 CMR 19.00	Solid Waste
310 CMR 22.00	Drinking Water
310 CMR 30.000	Hazardous Waste
310 CMR 32.00	Land Application of Sludge and Septage
310 CMR 40.0000	Massachusetts Contingency Plan
310 CMR 46.00	Well Drillers
310 CMR 60.06	State Fleet Emissions
310 CMR 73.00	Dental Amalgam Separators
310 CMR 80.00	Underground Storage Tank (UST) Systems
314 CMR 2.00	Permit Procedures for Wastewater Discharges
314 CMR 3.00	Surface Water Discharge Permits
314 CMR 4.00	Surface Water Quality Standards
314 CMR 9.00	Water Quality Certification
xxx CMR xxx	Natural Resource Damages
xxx CMR xxx	Irrigation Interruption

Executive Office of Energy and Environmental Affairs

Executive Office of Energy and Environmental Affairs

301 CMR XXX	Transfer of Development Rights

Division of Conservation Services

301 CMR 14.00	Conservation Land Tax Credit

Massachusetts Environmental Policy Act Office

301 CMR 11.00	MEPA Regulations

Office of Technical Assistance

301 CMR 40.00	Toxic Use Fee
301 CMR 41.00	Toxic or Hazardous Substance List

Massachusetts Environmental Police

323 CMR 1.00	Motorboat Tilting
323 CMR 2.00	Use of Vessels
323 CMR 4.00	Operation of Personal Watercraft
323 CMR 6.00	Commercial Whitewater Use

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The Commonwealth of Massachusetts
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To: **Steven P. Kfoury, Executive Director, State Publications and Regulations Division**

From: **Sharon Boyle, General Counsel**

Re: **Semi Annual List of Prospective Regulations**

Date: **December 22, 2020**

As per your request and in compliance with M.G.L. C.30A: section 6D. The following is the updated list of regulations expected to be promulgated by the Executive Office of Health and Human Service Agencies in 2020.

Executive Office of Health and Human Services

101 CMR 21.00	COVID-19 Testing for Staff at Agency Facilities
101 CMR 22.00	Requirement to Disclose COVID-19 Test Results to EOHHS
101 CMR 204.00	Rates of Payment to Resident Care Facilities
101 CMR 206.00	Standard Payments to Nursing Facilities
101 CMR 304.00	Rates for Community Health Centers
101 CMR 307.00	Psychiatric Day Treatment Center Services
101 CMR 314.00	Dental Services
101 CMR 316.00	Surgery and Anesthesia
101 CMR 317.00	Medicine
101 CMR 318.00	Radiology
101 CMR 320.00	Clinical Laboratory Services
101 CMR 323.00	Rates of Payment for Hearing Services
101 CMR 329.00	Psychologist Testing, Treatment, and Related Services
101 CMR 330.00	Rates for Team Evaluation Services
101 CMR 337.00	Chronic Maintenance Dialysis Treatments and Home Dialysis Supplies
101 CMR 343.00	Hospice Services
101 CMR 345.00	Rates for Temporary Nursing Services
101 CMR 346.00	Rates for Certain Substance-related and Addictive Disorders Programs
101 CMR 351.00	Adult Foster Care
101 CMR 353.00	Payment for Primary Care Clinician Plan Services and Primary Care ACO Participating Primary Care Provider Services
101 CMR 413.00	Payments for Youth Intermediate-Term Stabilization Services
101 CMR 414.00	Rates for Family Stabilization Services

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101 CMR 415.00	Rates for Community-Based Day Support Services
101 CMR 416.00	Rates for Clubhouse Services
101 CMR 417.00	Rates for Certain Elder Care Services
101 CMR 418.00	Payments for Youth Short-term Stabilization and Emergency Placement Services
101 CMR 419.00	Rates for Supported Employment Services
101 CMR 421.00	Rates for Adult Housing and Community Support Services
101 CMR 422.00	General Programs – Disability Services
101 CMR 424.00	Rates for Certain Developmental and Support Services
101 CMR 427.00	Rates for Youth and Young Adult Support Services
101 CMR 428.00	Rates for Certain Independent Living Communities and Services
101 CMR 429.00	Rates for Sexual and Domestic Violence Services
101 CMR 430.00	Rates for Program of Assertive Community Treatment Services
101 CMR 431.00	Rates for Certain Respite Services
101 CMR 432.00	Rates for Certain Lead Agency Services
101 CMR 445.00	COVID-19 Payment Rates for Certain Day Programs
101 CMR 446.00	COVID-19 Payment Rates for Certain Community Health Care Providers
101 CMR 613.00	Health Safety Net Eligible Services
101 CMR 614.00	Health Safety Net Payments and Funding

Department of Mental Health

104 CMR 27.00	Licensing and Operational Standards for Mental Health Facilities
104 CMR 28.00	Licensing and Operational Standards for Community Services
104 CMR 32.00	Investigation and Reporting Responsibilities

Department of Public Health

105 CMR 120.000	Massachusetts Regulations for the Control of Radiation (MRCR)
105 CMR 135.000	Use of Blood, Blood Components, and Derivatives for the Purpose of Transfusion
105 CMR 170.000	Emergency Medical Services System
105 CMR 180.000	The Operation, Approval and Licensing of Clinical Laboratories
105 CMR 301.000	Cancer Registry
105 CMR 700.000	Implementation of M.G.L. c.94C
105 CMR 722.000	Dispensing Procedures for Clinic and Hospital Pharmacies
105 CMR 970.000	Pharmaceutical and Medical Device Manufacturer Conduct
272 CMR 4.00	Certification as a Community Health Worker

Department of Transitional Assistance

106 CMR 701.000	Transitional Cash Assistance Programs
106 CMR 327.000	State Supplement Program
106 CMR 360.000	Supplemental Nutrition Assistance Program
106 CMR 343.000	Fair Hearing Rules

Massachusetts Rehabilitation Commission

107 CMR 4.00	Referral and Application, Eligibility, and Order of Selection

Department of Veterans' Services

108 CMR 2.00	General Provisions
108 CMR 3.00	Eligibility for veterans' benefits
108 CMR 7.00	Payments to applicants in special circumstances
108 CMR 9.00	Annuities and Burials

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Department of Youth Services

109 CMR 4.00	Classification of Youth Committed to the Department of Youth Services
109 CMR 8.00	The Granting and Revocation of Conditional Liberty for Youth Committed to the Department of Youth Services

Department of Children and Families

110 CMR 1.00	Principle and Responsibilities of the Department of Children and Families
110 CMR 2.00	Glossary
110 CMR 4.00	Intake
110 CMR 5.00	Family Assessment and Action Planning
110 CMR 8.00	Service Denial, Reduction or Termination
110 CMR 9.00	Case Closure
110 CMR 11.00	Medical Authorization
110 CMR 12.00	Records
110 CMR 13.00	Case Investigation Unit
110 CMR 18.00	Criminal Offender Record Checks
110 CMR 19.00	Substitute Care
110 CMR 20.00	ICPC
110 CMR 21.00	Adoption
110 CMR 22.00	Guardianship
110 CMR 24.00	Education

Massachusetts Commission for the Blind

111 CMR 3.00	Vending Facilities Program
111 CMR 11.000	Certification of Legal Blindness City/Town Assessor's Office

Massachusetts Commission for the Deaf and Hard of Hearing

N/A

Department of Developmental Services

115 CMR 3.00	Administration
115 CMR 4.00	Records
115 CMR 8.00	Licensure and Certification of Providers
115 CMR 6.00	Eligibility
115 CMR 9.00	Investigations and Reporting Responsibilities
115 CMR 10.00	Research
115 CMR 11.00	Bureau of Program Integrity
115 CMR 12.00	National Criminal Background Checks
115 CMR 13.00	Incident Reporting

MA Office of Refugees and Immigrants

121 CMR 1.000	Fair Hearings
121 CMR 2.000	Massachusetts Refugee Resettlement Program
121 CMR 3.000	Massachusetts Refugee Resettlement Program: Auxiliary Activities

Office of Medicaid

130 CMR 403.000	Home Health Agency
130 CMR 405.000	Community Health Center Services
130 CMR 409.000	Durable Medical Equipment Services
130 CMR 410.000	Outpatient Hospital Services
130 CMR 411.00	Psychologist Services
130 CMR 413.000	Speech and Hearing Center Services

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130 CMR 420.000	Dental Services
130 CMR 427.000	Oxygen and Respiratory Therapy Equipment
130 CMR 433.000	Physician Services
130 CMR 434.000	Psychiatric Hospital Outpatient Services
130 CMR 438.000	Continuous Skilled Nursing Services
130 CMR 442.000	Orthotics Services
130 CMR 443.000	Limited Services Clinics Services
130 CMR 447.000	Acupuncture Services
130 CMR 450.000	Administrative and Billing Regulations
130 CMR 455.000	Urgent Care Clinic Services
130 CMR 501.000	Health Care Reform: MassHealth: General Policies
130 CMR 502.000	Health Care Reform: MassHealth: The Eligibility Process
130 CMR 505.000	Health Care Reform: MassHealth: Coverage Types
130 CMR 506.000	Health Care Reform: MassHealth: Financial Requirements
130 CMR 515.000	MassHealth: General Policies
130 CMR 519.000	MassHealth Coverage Types
130 CMR 520.000	MassHealth: Financial Eligibility
130 CMR 610.000	MassHealth: Fair Hearing Rules

Board of Registration in Medicine

243 CMR 1.00	Disciplinary Proceedings for Physicians
243 CMR 2.00	Licensing and the Practice of Medicine
243 CMR 3.00	The Establishment of and Participation in Qualified Patient Care Assessment Programs
243 CMR 4.00	Disciplinary Proceedings for Acupuncturists
243 CMR 5.00	The Practice of Acupuncture

Executive Office of Elder Affairs

651 CMR 12.00	Certification Procedures and Standards for Assisted Living Residences

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Commonwealth of Massachusetts
EXECUTIVE OFFICE OF
HOUSING & ECONOMIC DEVELOPMENT
ONE ASHBURTON PLACE, ROOM 2101
BOSTON, MA 02108
www.mass.gov/eohed

CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

MIKE KENNEALY
SECRETARY

TELEPHONE
(617) 788-3610

FACSIMILE
(617) 788-3605

December 21, 2020

VIA E-MAIL ONLY (Regulations@sec.state.ma.us)
Stephen P. Kfoury
Executive Director
State Publications and Regulations Division
Secretary of the Commonwealth
One Asburton Place
Boston, MA 02108

Re: **Annual List of Prospective Regulations**

Dear Mr. Kfoury:

In response to your call letter dated November 24th, 2020, the Executive Office of Housing and Economic Development (EOHED) submits the following list of the regulations expected to be promulgated, amended or rescinded in the upcoming twelve month period. This list is based on reasonable inquiry made with each of the agencies listed below and information provided by them as of the date of this letter.

EXECUTIVE OFFICE OF HOUSING AND ECONOMIC DEVELOPMENT

No regulatory action anticipated in 2021.

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

760 CMR 6.00: Occupancy Standards and Tenant Participation for State-Aided Housing (amendment)

760 CMR 24.00: Massachusetts Housing Stabilization Fund (amendment)

760 CMR 57.00: RAFT COVID Emergency Regulations (permanent promulgation of emergency regulation filed effective 12/16/20)

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760 CMR 66.00: Housing Development Incentive Program (amendment)

760 CMR 67.00: Eligibility for Emergency Assistance (EA) (amendment)

OFFICE OF CONSUMER AFFAIRS AND BUSINESS REGULATION

No regulatory action anticipated in 2021.

Department of Telecommunications and Cable

220 CMR 45.00: Pole Attachment, Duct, Conduit and Right-of-way Complaint and Enforcement Procedures (amendment)

Division of Banks

209 CMR 18.00: Conduct of the Business of Debt Collectors and Loan Servicers (amendment)

209 CMR 42.00: The Licensing of Mortgage Lenders and Mortgage Brokers (amendment)

209 CMR 43.00: Audit and Security Requirements for Credit Unions (amendment)

209 CMR 45.00: The Licensing and Regulation of Money Services Businesses (amendment)

209 CMR 46.00: Community Reinvestment (amendment)

209 CMR 50.00: Parity with Federal Credit Unions (amendment)

209 CMR 54.00: Mortgage Lender Community Investment (amendment)

209 CMR 56.00: Foreclosure Prevention Options (amendment)

Division of Insurance

211 CMR 40.00: Marketing of Insurance Health Plans (amendment)

211 CMR 42.00: The Form and Contents of Individual Accident and Sickness Insurance (amendment)

211 CMR 52.00: Managed Care Consumer Protections and Accreditation of Carriers (amendment)

211 CMR 96.00: Consumer Protection and Suitability in Annuity Transactions (amendment)

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211 CMR 130.00: Credit for Reinsurance (amendment)

211 CMR 146.00: Specified Disease Insurance (amendment)

211 CMR 148.00: Registration and Reporting Requirements for Third-Party Administrators (amendment)

211 CMR 149.00: Annual Comprehensive Financial Statements Pursuant to M.G.L. c. 176O, § 21 (repeal)

212 CMR 2.00: The Appraisal and Repair of Damaged Motor Vehicles (amendment)

211 CMR XXX: To Adopt NAIC Model #787 (new)

Division of Professional Licensure

Private Occupational Schools

230 CMR 2.00 - Standard Examinations

230 CMR 12.00 - Private Occupational Schools: Definitions

230 CMR 13.00 - Private Occupational Schools: Licensing of Schools and Sales Representatives

230 CMR 14.00 - Facilities, Equipment, Curriculum, Instructors, and Staff

230 CMR 15.00 - Private Occupational Schools: General Provisions and Standards of Practice

230 CMR 16.00 - Private Occupational Schools: Denials of Licensure and Disciplinary Action

230 CMR 17.00 - Private Occupational Schools: Effective Dates

Board of Registration of Architects

231 CMR 2.00 - General provisions

231 CMR 3.00 - Procedures for application, examination, resignation, and renewal

231 CMR 4.00 - Rules of professional conduct

Board of Registration of Chiropractors

233 CMR 2.00 – Definitions and Individual Registration Requirements

233 CMR 3.00 – Continuing Education Requirements

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233 CMR 4.00 – Standards of Practice and Professional Conduct

233 CMR 5.00 – Chiropractic Facilities

Board of Registration of Dispensing Opticians

235 CMR 2.00 - Definitions, board procedures and requirements for full licensure

235 CMR 3.00 - Continuing education

235 CMR 4.00 - Apprenticeship requirements and procedures

235 CMR 5.00 - Standards of professional practice and conduct; disciplinary proceedings

Board of Certification of Operators of Drinking Water Supply Facilities

236 CMR 2.00 – General Provisions

236 CMR 4.00 – Certification of Operators of Public Water Systems

236 CMR 5.00 – Disciplinary Action

Board of State Examiners of Electricians

237 CMR 12.00 - Definitions

237 CMR 13.00 - Eligibility criteria for initial licensure

237 CMR 14.00 - Examinations for licensure

237 CMR 15.00 - Licensure without examination

237 CMR 16.00 - Business and other license procedures

237 CMR 17.00 - Mandatory continuing education

237 CMR 18.00 - Rules governing practice

237 CMR 22.00 - Required electrical education

237 CMR 23.00 - Insurance requirements for limited liability corporations and limited liability

Board of Registration in Embalming and Funeral Directing

239 CMR 3.00 - Registration requirements: standards of business and professional practice

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239 CMR 4.00 - Pre-need funeral contracts and arrangements

239 CMR 5.00 - Continuing education

Board of Registration of Cosmetology and Barbering

240 CMR 2.00 – Licensure of Cosmetologists, Manicurists, Aestheticians, Demonstrators and Instructors

240 CMR 3.00 – Cosmetology Salons

240 CMR 4.00 – Operation of Cosmetology Schools and Post-Secondary Institutions

240 CMR 5.00 – Operation of Aesthetics Schools and Post-Secondary Institutions

240 CMR 7.00 – Operation of Manicuring Schools

240 CMR 8.00 – Barber Regulations

Board of Registration of Landscape Architects

242 CMR 3.00 - Policy rules and regulations

Board of State Examiners of Plumbers and Gas Fitters

248 CMR 3.00 – General Provisions

248 CMR 5.00 – Amendments to the 2012 Edition of NFPA 54

248 CMR 10.00 – Uniform State Plumbing Code

248 CMR 11.00 – Education and Experience Standards and Requirements for Licensure

Board of Registration in Podiatry

249 CMR 3.00 – Application and Licensure

249 CMR 4.00 – Practice of Podiatric Medicine

Board of Registration of Professional Engineers and of Land Surveyors

250 CMR 2.00 – General Provisions

250 CMR 5.00 – Professional Practice

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250 CMR 7.00 – Enforcement and Discipline

Board of Registration of Psychologists

251 CMR 1.00 - Ethical standards, professional conduct, and disciplinary procedures

251 CMR 3.00 - Registration of psychologists

251 CMR 4.00 - Continuing education

Board of Public Accountancy

252 CMR 2.00 – Requirements of Certification

Board of Registration of Real Estate Brokers and Salespersons

254 CMR 2.00 - Licensure

254 CMR 3.00 – Professional Standards of Practice

254 CMR 4.00 - Real Estate School Authorization

Board of Registration in Veterinary Medicine

256 CMR 2.00 - General provisions

256 CMR 3.00 - Licenses

256 CMR 4.00 - Temporary permits

256 CMR 5.00 - Practice

256 CMR 7.00 - Code of professional conduct

256 CMR 9.00 - Continuing education

256 CMR 10.00 - Limited liability corporations and limited liability partnerships

Board of Registration of Social Workers

258 CMR 9.00 – Licensure Requirements and Procedures.

Board of Allied Health Professions

259 CMR 2.00 – General Provisions

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259 CMR 3.00 – Occupational Therapists

259 CMR 4.00 – Athletic Trainers

259 CMR 5.00 – Physical Therapists

259 CMR 7.00- Continuing Education

Board of Registration for Speech-Language Pathology and Audiology

260 CMR 1.00 - Standards, complaint and grievance procedure

260 CMR 2.00 - Application and licensing requirements

260 CMR 5.00 - Renewal procedures

260 CMR 7.00 - Continuing education

260 CMR 8.00 - Location of licensees

Board of Allied Mental Health and Human Services Professions

262 CMR 2.00 – Requirements for Licensure as a Mental Health Counselor

262 CMR 3.00 – Requirements for Licensure as a Marriage and Family Therapist

Board of Registration of Real Estate Appraisers

264 CMR 5.00 – Licensure/Certification Requirements

264 CMR 13.00 – Appraisal Management Companies (New)

Board of Registration of Hearing Instrument Specialists

265 CMR 3.00 - Procedure for registration

265 CMR 4.00 - Apprentice training and registration requirements

265 CMR 5.00 - Continuing education

265 CMR 6.00 - Standards of practice

265 CMR 7.00 - Professional competence and conduct

265 CMR 8.00 - Complaint process

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265 CMR 10 - Insurance requirements for limited liability corporations and limited liability partnerships

Board of Registration of Home Inspectors

266 CMR 2.00 - Definitions

266 CMR 3.00 - Procedure for registration

266 CMR 4.00 - Associate home inspector training program requirements

266 CMR 5.00 - Continuing education

266 CMR 6.00 - Standards of practice

266 CMR 8.00 - Professional competence and conduct

266 CMR 9.00 - Complaint process

266 CMR 10.00 - Procedures for hearings and appeals

266 CMR 11.00 - Insurance requirements for limited liability corporations and limited liability partnerships

Board of Registration of Dietitians and Nutritionists

268 CMR 3.00: Procedure for Licensure

268 CMR 4.00: Continuing Education

Board of Registration of Massage Therapy

269 CMR 2.00 – Definitions

269 CMR 3.00 – Individual Licensure

269 CMR 5.00 – Code of Professional Ethics and Standards of Professional Practice

269 CMR 6.00 – Facility Licensure

Board of Examiners of Sheet Metal Workers

271 CMR 2.00 - Definitions

271 CMR 3.00 - Individual licensure

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271 CMR 4.00 - Continuing education

271 CMR 5.00 - Code of professional ethics and standards of professional practice

271 CMR 6.00 - Uniform sheet metal installation rules

271 CMR 7.00 - Business licensure

271 CMR 8.00 - Sheet metal worker training programs

271 CMR 9.00 - Permits and inspections

Office of Public Safety and Inspections

520 CMR 1: Enforcement of Civil Fines

520 CMR 5: Amusement Devices

520 CMR 6: Hoisting Machinery

520 CMR 14: Excavation and Trench Safety

520 CMR 16: Enforcement of Civil Fines for Expired Elevator Certificates

Architectural Access Board

521 CMR

State Athletic Commission

523 CMR

Board of Elevator Regulations

524 CMR

Recreational Tramway Board

526 CMR 10.00 Recreational tramways

Bureau of Pipefitters, Refrigeration Technicians, and Sprinkler Fitters

528 CMR 2 – Purpose, Scope and Definitions

528 CMR 3 - Standards Adopted (amendment)

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528 CMR 11 - Prerequisites for Examinations for Pipefitters, Refrigeration Technicians, and Sprinkler Fitters (amendment)

Boxers' Fund Board

529 CMR 2 - Administration of the Fund (amendment)

Board of Building Regulations and Standards

780 CMR 2 to 115 - State Building Code

Division of Standards

No regulatory action anticipated in 2021.

Sincerely,

Robert McGovern
Deputy General Counsel

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THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT

CHARLES D. BAKER
GOVERNOR
KARYN E. POLITO
LIEUTENANT GOVERNOR

ROSALIN ACOSTA
SECRETARY

December 22, 2020

By Electronic Mail (steven.kfoury@sec.state.ma.us)
Steven P. Kfoury, Executive Director
State Publications and Regulations Division
Office of the Secretary of State
State House, Room 117
Boston, MA 02133

Re: Semi-Annual List of EOLWD Regulations

Dear Mr. Kfoury:

Following is the list of regulations that EOLWD agencies expect to promulgate or amend within the next six months.

Department of Family and Medical Leave
458 CMR 2.00 – Department of Family and Medical Leave

Department of Industrial Accidents
452 CMR 1.00, 1.02, 1.04, 1.05, 1.06, 1.07 – Adjudicatory Rules of the Industrial Accident Board
452 CMR 4.00 – Vocational Rehabilitation
452 CMR 6.00 – Utilization Review & Quality Assessment
452 CMR 7.00 – Practice by Insurers

Department of Labor Relations
456 CMR 11.02 – Definitions
456 CMR 12.12 – Filing with the Department
456 CMR 14.05 – Showing of Interest
456 CMR 14.06 – Bars to Petitions: Elections
456 CMR 14.08 – Investigation and Hearing
456 CMR 14.19 – Certification by Written Majority Authorization
456 CMR 14.20 – Bars to Petitions for Certification by Written Majority Authorization

ONE ASHBURTON PLACE • SUITE 2112 • BOSTON, MA 02108
TEL: 617-626-7100 • TTY: 617-727-4404 • FAX: 617-727-1090
www.mass.gov/lwd

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456 CMR 21.10 – Withdrawal of Fact-Finding Petition
456 CMR 23.10 – Request for Arbitration Before Outside Arbitrator

Department of Career Services
None expected at this time

Department of Labor Standards
453 CMR 6.00 – Removal of Asbestos
454 CMR 25.00 – Occupational Safety and Health for Public Sector Workers
454 CMR 28.00 – Removal of Asbestos
454 CMR 29.00 – Civil Administrative Penalties

Department of Unemployment Assistance
430 CMR 6.00 – Waiver Regulations
430 CMR 11.00 – Procedures for Non-Monetary Redeterminations under MGL c. 151A, § 71

Thank you for your attention to this matter.

Sincerely,

Michael Doheny
General Counsel

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The Commonwealth of Massachusetts
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Tel: (617) 727-7775
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Fax: (617) 727-4764
www.mass.gov/eops

CHARLES D. BAKER
Governor

KARYN E. POLITO
Lt. Governor

THOMAS A. TURCO, III
Secretary

December 25, 2020

VIA EMAIL
Steven P. Kfoury
Executive Director
State Publications and Regulations Division
Office of the Secretary of the Commonwealth
State House, Room 117
Boston, MA 02133

RE: Annual List of Regulations for 2021

Dear Director Kfoury:

The following is a list of prospective regulations and regulations that may be added or amended in calendar year 2021 from the Executive Office of Public Safety and Security ("EOPSS"), on behalf of EOPSS and all of the agencies within the Secretariat, pursuant to G.L. c. 30A, § 6A.

Executive Office of Public Safety and Security

501 CMR 8.00: Standards for law enforcement training in the use of electronic control weapons and the sale of electronic control weapons in the Commonwealth (amending)

501 CMR 5.00: Standards for equipment and law enforcement training for the issuance of electronic citations in the Commonwealth

501 CMR 17.00: Medical Parole

501 CMR X.XX: "The Executive Office of Public Safety and Security shall promulgate regulations to assure that the necessary offense based tracking number is included with criminal offender record information so as to support the transmission of case disposition information to the Federal Bureau of Investigation"

501 CMR X.XX: Data Regulations

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Department of Criminal Justice Information Services

803 CMR 2.00: Criminal Offender Record Information (CORI)

803 CMR 5.00: Criminal Offender Record Information (CORI) Housing

803 CMR 7.00: Criminal Justice Information System (CJIS)

803 CMR 8.00: Obtaining Criminal Offender Record Information (CORI) for Research Purposes

803 CMR 11.00: Consumer Reporting Agency (CRA)

Department of Correction

103 CMR 505: Use of Force

103 CMR 900: County Correctional Facilities - General Provisions

103 CMR 462: International Transfer Policy

103 CMR 471: Religious Programs and Services

103 CMR 411: Deductions from Sentence

103 CMR 481: Inmate Mail

Municipal Police Training Committee

550 CMR 3.00: Massachusetts Police Recruit Training Requirements

550 CMR X.XX: Use of Force (new assuming police reform passes)

Sex Offender Registry Board

803 CMR 1.30: Sex Offender Registry Board, Registration, Classification, and Dissemination

803 CMR 1.31: Sex Offender's Request for Reclassification

803 CMR 1.33: Risk Factors

State 911 Department

560 CMR 2.00: Standards for Enhanced 911

Parole Board

120 CMR 6.00: Rescission of Compliance Credits

Department of Fire Services

527 CMR 1.00: Massachusetts State Fire Code (amending)

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522 CMR 1.00 Board of Boiler Rules Regulations (amending)

Chief Medical Examiner

None.

Massachusetts State Police (including Crime Lab)

None.

If you have any questions or need any further information please contact me at (617) 274-5579.

Sincerely,

John H. Melander, Jr.
Deputy General Counsel

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Charles D. Baker, Governor
Karyn E. Polito, Lieutenant Governor
Stephanie Pollack, MassDOT Secretary & CEO

massDOT
Massachusetts Department of Transportation

Via Email – regulations@sec.state.ma.us

December 29, 2020

Mr. Steven P. Kfoury, Executive Director
The Commonwealth of Massachusetts
Office of the Secretary of the Commonwealth
State Publications and Regulations
State House, Room 117
Boston, Massachusetts 02133

Re: Annual List of Prospective Regulations

Dear Mr. Kfoury,

The Massachusetts Department of Transportation ("MassDOT") has undertaken a review of its regulations currently published in the Code of Massachusetts Regulations ("CMR"). MassDOT expects to promulgate and/or amend, or repeal existing regulations in the next twelve month period. In accordance with M.G.L. c. 30A, §6D, MassDOT has preliminarily identified the subject and CMR designation of said regulations. They are attached hereto as "Attachment A".

Please contact me at Eileen.Fenton@state.ma.us if you have questions or require additional information.

Sincerely,

Eileen M. Fenton
MassDOT/MBTA Managing Counsel – Corporate and Regulatory

Ten Park Plaza, Suite 4160, Boston, MA 02116
Tel: 857-368-4636, TTY: 857-368-0655
www.mass.gov/massdot

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Massachusetts Department of Transportation
Annual List of Prospective Regulations
December 2020

- **540 CMR: Registry of Motor Vehicles**

2.00 - Motor Vehicle Regulations
4.00 - Suspension of a Person's License and Right to Operate a Motor Vehicle as a Result of the Conviction of a Violation of a Controlled Substance Act
7.00 - Minimum Standards for Construction and Equipment of School Buses
8.00 - School Bus Driver Training Programs and School Bus Driving Instructors
14.00 - Motor Carrier Safety and Hazardous Material Transportation
20.00 - Suspension of a Person's License and Right to Operate a Motor Vehicle as a Result of the Conviction of a Violation of a Controlled Substance Act
21.00 - Semiannual Safety Inspection of School Pupil Transport Vehicles
23.00 - Licensing, Certification and Operating Requirements for Professional Driving School Instructors
25.00 - Certification, Installation, Use and Maintenance of Ignition Interlock Devices

- **700 CMR: Massachusetts Department of Transportation**

2.00 – Rules for Adopting, Amending, or Repealing Administrative Regulations and Issuing Advisory Rulings
3.00 – Control and restriction of Billboards, Signs, and Other Advertising Devices
5.00 – Regulation of Certain Roadways and Bridges
7.00 – Use of the Massachusetts Turnpike and the Metropolitan Highway System
9.00 – Driving on State Highways
13.00 – Approval of Access to Massachusetts Department of Transportation Highway and Other Property
14.00 – Prequalification of Contractors and Prospective Bidders for Statewide Engineering Field Survey Services

- **701 CMR: Executive Office of Transportation and Construction**

3.00 – Privacy and Confidentiality
4.00 – The Massachusetts Intercity Bus Capital Assistance Program

- **720 CMR: Department of Highways**

5.00 – Prequalification of Contractors and Prospective Bidders for Statewide Engineering Field Survey Services
9.00 – Driving on State Highways

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THE COMMONWEALTH OF MASSACHUSETTS
Secretary of the Commonwealth - William Francis Galvin

NOTICES OF PUBLIC REVIEW OF PROSPECTIVE REGULATIONS PUBLISHED IN COMPLIANCE WITH M.G.L. c. 30A, §§ 2 AND 3

January 8, 2021

Elementary and Secondary Education, Department of	603 CMR 27.00	Written comments accepted until 1/29/21.
Gaming Commission, Massachusetts	205 CMR 134.00	1/28/21 @ 9:30 A.M. Written comments accepted until 1/25/21 @ 4:00 P.M.
Health and Human Services, Executive Office of	101 CMR 307.00	1/26/21 @ 10:00 A.M. Written testimony accepted until 1/26/21 @ 5:00 P.M.
Retirement, State Board of	941 CMR 3.00	Written comments accepted until 1/18/21 @ 5:00 P.M.
Revenue, Department of	830 CMR 63.00	2/11/21 @ 10:00 A.M. Written testimony accepted until 2/11/21 @ 5:00 P.M.

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Massachusetts Department of Elementary and Secondary Education

75 Pleasant Street, Malden, Massachusetts 02148-4906

Telephone: (781) 338-3000
TTY: N.E.T. Relay 1-800-439-2370

Jeffrey C. Riley
Commissioner

NOTICE OF PUBLIC COMMENT
603 CMR 27.00, Student Learning Time Regulations

Pursuant to its authority under M.G.L. c. 69, §§ 1B and 1G, and in accordance with the Administrative Procedure Act, M.G.L. c. 30A, § 3, the Massachusetts Board of Elementary and Secondary Education (Board) is soliciting public comment on emergency amendments to 603 CMR 27.00, Student Learning Time Regulations.

The emergency amendments were adopted by the Board on December 15, 2020. The amendments establish minimum standards for live and synchronous instruction that districts and schools operating hybrid and remote learning models must provide. The regulations are presented on an emergency basis to allow them to take effect immediately to help address critical needs of students, including the distressing increase in the mental health challenges students are facing. The emergency amendments will be in effect for up to three months, during which time the Board invites public comment. After the public comment is reviewed, the Board plans to vote on permanent amendments at its meeting in February 2021.

Copies of the proposed amendments are available on the Department's website, or by calling 781-338-3429. Written comments on the regulation may be submitted by mail to: Mary E. Morales, Department of Elementary and Secondary Education, 75 Pleasant Street, Malden, MA 02148; by fax to: 781-338-3390; or by e-mail to: mary.e.morales@mass.gov. The deadline for submission of public comment is **January 29, 2021**. The Board is expected to vote on the proposed permanent regulations at its regular monthly meeting in February 2021.

Commented [A1]: Let's include a link that goes directly to the new regs if we can.

Commented [A2R1]: Added link

Commented [A3R1]:

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Massachusetts Department of Elementary and Secondary Education

75 Pleasant Street, Malden, Massachusetts 02148-4906

Telephone: (781) 338-3000
TTY: N.E.T. Relay 1-800-439-2370

Small Business Impact Statement Pursuant to M.G.L. c. 30A, §2

This statement accompanies the filing by the Department of Elementary and Secondary Education ("Department") of the emergency amendments to the Student Learning Time Regulations, 603 CMR 27.00.

The emergency amendments were adopted by the Board on December 15, 2020. The amendments establish minimum standards for live and synchronous instruction that districts and schools operating hybrid and remote learning models must provide. The regulations are presented on an emergency basis to allow them to take effect immediately to help address critical needs of students, including the distressing increase in the mental health challenges students are facing.

1. The amendments do not affect small businesses.
2. Since the amendments do not affect small businesses, the following considerations are not applicable:
    a. Reporting, record keeping or other administrative costs required of small businesses for compliance associated with the amendments.
    b. Appropriateness of performance standards vs. design standards.
    c. Regulations of this agency or any other state agency, which may duplicate or conflict with the amendments.
    d. Analysis of whether the amendments are likely to deter or encourage the formation of new business in the state.

Submitted by:

Rhoda E. Schneider

Rhoda E. Schneider, on behalf of the Department of Elementary and Secondary Education

Date: 12/15/2020

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Legal Division

Notice of Public Hearing

Notice is hereby provided that in accordance with G.L. c. 30A § 2, the Massachusetts Gaming Commission ("Commission") will convene a public hearing for purposes of gathering comments, ideas, and information relative to two proposed regulation amendments in 205 CMR. The proposals were developed pursuant to G.L. c. 23K § 5, as part of the Commission's regulation promulgation process, and concern the following regulations:

205 CMR 134.01: Key Gaming Employee Licensees. The proposed amendment would allow gaming licensees to bring in staff from a sister property in an emergency situation to serve as Key Gaming Employees without requiring licensure.

205 CMR 134.02: Gaming Employee Licensees. The proposed amendment would allow gaming licensees to bring in staff from a sister property in an emergency situation to serve as Gaming Employees without requiring licensure.

Scheduled hearing date and time: Thursday, January 28, 2021 at 9:30 a.m.
Given the unprecedented circumstances, Governor Charles Baker issued an order to provide limited relief from certain provisions of the Open Meeting Law to protect the health and safety of the public and individuals interested in attending public meetings during the global Coronavirus pandemic. In keeping with the guidance provided, the Commission will conduct this hearing utilizing remote collaboration technology.

CONFERENCE CALL NUMBER: 1-646-741-5292
PARTICIPANT CODE: 112 153 8288

A complete copy of the draft regulation referenced above may be downloaded by visiting www.massgaming.com, clicking on 'Regulations and Compliance' and selecting the 'Proposed Rulemaking' section. Anyone wishing to offer comments on this regulation can email caroline.torrisi@massgaming.gov and request the virtual hearing link to appear and speak. Alternatively, written comments may also be submitted to that same email address with 'Regulation Comment' in the subject line. Comments must be received by **4:00 p.m.** on **Monday, January 25, 2021.**

Additionally, attached please find the accompanying Small Business Impact Statement in accordance with MGL c. 30A, § 2.

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Legal Division

SMALL BUSINESS IMPACT STATEMENT

The Massachusetts Gaming Commission ("Commission") hereby files this Small Business Impact Statement in accordance with G.L. c. 30A, §2 relative to the proposed amendments to 205 CMR 134.00: Licensing and Registration of Employees, Vendors, Junket Enterprises and Representatives, and Labor Organizations; notice of which was filed with the Secretary of the Commonwealth by Emergency. Specifically, **205 CMR 134.01: Key Gaming Employee Licensees** and **205 CMR 134.02: Gaming Employee Licensees** will allow the licensee to bring in staff from a sister property in an emergency situation to serve as Key Gaming Employees and Gaming Employees without requiring licensure.

This regulation was developed as part of the process of promulgating regulations governing the operation of gaming establishments in the Commonwealth, and is primarily governed by G.L. c. 23K, §4(28), 5.

The amendment to 205 CMR 134.03 applies to the gaming licensees and employees. Accordingly, this regulation is unlikely to have an impact on small businesses. Under G.L. c.30A, §2, the Commission offers the following responses to the statutory questions:

1. Estimate of the number of small businesses subject to the proposed regulation:

   As a general matter, no small businesses are subject to this regulation.

2. State the projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed regulation:

   There are no projected reporting, recordkeeping, or other administrative costs required for small businesses to comply with this regulation or the proposed amendment therein.

3. State the appropriateness of performance standards versus design standards:

   A specific design standard is required in this situation to ensure clarity of the calculation.

4. Identify regulations of the promulgating agency, or of another agency or department of the Commonwealth, which may duplicate or conflict with the proposed regulation:

   There are no conflicting regulations in 205 CMR, and the Commission is unaware of any conflicting or duplicating regulations of any other agency or department of the Commonwealth.

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5. State whether the proposed regulation is likely to deter or encourage the formation of new businesses in the Commonwealth:

   This amendment is unlikely to have any impact on the formation of new businesses in the Commonwealth.

Massachusetts Gaming Commission
By:

/s/ Carrie Torrisi
Carrie Torrisi
Associate General Counsel

Dated: December 23, 2020

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The Commonwealth of Massachusetts
Executive Office of Health and Human Services
One Ashburton Place, Room 1109
Boston, Massachusetts 02108

CHARLES D. BAKER
Governor

KARYN E. POLITO
Lieutenant Governor

MARYLOU SUDDERS
Secretary

Tel: (617) 573-1600
Fax: (617) 573-1891
www.mass.gov/eohhs

NOTICE OF PUBLIC HEARING

Coronavirus Update: Due to the coronavirus emergency, EOHHS is holding public hearings remotely. All public hearings will occur on the advertised dates and times. Details and instructions for participating and testifying remotely (such as through phone line or online connection) at the remote public hearings will be published online at www.mass.gov/service-details/executive-office-of-health-and-human-services-public-hearings and are included in this notice below. If you plan to testify at the remote hearing, EOHHS strongly encourages you to register in advance; see below for instructions. EOHHS encourages you to submit written testimony in addition to, or instead of, providing testimony at the hearing; see below for instructions. Additionally, requests for copies of proposed regulations will not be accepted in person. Details for obtaining copies of proposed regulations are set forth below.

To join the hearing online, go to https://statema.webex.com, and enter meeting ID 644 151 469. To join the hearing by phone, call (866) 692-3580, and enter meeting ID 644 151 469# when prompted. As an alternative to attending the remote hearing, you can view an unofficial live written recording of the hearing in progress provided by the Communication Access Realtime Transcription (CART) service at https://hricart.1 capapp.com/event/eohhs.

Pursuant to the authority of M.G.L. c. 118E and in accordance with M.G.L. c. 30A, a public hearing will be held on Tuesday, January 26, 2021, at 10:00 a.m. relative to the proposed amendments to:

101 CMR 307.00: Rates for Psychiatric Day Treatment Center Services

These actions are being taken pursuant to the requirements of M.G.L. c. 118E, § 13D. 101 CMR 307.00. governs the rates of payment used by state governmental units, including MassHealth, for certain psychiatric day treatment center services rendered by eligible providers.

The rates to be established under the proposed regulation contain changes and updates from the current rates established for psychiatric day treatment services under 101 CMR 307.00 as follows: Rates have been increased by 5. 75% as a result of using the base period of 2018Q3-2019Q2, and the rate period of 2021Q3-2023Q2. The proposed rate for 90887 will refer to the rate for this code established in 101 CMR 306.00: *Rates of Payment for Mental Health Services Provided in Community Health Centers and Mental Health Centers*.

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There are no other proposed rate increases for services under this regulation.

EOHHS is making these changes, subject to federal approval, to ensure that payments are reasonable and adequate to meet the costs that must be incurred by efficiently and economically operated facilities, and to ensure that payment rates are consistent with efficiency, economy, and quality of care. It is estimated that annual aggregate MassHealth expenditure will increase by approximately $301,000 over base spending as a result of the proposal. The actual change in annualized expenditures may vary depending on actual utilization of services. There is no fiscal impact on cities and towns.

The proposed amendment is planned to go into effect for dates of service provided on or after July 1, 2021.

Individuals who notify EOHHS of their intent to testify at the hearing will be afforded an earlier opportunity to speak. Speakers may notify EOHHS of their intention to testify at the hearing by registering online at www.mass.gov/service-details/executive-office-of-health-and-human-services-public-hearings. Individuals may also submit written testimony by emailing ehs-regulations@state.ma.us. Please submit electronic testimony as an attached Word document or as text within the body of the email with the name of the regulation in the subject line. All submissions must include the sender's full name, mailing address, and organization or affiliation, if any. Individuals who are unable to submit testimony by email should mail written testimony to EOHHS, c/o D. Briggs, 100 Hancock Street, 6th Floor, Quincy, MA 02171. Written testimony must be submitted by 5:00 p.m. on January 26, 2021. EOHHS specifically invites comments as to how the amendments may affect beneficiary access to care.

All persons who want to review the current draft of the proposed regulation may go to www.mass.gov/service-details/executive-office-of-health-and-human-services-public-hearings or request a copy in writing from MassHealth Publications, 100 Hancock Street, 6th Floor, Quincy, MA 02171.

Special accommodation requests may be directed to the Disability Accommodations Ombudsman by email at ADAAccommodations@state.ma.us or by phone at (617) 847-3468 (TTY: (617) 847-3788 for people who are deaf, hard of hearing, or speech disabled). Please allow two weeks to schedule sign language interpreters.

EOHHS may adopt a revised version of the proposed amendments taking into account relevant comments and any other practical alternatives that come to its attention.

In case of inclement weather or other emergency, hearing cancellation announcements will be posted on the MassHealth website at www.mass.gov/service-details/executive-office-of-health-and-human-services-public-hearings.

January 1, 2021

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Small Business Impact Statement

(As required by M.G.L. c. 30A §§ 2, 3 & 5)

CMR No: 101 CMR 307.00: Rates for Psychiatric Day Treatment Center Services

Estimate of the Number of Small Businesses Impacted by the Regulation: 13

Yes	No	Select Yes or No and Briefly Explain
☐	☒	Will small businesses have to create, file, or issue additional reports? No. Small businesses will not have to create, file, or issue additional reports as a result of the proposed amendments to 101 CMR 307.00.
☐	☒	Will small businesses have to implement additional recordkeeping procedures? No. Small businesses will not have additional responsibilities to keep records as a result of the proposed amendments to 101 CMR 307.00.
☐	☒	Will small businesses have to provide additional administrative oversight? No. Small businesses are not required by 101 CMR 307.00 to provide additional administration oversight. The proposed regulation establishes the rates to be paid by governmental units for psychiatric day treatment center services.
☐	☒	Will small businesses have to hire additional employees in order to comply with the proposed regulation? No. 101 CMR 307.00 does not require small businesses to hire additional employees to remain in compliance.
☐	☒	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? No. Small businesses are not required by 101 CMR 307.00 to hire other professionals.
☐	☒	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? No. 101 CMR 307.00 does not require small businesses to purchase any particular product or make any capital investments.
☐	☒	Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.) No. Performance standards are not more appropriate than design or operational standards to accomplish the regulatory objective of establishing rates for EOHHS health care services, as the proposed regulation is required by statute under M.G.L. Chapter 118E, Section 13C.
☐	☒	Do any other regulations duplicate or conflict with the proposed regulation? No. There are no regulations that duplicate or conflict with this regulation.
☒	☐	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? Yes. This regulation uniformly requires all providers to periodically file cost data.
☐	☒	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements?

2020 DEC 24 PM 12:30
SECRETARY OF STATE
REGULATIONS DIVISION

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		No. 101 CMR 307.00 does not require small businesses to provide educational services to keep up to date with the proposed regulatory requirements.
Yes ☐	No ☒	Is the regulation likely to *deter* the formation of small businesses in Massachusetts? No. The proposed regulation is not likely to deter or encourage the formation of small businesses in Massachusetts as this proposed regulation establishes uniform governmental rates of payment for psychiatric day treatment center services.
Yes ☐	No ☒	Is the regulation likely to *encourage* the formation of small businesses in Massachusetts? No. The proposed regulation is not likely to deter or encourage the formation of small businesses in Massachusetts as this proposed regulation establishes uniform governmental rates of payment for psychiatric day treatment center services.
Yes ☐	No ☒	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? No. The proposed regulation does not distinguish between small businesses and other businesses.
Yes ☐	No ☒	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? No. The proposed regulation does not distinguish between small businesses and other businesses.
Yes ☐	No ☒	Did the agency consolidate or simplify compliance or reporting requirements for small businesses? No. The proposed regulation establishes uniform program requirements and conditions of payment for the provision of Psychiatric Day Treatment Center services to MassHealth members. These requirements are applied uniformly in order to maintain consistency in the care provided by Psychiatric Day Treatment Center services to MassHealth members.
Yes ☐	No ☒	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? No. Distinguishing small businesses from other businesses would not be practicable to implement the proposed regulation.
Yes ☐	No ☒	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? No. The regulation does not have an adverse impact on small businesses.

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The Commonwealth of Massachusetts
Office of the State Treasurer
State Board of Retirement
Boston, Massachusetts 02108-4747

Deborah B. Goldberg
Treasurer and Receiver General
Chair

Nicola Favorito, Esq.
Executive Director

Notice of Amendment to the Existing Regulation 941 CMR 3.03

Office of the Secretary of State of the Commonwealth
Regulations Division
Massachusetts State House, Room 117
Boston, MA 02133

To Whom it May Concern:

Pursuant to G.L. c. 30A, §§ 2 and 3, notice is hereby given of a proposed regulatory action by the State Board of Retirement (the "Board"). The Board is considering the promulgation of an amendment to the existing regulation to be found at 941 CMR 3.03. A copy of the proposed action is enclosed herein. Further, please publish Notice in the ***Massachusetts Register*** in Register Number 1434, which has a Publication Date of January 8, 2021.

The Board is authorized to enact regulations by G.L. c. 32, § 20(5)(b). The purpose of this amendment, in brief, is to: **Conform to IRS regulations governing rollovers out of the plan.**

The Board will accept written comment that is received by the Board no later than 5:00 p.m. on **January 18, 2021**. Please send any written comment to the Board's main office at:

Brendan McGough, Esq.
Associate Counsel
State Board of Retirement
One Winter Street, 8th Floor
Boston, MA 02108.

Or you may email your comments to: MSRB-legal@tre.state.ma.us.

Written comment received after the deadline set forth above will not be part of the Record and will not be considered by the Board.

Main Office: One Winter Street, Boston, MA 02108-4747 • *Phone:* 617.367.7770, 1.800.392.6014 (in MA) • *Fax:* 617.723.1438
Regional Office: 436 Dwight Street, Room 109A, Springfield, MA 01103 • *Phone:* 413.730.6135 • *Fax:* 413.730.6139
Web: www.mass.gov/retirement

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You may obtain additional copies of the proposed regulatory action by contacting the Board's Associate Counsel Brendan McGough, Esq., at 617-367-9333 x. 368 or at MSRB-legal@tre.state.ma.us.

Thank you for your attention to this matter.

SECRETARY OF STATE
REGULATIONS DIVISION
2020 DEC 21 PM 1:18

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Small Business Impact Statement

(As required by M.G.L. c. 30A §§ 2, 3 & 5)

CMR No: 941 CMR 3.03

Estimate of the Number of Small Businesses Impacted by the Regulation: 0

Yes	No	Select Yes or No and Briefly Explain
☐	X	Will small businesses have to create, file, or issue additional reports? No, the Proposed Amendment to 941 CMR 3.03 will have no impact on Small Businesses.
☐	X	Will small businesses have to implement additional recordkeeping procedures? No, the Proposed Amendment to 941 CMR 3.03 will have no impact on Small Businesses.
☐	X	Will small businesses have to provide additional administrative oversight? No, the Proposed Amendment to 941 CMR 3.03 will have no impact on Small Businesses.
☐	X	Will small businesses have to hire additional employees in order to comply with the proposed regulation? No, the Proposed Amendment to 941 CMR 3.03 will have no impact on Small Businesses.
☐	X	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? No, the Proposed Amendment to 941 CMR 3.03 will have no impact on Small Businesses.
☐	X	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? No, the Proposed Amendment to 941 CMR 3.03 will have no impact on Small Businesses.
☐	X	Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? No, the Proposed Amendment to 941 CMR 3.03 will have no impact on Small Businesses.
☐	X	Do any other regulations duplicate or conflict with the proposed regulation? No.
☐	X	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? No, the Proposed Amendment to 941 CMR 3.03 will have no impact on Small Businesses.
☐	X	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? No, the Proposed Amendment to 941 CMR 3.03 will have no impact on Small Businesses.
☐	X	Is the regulation likely to *deter* the formation of small businesses in Massachusetts? No, the Proposed Amendment to 941 CMR 3.03 will have no impact on Small Businesses.
☐	X	Is the regulation likely to *encourage* the formation of small businesses in Massachusetts? No, the Proposed Amendment to 941 CMR 3.03 will have no impact on Small Businesses.
☐	X	Does the regulation provide for less stringent compliance or reporting requirements for small businesses?

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		No, the Proposed Amendment to 941 CMR 3.03 will have no impact on Small Businesses.
Yes ☐	No X	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? No, the Proposed Amendment to 941 CMR 3.03 will have no impact on Small Businesses.
Yes ☐	No X	Did the agency consolidate or simplify compliance or reporting requirements for small businesses? No, the Proposed Amendment to 941 CMR 3.03 will have no impact on Small Businesses.
Yes ☐	No X	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? No, the Proposed Amendment to 941 CMR 3.03 will have no impact on Small Businesses.
Yes ☐	No X	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? No, the Proposed Amendment to 941 CMR 3.03 will have no impact on Small Businesses.

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GEOFFREY E. SNYDER
COMMISSIONER
REBECCA H. FORTER
CHIEF

The Commonwealth of Massachusetts
Department of Revenue
Rulings and Regulations Bureau
P.O. Box 9566
Boston, MA 02114-9566

THE COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC HEARING

Coronavirus Update: Due to the coronavirus emergency, the Department of Revenue ("DOR") is holding this public hearing remotely. Details and instructions for participating and testifying remotely (such as through phone line or online connection) at the remote public hearing will be published online at https://www.mass.gov/service-details/public-hearings-dor and are included in this notice below. If you plan to testify at the remote hearing, DOR strongly encourages you to register in advance; see below for instructions. DOR encourages you to submit written testimony in addition to, or instead of, providing testimony at the hearing; see below for instructions. Additionally, requests for copies of proposed regulations will not be accepted in person. Details for obtaining copies of proposed regulations are set forth below.

To join the hearing online, go to

https://massdor.webex.com/massdor/j.php?MTID=ma7d03fcd1b17b38080ceb201f5ac7219

To join the hearing by phone, call 1-408-418-9388 and enter access code: 179 583 7763

Pursuant to the provisions of General Laws Chapter 14, Section 6(1), Chapter 30A, Section 2, and Chapter 62C, Section 3, the Commissioner will hold a public hearing on the following proposed regulation:

830 CMR 63.38Q.1: Massachusetts Brownfields Tax Credit

Scheduled Hearing Date:

Thursday, February 11, 2021 at 10:00 a.m.

Subject Matter:

SECRETARY OF STATE
REGULATIONS DIVISION
2020 DEC 23 PM 2:50

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THE COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF REVENUE

830 CMR 63.38Q.1 explains the provisions of the brownfields tax credit for environmental Response Actions, as set out in M.G.L. c. 62, § 6(j) and M.G.L. c. 63, § 38Q. Under these statutes, an Eligible Person that remediates certain contaminated properties may be eligible for a credit against that person's Massachusetts personal income tax or corporate excise liability equal to a percentage of the Net Response and Removal Costs incurred for such remediation in compliance with M.G.L. c. 21E. This proposed regulation explains who is eligible for purposes of the credit and what costs are Eligible Costs for purposes of the credit, as well as the limitations on how much credit may be claimed in any tax year. The proposed regulation also sets out rules pertaining to the carryforward of unused credits, the procedure to transfer, sell or assign unused credits, the circumstances under which a credit will be recaptured, and the appeals process in instances where the credit is fully or partially denied.

Information:

Individuals who notify DOR of their intent to testify at the hearing will be afforded an earlier opportunity to speak. Speakers are strongly encouraged to notify DOR of their intention to testify at the hearing by emailing their full name, mailing address and organization or affiliation, if any to RulesandRegs@dor.state.ma.us by February 10, 2021.

Individuals may also submit written testimony by emailing the Rulings and Regulations Bureau at RulesandRegs@dor.state.ma.us.

Please submit electronic testimony as an attached Word document or as text within the body of the email with the name of the regulation in the subject line. All submissions must include the sender's full name, mailing address, and organization or affiliation, if any. Individuals who are unable to submit testimony by email should mail written testimony to the Rulings and Regulations Bureau, Post Office Box 9566, Boston, Massachusetts 02114-9566. Written testimony must be submitted by 5:00 p.m. on February 11, 2021.

Copies of the proposed regulations will be sent electronically via e-mail to practitioners who are on the Rulings and Regulations Bureau's e-mail list. In addition the proposed regulations are posted on the Department of Revenue's Web site at: http://www.mass.gov/dor/businesses/help-and-resources/legal-library/regulations/proposedregulations.html.

Geoffrey E. Snyder
Geoffrey E. Snyder
Commissioner of Revenue

563472

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THE COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF REVENUE

Small Business Impact Statement pursuant to G.L. c. 30A, §§ 2 and 3

830 CMR 63.38Q.1 explains the provisions of the brownfields tax credit for environmental Response Actions, as set out in M.G.L. c. 62, § 6(j) and M.G.L. c. 63, § 38Q. The Department of Revenue ("Department") estimates 361,260 small businesses may be impacted by this proposed regulation. No projected reporting, record keeping, or other administrative costs directed at small businesses have been identified as required for compliance with the proposed regulation. Additionally, the proposed regulation does not contain design or performance standards directed at small businesses and does not duplicate or conflict with other regulations of the Department. The Department has not identified any regulations of other agencies that conflict with this proposed regulation. And finally, the proposed regulation is likely to neither deter nor encourage the formation of new businesses, small or otherwise, in the Commonwealth.

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THE COMMONWEALTH OF MASSACHUSETTS

Secretary of the Commonwealth - William Francis Galvin

2020 CUMULATIVE TABLE TO THE MASSACHUSETTS REGISTER
1434

The Cumulative Tables lists all regulations and amendments thereto published in the Massachusetts Register during the current year. The Table is published in each Register.

State agencies are listed in the Table as they appear in the Code of Massachusetts Regulations (CMR or Code) in CMR numerical order which is based on the cabinet structure. For example, all Human Service agencies are prefaced by the number "1" and are designated as 101 CMR through 130 CMR.

The Cumulative Tables published in the last issue of previous years will have a listing of all regulations published for that year. These Registers are:

April 6, 1976 - 1977	Register:	# 88	Date: 1999	Register:	# 885
1978		138	2000		911
1979		193	2001		937
1980		241	2002		963
1981		292	2003		989
1982		344	2004		1016
1983		396	2005		1042
1984		448	2006		1068
1985		500	2007		1094
1986		546	2008		1120
1987		572	2009		1146
1988		598	2010		1172
1989		624	2011		1198
1990		650	2012		1224
1991		676	2013		1250
1992		702	2014		1276
1993		729	2015		1302
1994		755	2016		1329
1995		871	2017		1355
1996	Supp. # 2	807	2018		1381
1997		833	2019		1407
1998		859	2020		1433

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101 CMR	**Executive Office of Health and Human Services**		
21.00	COVID-19 Testing for Staff at Agency Facilities - *Compliance* (MA Reg. # 1429)	1434	10/5/20
22.00	Requirement to Disclose COVID-19 Test Results to EOHHS - *Compliance* (MA Reg. # 1429)	1434	10/5/20
206.00	Standard Payments to Nursing Facilities	1434	1/8/21
205 CMR	**Massachusetts Gaming Commission**		
133.00	Voluntary Self-exclusion	1434	1/8/21
146.00	Gaming Equipment	1434	1/8/21
153.00	Community Mitigation Fund	1434	1/8/21
310 CMR	**Department of Environmental Protection**		
7.00	Air Pollution Control - *Emergency*	1434	12/21/20
60.00	Air Pollution Control for Mobile Sources - *Emergency*	1434	12/21/20
458 CMR	**Department of Family and Medical Leave**		
2.00	Family and Medical Leave - *Emergency*	1434	12/21/20
3.00	COVID-19 Emergency Regulations - *Emergency*	1434	12/21/20
603 CMR	**Department of Elementary and Secondary Education**		
27.00	Student Learning Time - *Emergency*	1434	12/16/20
760 CMR	**Department of Housing and Community Development**		
57.00	RAFT COVID-19 Emergency Regulation - *Emergency*	1434	12/16/20
803 CMR	**Department of Criminal Justice Information Services**		
2.00	Criminal Offender Record Information (CORI) - *Emergency Refile*	1434	6/29/20
935 CMR	**Cannabis Control Commission**		
500.000	Adult Use of Marijuana	1434	1/8/21
501.000	Medical Use of Marijuana	1434	1/8/21
502.000	Colocated Adult-use and Medical-use Marijuana Operations	1434	1/8/21

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Docket # 5

THE COMMONWEALTH OF MASSACHUSETTS

Office of the Secretary of the Commonwealth

NOTICE OF EXPIRATION OF EMERGENCY REGULATION

CHAPTER NUMBER: **400 CMR 5.00**

CHAPTER TITLE: **COVID-19 Emergency Regulations**

AGENCY: **Executive Office of Housing and Economic Development**

THIS REGULATION WAS ORIGINALLY ADOPTED AS AN EMERGENCY:

EFFECTIVE: **09/17/2020**

Published in Massachusetts Register Number: **1427** *Date:* **10/02/2020**

There having been no action by the agency in compliance with the public review provisions of M.G.L. c. 30A, section 2 or 3 during the three months after this regulation was filed with the State Secretary, this emergency is deemed to have expired and is removed from all current records of the Code of Massachusetts Regulations. Emergency expired effective:

12/17/2020

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Docket # 663

THE COMMONWEALTH OF MASSACHUSETTS
William Francis Galvin
Secretary of the Commonwealth

Regulation Filing *To be completed by filing agency*

CHAPTER NUMBER: **310 CMR 7.00**

CHAPTER TITLE: **Air Pollution Control**

AGENCY: **Department of Environmental Protection**

SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*

The emergency regulation establishes gas operator annual declining emission limits for 2021, 2022, 2023, and 2024, streamlines the petition process by which gas operators may petition for reserve cap, and requires gas operators to categorize their pipeline mileage by age and material type in their annual report to MassDEP.

REGULATORY AUTHORITY: **M.G.L. c. 21A, §§ 2, 8, and 16, M.G.L. c. 21N, §§ 3(b) and 3(d) and M.G.L. c. 111, §§ 2C and 142A through 142E**

AGENCY CONTACT: **Sharon Weber** PHONE: **617-556-1190**

ADDRESS: **1 Winter St., Boston, Massachusetts 02108**

Compliance with M.G.L. c. 30A

EMERGENCY ADOPTION - *if this regulation is adopted as an emergency, state the nature of the emergency.*

This emergency regulation is necessary to re-promulgate 310 CMR 7.73 to comply with a September 2018 SJC decision that requires MassDEP to promulgate new regulations prior to December 31, 2020.

PRIOR NOTIFICATION AND/OR APPROVAL - *If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.*

PUBLIC REVIEW - *M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period, including a small business impact statement, be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.*

Date of public hearing or comment period: _____

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FISCAL EFFECT - *Estimate the fiscal effect of the public and private sectors.*

For the first and second year: **Minimal cost (submittal of a report)**

For the first five years: **Minimal cost (submittal of a report)**

No fiscal effect: _____

SMALL BUSINESS IMPACT - *M.G.L. c. 30A section 5 requires each agency to file an amended small business impact statement with the Secretary of the Commonwealth prior to the adoption of a proposed regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.*

Date amended small business impact statement was filed: _____

CODE OF MASSACHUSETTS REGULATIONS INDEX - *List key subjects that are relevant to this regulation:*
Global Warming Solutions Act (GWSA), natural gas pipelines, methane

PROMULGATION - *State the action taken by this regulation and its effect on existing provisions of the Code of Massachusetts Regulations (CMR) or repeal, replace or amend. List by CMR number:*

Amend 310 CMR 7.73: Reducing Methane Emissions from Natural Gas Distribution Mains and Services

ATTESTATION - *The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency.* ATTEST:

SIGNATURE: SIGNATURE ON FILE DATE: **Dec 21 2020**

Publication - *To be completed by the Regulations Division*

MASSACHUSETTS REGISTER NUMBER: **1434** DATE: **01/08/2021**

EFFECTIVE DATE: **12/21/2020**

CODE OF MASSACHUSETTS REGULATIONS

Remove these pages:	*Insert these pages:*
This is an Emergency Regulation. There are no replacement pages.	

A TRUE COPY ATTEST
WILLIAM FRANCIS GALVIN
SECRETARY OF THE COMMONWEALTH
DATE 12/21/2020 CLERK mrs

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7.73: Reducing Methane Emissions from Natural Gas Distribution Mains and Services

(1) Purpose, Scope and Authority. The purpose of 310 CMR 7.73 is to assist the Commonwealth in achieving the greenhouse gas emissions reduction goals adopted pursuant to M.G.L. c. 21N, § (3)(b) by reducing methane (CH_4) emissions from natural gas distribution mains and services through the imposition of declining annual aggregate emission limits on certain sources of greenhouse gas emissions in the natural gas distribution pipeline sector in the Commonwealth. 310 CMR 7.73 is promulgated pursuant to M.G.L. c. 21N, § 3(d) and is also promulgated pursuant to M.G.L. c. 21A, §§ 2, 8 and 16, and M.G.L. c. 111, §§ 2C and 142A through 142E, to prevent and abate conditions of air pollution from the greenhouse gas emissions from the area sources specified in 310 CMR 7.73.

(2) Definitions. The terms used in 310 CMR 7.73 are defined in 310 CMR 7.73(2) and in 310 CMR 7.00: *Definitions*. Where a term is defined in 310 CMR 7.00: *Definitions* and 310 CMR 7.73 the definition in 310 CMR 7.73 shall apply.

Calendar Year means January 1st through December 31st.

Designated Representative means the person who has been authorized by the gas operator to represent and legally bind the owner or operator in matters pertaining to the 310 CMR 7.73.

Distribution Line means a pipeline other than a gathering or transmission line.

Gas Operator means every Massachusetts gas operator with a Gas System Enhancement Plan applicable to its mains and services approved by the Massachusetts Department of Public Utilities (DPU) pursuant to M.G.L. c. 164, § 145 as of August 11, 2017, the corporate successor of such gas operator and/or the purchaser of the mains and services that are subject to a DPU-approved Gas System Enhancement Plan.

Main means a distribution line that serves as a common source of supply for more than one service.

Service means a distribution line that transports gas from a common source of supply to an individual customer, to two adjacent or adjoining residential or small commercial customers, or to multiple residential or small commercial customers served through a meter header or manifold. A service ends at the inlet of the customer meter or at the connection to a customer's piping, whichever is further upstream, or at the connection to customer piping if there is no meter.

(3) Applicability. Every Massachusetts gas operator.

(4) Annual CH_4 Emission Limits.

(a) Individual Operator Limits. For each calendar year specified in 310 CMR 7.73(4)(a): *Tables 1 through 6*, each named gas operator shall ensure that the annual CH_4 emissions from all of its active mains and services, as calculated pursuant to 310 CMR 7.73(5)(b)7., shall not exceed the following maximum allowable annual CH_4 emission limits:

Table 1 - Maximum Annual CH_4 Emission Limits - Boston Gas Company and Colonial Gas Company each d/b/a National Grid	
Calendar Year	Maximum Allowable CH_4 Emissions (metric tons of carbon dioxide equivalent)
2020	108,647
2021	106,925
2022	102,865
2023	98,789
2024	94,818

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7.73: continued

Table 2a - Maximum Annual CH_4 Emission Limits - Bay State Gas Company d/b/a Columbia Gas of Massachusetts and Eversource Gas Company of Massachusetts	
Calendar Year	Maximum Allowable CH_4 Emissions (metric tons of carbon dioxide equivalent)
2020	24,399

Table 2b - Maximum Annual CH_4 Emission Limits - Eversource Gas Company of Massachusetts	
Calendar Year	Maximum Allowable CH_4 Emissions (metric tons of carbon dioxide equivalent)
2021	25,341
2022	23,039
2023	20,825
2024	18,567

Table 3 - Maximum Annual CH_4 Emission Limits - The Berkshire Gas Company	
Calendar Year	Maximum Allowable CH_4 Emissions (metric tons of carbon dioxide equivalent)
2020	3,490
2021	3,112
2022	2,945
2023	2,776
2024	2,605

Table 4 - Maximum Annual CH_4 Emission Limits - Fitchburg Gas and Electric Light Company d/b/a Unitil	
Calendar Year	Maximum Allowable CH_4 Emissions (metric tons of carbon dioxide equivalent)
2020	1,981
2021	1,713
2022	1,618
2023	1,541
2024	1,477

Table 5 - Maximum Annual CH_4 Emission Limits - Liberty Utilities (New England Natural Gas Company) Corp.	
Calendar Year	Maximum Allowable CH_4 Emissions (metric tons of carbon dioxide equivalent)
2020	5,445
2021	5,066
2022	4,670
2023	4,273
2024	3,877

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7.73: continued

Table 6 - Maximum Annual CH_4 Emission Limits - NSTAR Gas Company d/b/a Eversource Energy	
Calendar Year	Maximum Allowable CH_4 Emissions (metric tons of carbon dioxide equivalent)
2020	25,358
2021	23,939
2022	22,212
2023	20,486
2024	18,756

(b) Sum of Individual Operator Limits. For each calendar year, 310 CMR 7.73(4)(b): *Table 7* lists the sum of the annual CH_4 emission limits from all active mains and services of gas operators named in 310 CMR 7.73(4)(a): *Tables 1* through *6*:

Table 7 - Sum of Annual CH_4 Emission Limits from Mains and Services of Gas Operators named in 310 CMR 7.73(4)(a): *Tables 1* through *6*	
Calendar Year	CH_4 Emissions (metric tons of carbon dioxide equivalent)
2020	169,320
2021	166,096
2022	157,349
2023	148,690
2024	140,100

(c) CH_4 Emissions Set-aside, Aggregate Limits and Petition Process for Modifying CH_4 Emission Limit.

1. The Department has set-aside the quantities of CH_4 in 310 CMR 7.73(4)(c): *Table 8* for each calendar year for gas operators that petition to modify their limits in 310 CMR 7.73(4) based on 310 CMR 7.73(4)(c)3. For each calendar year specified in 310 CMR 7.73(4)(c): *Table 8*, the annual CH_4 emission limits from all active mains and services of gas operators named in 310 CMR 7.73(4)(a): *Tables 1* through *6* shall not exceed the maximum allowable annual aggregate CH_4 emission limits in 310 CMR 7.73(4)(c): *Table 8*.

Table 8 - CH_4 Emissions Set-aside and Maximum Annual Aggregate CH_4 Emission Limit		
Calendar Year	CH_4 Emissions Set-aside	Maximum Allowable Annual Aggregate CH_4 Emission Limit
	(metric tons of carbon dioxide equivalent)	
2020	39,509	208,829
2021	37,996	204,092
2022	37,558	194,907
2023	37,126	185,816
2024	36,696	176,796

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7.73: continued

2. Upon written petition from a gas operator, the Department may modify the CH_4 emission limits and allocate additional CH_4 in excess of the limits in 310 CMR 7.73(4)(a) provided that the set-aside amount of CH_4 in each calendar year in 310 CMR 7.73(4)(c): *Table 8* is not exceeded.

3. The basis for the petition shall be the Annual Report for Calendar Year 20[XX] Gas Distribution System submitted by the gas operator to the United States Department of Transportation Pipeline and Hazardous Materials Safety Administration (PHMSA).

4. Requirements for the Petition.

a. The gas operator shall submit the petition to the Department no later than the April 15th after the end of the calendar year for which the gas operator seeks to have additional CH_4 allocated, and include a copy of the Annual Report submitted to PHMSA.

b. The petition shall be signed and certified in accordance with the requirements at 310 CMR 7.73(5)(b)9.

5. In its sole discretion, the Department will approve or deny the petition in writing within 60 days of receipt of the petition. During the 60-day review period, the Department may request additional information from the gas operator. Depending on when the Department receives the information, and the volume of the information, the Department may extend the 60-day review period.

a. If the Department approves the petition, calculates a modified or new limit, and/or allocates additional CH_4, the modified CH_4 emission limit(s) in the approval letter shall be enforceable in *lieu* of the CH_4 emission limit in 310 CMR 7.73(4)(a).

b. If the Department denies the petition, the gas operator may request an adjudicatory hearing on the decision, by filing a notice of claim with the Department within 21 days of the date of issuance of the Department's denial of the petition pursuant to 310 CMR 1.01: *Adjudicatory Proceeding Rules for the Department of Environmental Protection*.

(5) Annual Reporting Requirements.

(a) By April 15, 2021 and on April 15th of each year thereafter, each gas operator must submit an annual report to the Department for emissions that occurred during the previous calendar year.

(b) The annual report shall be submitted electronically in a format specified by the Department, and must contain all of the following information:

1. The gas operator's name, physical address, and mailing address;

2. The location of records and documents;

3. The name and contact information including e-mail address and telephone number of the designated representative submitting the report, and the person(s) primarily responsible for preparing the report;

4. The year for which the information is submitted;

5. The miles of mains and number of services owned, leased, operated, or controlled by the gas operator and located in Massachusetts by each material type listed in 310 CMR 7.73(5)(b): *Table 9*, as recorded in the *Annual Report* to PHMSA;

6. The miles of mains and number of services owned, leased, operated, or controlled by the gas operator and located in Massachusetts by age and each material type listed in 310 CMR 7.73(5)(b): *Table 9*;

7. The number of metric tons of CH_4, in carbon dioxide equivalents, by each material type listed in 310 CMR 7.73(5)(b)8.: *Table 9*, emitted from mains and services owned, leased, operated, or controlled by the gas operator and located in Massachusetts during the year, as calculated by multiplying the miles of mains and number of services by the appropriate emission factor in 310 CMR 7.73(5)(b)8.: *Table 9*;

8. Any other information requested by the Department; and

9. The authorized signature of a designated representative of the gas operator, and the following certification statement: "I certify that I have personally examined the report for this facility and am familiar with the information contained in that report and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including possible fines and imprisonment."

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7.73: continued

Table 9 - Methane Emission Factors by Material Type	
Mains	Metric tons of carbon dioxide equivalent/ mile-year
Cast or wrought iron	28.663225
Ductile iron	
Copper	
Steel, cathodically unprotected and uncoated	20.281978
Steel, cathodically unprotected and coated	
Other	
Steel, cathodically protected and uncoated	1.804054
Steel, cathodically protected and coated	
Plastic	0.215583
Services	Metric tons of carbon dioxide equivalent/ service-year
Steel, cathodically unprotected and uncoated	0.129589
Steel, cathodically unprotected and coated	
Cast or wrought iron	
Ductile iron	
Other	
Steel, cathodically protected and uncoated	0.055982
Steel, cathodically protected and coated	
Plastic	0.005136
Copper	0.121920

(6) Monitoring, Q/A, and Recordkeeping Requirements. All gas operators shall retain for five years documentation sufficient to demonstrate compliance with 310 CMR 7.73 and shall provide such documentation to the Department on request. The documentation shall be submitted in the format and within the time limit requested by the Department.

(7) Compliance Verification. The Department may verify compliance with 310 CMR 7.73 by conducting inspections, requesting information and records and requiring the collection of information not previously required; provided that 310 CMR 7.73(7) does not limit the authority of the Department as otherwise provided by law or in an authorization, determination, modification, permit, or other approval, or by the terms of any order or other enforcement document.

(a) Access to Information. Where necessary to ascertain compliance with 310 CMR 7.73 including actual or potential CH_4 emission, the Department may request of a gas operator information or records. The gas operator shall, within a reasonable time, furnish the requested information or records and shall permit Department personnel or authorized representatives to have access to and to take images of such records.

(b) Requirement to Collect Information. When the Department has reason to believe that a gas operator has exceeded its CH_4 emission limit or violated any other condition in 310 CMR 7.73, the Department may require the gas operator to submit the necessary information or records to determine compliance. In doing so, the Department may require a gas operator to:

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7.73: continued

1. Perform audits on CH_4 emissions records using standard procedures and methods;
2. Quantify CH_4 emissions in accordance with the procedures and methods as the Department may prescribe;
3. Make periodic reports to the Department, as necessary, to assure continuous compliance with 310 CMR 7.73; and
4. Maintain other records and provide any other information as the Department might reasonably require.

(8) Enforcement.

(a) If a gas operator exceeds the Maximum Annual CH^4 Emission limits set forth in the applicable table provided in 310 CMR 7.73(4)(a), as amended by a petition approved under 310 CMR 7.73(4)(c)5.a., any such excess emissions shall be deemed to be a release of air pollutants into the environment without the authorization or approval of the Department, and shall be presumed to constitute a significant impact to public health, welfare, safety, and the environment.

(b) The Department shall enforce the requirements of 310 CMR 7.73 in accordance with applicable federal and Massachusetts law including, but not limited to, M.G.L. c. 21A, § 16, 310 CMR 5.00: *Administrative Penalty*, M.G.L. c. 111, § 2C, §§ 142 A through 142M; and M.G.L. c. 21N, § 7(d).

(9) Program Review. Not later than December 31, 2024, the Department shall complete a review, including an opportunity for public comment on the program review, of the requirements of 310 CMR 7.73 to determine whether the program should be amended or extended. This review shall evaluate whether to require the use of feasible technologies to detect and quantify gas leaks and any other information relevant to review of the program.

7.74: Reducing CO_2 Emissions from Electricity Generating Facilities

(1) Purpose, Authority and Scope. The purpose of 310 CMR 7.74, promulgated in conjunction with 310 CMR 7.75, is to assist the Commonwealth in achieving the greenhouse gas emissions reduction goals adopted pursuant to M.G.L. c. 21N, § 3(b), by establishing declining annual aggregate CO_2 emissions limits that will reduce CO_2 emissions from electricity generating facilities. To achieve those goals, the Executive Office of Energy and Environmental Affairs (EEA) and the Department pursuant to M.G.L. c. 21A, §§ 2 and 8 and M.G.L. c. 21N, §§ 3(c), 4 and 7 hereby jointly promulgate 310 CMR 7.74, following consultation with the Department of Energy Resources and based on the considerations specified in M.G.L. c. 21N, § 3(c). 310 CMR 7.74 is also promulgated pursuant to M.G.L. c. 21A, § 16, M.G.L. c. 21N, § 3(d) and M.G.L. c. 111, §§ 2C and 142A through 142E. In exercising their broad authority and discretion under M.G.L. c. 21N, §§ 3(c) and 3(d), EEA and MassDEP have determined that additional emissions limits on in-state electricity generating facilities' greenhouse gas emissions, along with other climate policies and programs, will ensure achievement of the greenhouse gas emissions limits as established under M.G.L. c. 21N, and that the 310 CMR 7.74 limits are consistent with, and take account of, regional programs such as the Regional Greenhouse Gas Initiative (RGGI) and the Renewable Portfolio Standard (RPS). The CO_2 emissions limits set forth in 310 CMR 7.74(5) are applicable for the years 2021 through 2050 beginning January 1, 2021.

(2) Definitions. The terms used in 310 CMR 7.74 are defined in 310 CMR 7.74(2) and 310 CMR 7.00: *Definitions*. Where a term is defined in 310 CMR 7.00: *Definitions* and 310 CMR 7.74, the definition in 310 CMR 7.74 shall apply.

Allowance means a limited authorization to emit one metric ton of CO_2 in compliance with 310 CMR 7.74.

Allowance Registry means the database that tracks allowances held by electricity generating facilities and used for compliance. The Department shall establish an account in the allowance registry for each electricity generating facility.

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7.73: continued

Annual CO_2 Emissions means the total amount of CO_2 emissions measurements recorded and reported for a calendar year in accordance with the Massachusetts CO_2 Budget Trading Program at 310 CMR 7.70(8)(e)4., converted from short tons to metric tons and adjusted, as applicable, for the production of useful net thermal energy pursuant to the Massachusetts CO_2 Budget Trading Program at 310 CMR 7.70(8)(i).

Bidder means a party qualified, pursuant to 310 CMR 7.74(6)(h)4.a., to participate in an auction.

Calendar Year or Year means January 1st through December 31st.

Deduct or Deduction means the permanent removal of allowances from an account in the allowance registry.

Designated Representative means the person who is authorized by the owner and operator of an electricity generating facility to represent and legally bind the owner and operator in matters pertaining to 310 CMR 7.74.

Electricity Generating Facility means a facility that includes one or more electricity generating units for which the owner or operator is required to report CO_2 emissions pursuant to the Massachusetts CO_2 Budget Trading Program at 310 CMR 7.70(8); provided, however, that the following facilities are not electricity generating facilities for purposes of 310 CMR 7.74: MWRA Deer Island and MBTA South Boston Power.

Emergency means a period during when the regional transmission organization has issued an alert that an abnormal condition affecting the reliability of the power system exists or is anticipated in Massachusetts.

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NON-TEXT PAGE

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Docket # 664

THE COMMONWEALTH OF MASSACHUSETTS
William Francis Galvin
Secretary of the Commonwealth

Regulation Filing *To be completed by filing agency*

CHAPTER NUMBER: **310 CMR 60.00**

CHAPTER TITLE: **Air Pollution Control for Mobile Sources**

AGENCY: **Department of Environmental Protection**

SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*

The emergency regulation establishes 2018 through 2025 mass-based, annually declining limits on carbon dioxide emissions from passenger vehicles owned or leased by the Commonwealth's Executive Offices. After 2025, the limits remain steady at the 2025 level.

REGULATORY AUTHORITY: **M.G.L. c. 21A, §§ 2, 8, and 16, M.G.L. c. 21N, §§ 3(b) and 3(d) and M.G.L. c. 111, §§ 2C and 142A through 142M**

AGENCY CONTACT: **Sharon Weber** PHONE: **617-556-1190**

ADDRESS: **1 Winter Street, Boston, MA 02108**

Compliance with M.G.L. c. 30A

EMERGENCY ADOPTION - *if this regulation is adopted as an emergency, state the nature of the emergency.*

This emergency regulation is necessary to re-promulgate 310 CMR 60.06 to comply with a September 2018 SJC decision that requires MassDEP to promulgate new regulations prior to December 31, 2020.

PRIOR NOTIFICATION AND/OR APPROVAL - *If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.*

PUBLIC REVIEW - *M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period, including a small business impact statement, be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.*

Date of public hearing or comment period: _____

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FISCAL EFFECT - *Estimate the fiscal effect of the public and private sectors.*

For the first and second year: **Cost savings due to lower fuel use**

For the first five years: **Cost savings due to lower fuel use**

No fiscal effect:

SMALL BUSINESS IMPACT - *M.G.L. c. 30A section 5 requires each agency to file an amended small business impact statement with the Secretary of the Commonwealth prior to the adoption of a proposed regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.*

Date amended small business impact statement was filed:

CODE OF MASSACHUSETTS REGULATIONS INDEX - *List key subjects that are relevant to this regulation:*
Global Warming Solutions Act (GWSA), emission limits for State fleet passenger vehicles, carbon dioxide, transportation, and state vehicle fleet

PROMULGATION - *State the action taken by this regulation and its effect on existing provisions of the Code of Massachusetts Regulations (CMR) or repeal, replace or amend. List by CMR number:*

Amend 310 CMR 60.06: CO2 Emission Limits for State Fleet Passenger Vehicles

ATTESTATION - *The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency.* ATTEST:

SIGNATURE: SIGNATURE ON FILE DATE: **Dec 21 2020**

Publication - *To be completed by the Regulations Division*

MASSACHUSETTS REGISTER NUMBER: **1434** DATE: **01/08/2021**

EFFECTIVE DATE: **12/21/2020**

CODE OF MASSACHUSETTS REGULATIONS

Remove these pages:	*Insert these pages:*
This is an Emergency Regulation. There are no replacement pages.	

A TRUE COPY ATTEST
WILLIAM FRANCIS GALVIN
SECRETARY OF THE COMMONWEALTH
DATE 12/21/2020 CLERK mrs

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60.05: continued

c. Identify vehicle technology and operational improvements that can reduce aggregate transportation GHG emissions; and

d. Work within the MPO process to prioritize and fund GHG reduction projects and investments.

4. Department of Environmental Protection.

a. Provides MassDOT and the MPOs with mobile source inputs for emissions analysis of RTPs, TIPs, STIPs, and projects included in these plans;

b. Reviews of RTPs, TIPs, STIPs, and projects; and

c. Provides comments to MassDOT and MPO's on aggregate transportation GHG emissions reduction projects and projections, including supplemental projects.

5. Executive Office of Energy and Environmental Affairs (EOEEA).

a. Provides MassDOT with user access to software tracking tools and training, and support as needed for MassDOT users; and

b. Provides comments to the Department and MassDOT on progress including deficiencies and areas of concern regarding aggregate transportation GHG emission reductions.

(b) Agency Consultation.

1. Prior to such time that aggregate transportation GHG emission impact analysis of RTPs, TIPs, STIPs and projects included in these plans is performed, or at the request of an involved agency, MassDOT shall convene a consultation meeting(s) or conduct similar electronic correspondence with representatives from the MPOs, RTAs, RPAs, EOEEA, and the Department. Prior to convening any consultation meeting(s), MassDOT shall circulate a meeting agenda to the involved agencies. The specific purposes of the state agency consultation meeting(s) and/or correspondence are to:

a. Determine appropriate emissions analysis models and/or other analysis techniques, including consulting on model development and assessing project design factors for modeling;

b. Select inputs to the most recent EPA-approved or similar emissions factor model;

c. Identify and confirm regionally significant projects to be included in the regional and/or statewide emissions analysis;

d. Identify projects which have changed in design and scope from the RTP or TIP;

e. Identify exempt projects;

f. Identify exempt projects and categories of exempt projects which should be treated as non-exempt because they may have adverse air quality impacts and determine appropriate air quality analysis methodologies for analyzing such projects;

g. Identify RTP, TIP, and STIP revisions which add or delete exempt projects; and

h. Identify appropriate planning assumptions relevant to aggregate transportation GHG emission estimation procedures and calculations.

2. MassDOT shall document the outcome(s) of the consultation meeting(s) and shall circulate said documentation to the MPOs, RTAs, EOEEA, and the Department.

(c) Public Consultation Procedures. Prior to making final endorsements on the RTPs, TIPs, STIPs, and projects included in these plans, MassDOT and the MPOs shall include the aggregate transportation GHG emission impact assessment in RTPs, TIPs, and STIPs and provide an opportunity for public review and comment on the RTPs, TIPs, and STIPs.

(9) Enforcement. The Department shall enforce the requirements of 310 CMR 60.05 in accordance with the applicable federal and Massachusetts law, including, but not limited to M.G.L. c. 21A, § 16; c. 111, § 2C; c. 111, §§ 142A through 142M; c. 21N, § 7(d), and 310 CMR 5.00: *Administrative Penalty*.

60.06: CO_2 Emission Limits for State Fleet Passenger Vehicles

(1) Purpose, Scope and Authority. The purpose of 310 CMR 60.06 is to assist the Commonwealth in achieving the greenhouse gas emissions reduction goals adopted pursuant to M.G.L. c. 21N, § (3)(b) by reducing carbon dioxide (CO_2) emissions from certain vehicles owned or leased by Commonwealth of Massachusetts Executive Offices through the imposition of declining annual aggregate emission limits. 310 CMR 60.06 is promulgated pursuant to M.G.L. c. 21N, § 3(d) and is also promulgated pursuant to M.G.L. c. 21A, §§ 2, 8 and 16, and M.G.L. c. 111, §§ 2C and 142A through 142M, to prevent and abate conditions of air pollution from the CO_2 emissions from the mobile sources specified in 310 CMR 60.06. The CO_2 emissions limits set forth in 310 CMR 60.06(6) are applicable for the years 2021 through 2025 and thereafter beginning January 1, 2021.

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60.06: continued

(2) Definitions. The terms used in 310 CMR 60.06 are defined in 310 CMR 60.06 and in 310 CMR 60.00. Where a term is defined in 310 CMR 60.06 and in other sections of 310 CMR 60.00, the definition in 310 CMR 60.06 shall apply.

Department means the Massachusetts Department of Environmental Protection.

Emergency Vehicle means any publicly owned or leased vehicle operated by a sworn officer in performance of their duties, any authorized emergency vehicle used for fighting fires, any publicly owned or leased authorized emergency vehicle used by an emergency medical technician or paramedic, or used for towing or servicing other vehicles, or repairing damaged lighting or electrical equipment, or any ambulance used by a private entity under contract with a public agency.

Executive Office means the Executive Office of Administration and Finance (A&F), the Executive Office of Education (EOE), the Executive Office of Energy and Environmental Affairs (EEA), the Executive Office of Health and Human Services (EOHHS), the Executive Office of Housing and Economic Development (EOHED), the Executive Office of Labor and Workforce Development (EOLWD), the Executive Office of Public Safety and Security (EOPSS), and the Massachusetts Department of Transportation (MassDOT), including the agencies, boards, bureaus, commissions, committees, councils, departments, divisions, groups, guards, homes, laboratories, libraries, offices, police, programs, systems, trusts, universities and other entities within each Executive Office, and entities whose governing members or board include(s) the Secretary of an Executive Office pursuant to appointment by the Governor, or to the requirements of a Massachusetts General or Session Law.

Passenger Vehicle means any motor vehicle with a gross vehicle weight rating of less than 10,000 pounds designed primarily for transportation of persons and having a design capacity of 12 persons or less and that has an Environmental Protection Agency fuel economy sticker pursuant to 40 CFR Part 600 Fuel Economy and Greenhouse Gas Exhaust Emissions of Motor Vehicles. Passenger vehicle does not include transit vehicles or vehicles primarily designed to transport property or with special features enabling off-road operation and use, including but not limited to, pickup trucks, cargo vans, emergency vehicles, test vehicles, non-road vehicles.

Test Vehicle means an experimental or prototype motor vehicle which appears to have very low emission characteristics or a used motor vehicle within which an experimental motor vehicle pollution control device is installed, and which has also received a test vehicle or fleet permit from the California Air Resources Board pursuant to Manufacturers Advisory Correspondence No. 83-01.

Transit Vehicle means any vehicle used to transport paying customers.

(3) Applicability. 310 CMR 60.06 is applicable to Executive Offices, except that an Executive Office is not subject to annual CO_2 emission limits unless it owns or leases 30 or more passenger vehicles, as determined by the Department in its sole discretion.

(4) General Requirements.

(a) For calendar year 2018 and for every calendar year thereafter, each Executive Office shall meet its passenger vehicle CO_2 emission limit specified in 310 CMR 60.06(6).

(b) By November 1, 2017, each Executive Office shall provide the Department with the information specified in 310 CMR 60.06(8) for the time period from January 1, 2016 through December 31, 2016 for each of its vehicles that is not a passenger vehicle.

(c) By March 1, 2018, each Executive Office shall provide the Department with the information specified in 310 CMR 60.06(8) for the time period from January 1, 2017 through December 31, 2017 for each of its vehicles that is not a passenger vehicle.

(d) By March 1, 2019 and by March 1st of each year thereafter, each Executive Office shall submit a report to the Department for the previous calendar year on its passenger vehicles as specified in 310 CMR 60.06(7).

(e) The Department may specify the format and process by which any submission required pursuant to 310 CMR 60.06 shall occur, including electronic submission requirements.

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Docket # 3

THE COMMONWEALTH OF MASSACHUSETTS
William Francis Galvin
Secretary of the Commonwealth

Regulation Filing *To be completed by filing agency*

CHAPTER NUMBER: **458 CMR 2.00**

CHAPTER TITLE: **Family and Medical Leave**

AGENCY: **Department of Family and Medical Leave**

SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*

Changes are due to (a) the need to amend 458 CMR 2.02 to reflect statutory changes to definitional terms recently enacted by the Legislature; (b) the fact that eligibility for job-protected, paid leave will begin on January 1, 2021; and (c) the corresponding need to clarify these statutory changes for covered individuals, covered business entities, and employers prior to the start of eligibility for job-protected, paid leave.

REGULATORY AUTHORITY: **M.G.L. c. 175M**

AGENCY CONTACT: **William Alpine** PHONE: **617-626-6565**

ADDRESS: **19 Staniford St., Boston, MA 02114**

Compliance with M.G.L. c. 30A

EMERGENCY ADOPTION - *if this regulation is adopted as an emergency, state the nature of the emergency.*

Changes are due to (a) reflect statutory changes to definitional terms recently enacted by the Legislature; (b) the fact that eligibility for job-protected, paid leave will begin on January 1, 2021; and (c) the corresponding need to clarify these statutory changes.

PRIOR NOTIFICATION AND/OR APPROVAL - *If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.*

PUBLIC REVIEW - *M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period, including a small business impact statement, be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.*

Date of public hearing or comment period: _____

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FISCAL EFFECT - *Estimate the fiscal effect of the public and private sectors.*

For the first and second year: **0**

For the first five years: **0**

No fiscal effect: **No Fiscal Effect**

SMALL BUSINESS IMPACT - *M.G.L. c. 30A section 5 requires each agency to file an amended small business impact statement with the Secretary of the Commonwealth prior to the adoption of a proposed regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.*

Date amended small business impact statement was filed: _____

CODE OF MASSACHUSETTS REGULATIONS INDEX - *List key subjects that are relevant to this regulation:*

PROMULGATION - *State the action taken by this regulation and its effect on existing provisions of the Code of Massachusetts Regulations (CMR) or repeal, replace or amend. List by CMR number:*

Amend 458 CMR 2.00

ATTESTATION - *The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency.* ATTEST:

SIGNATURE: SIGNATURE ON FILE DATE: **Dec 21 2020**

Publication - *To be completed by the Regulations Division*

MASSACHUSETTS REGISTER NUMBER: **1434** DATE: **01/08/2021**

EFFECTIVE DATE: **12/21/2020**

CODE OF MASSACHUSETTS REGULATIONS

Remove these pages:	*Insert these pages:*
This is an Emergency Regulation. There are no replacement pages.	

A TRUE COPY ATTEST

WILLIAM FRANCIS GALVIN
SECRETARY OF THE COMMONWEALTH

DATE 12/21/2020 CLERK mrs

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2.02: continued

Continuing Treatment by a Health Care Provider. Includes any one or more of the following:

(a) Incapacity and Treatment. A period of incapacity of more than three consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:

1. Treatment two or more times, within 30 calendar days of the first day of incapacity, unless extenuating circumstances exist, by a health care provider, by a nurse under direct supervision of a health care provider, or by a provider of health care services (*e.g.*, physical therapist) under orders of, or on referral by, a health care provider; or

2. Treatment by a health care provider on at least one occasion, which results in a regimen of continuing treatment under the supervision of the health care provider. Treatment includes examination to determine if there is a serious health condition.

Treatment does not include routine physical examinations, eye examinations, or dental examinations. A regimen of continuing treatment includes a course of prescription medication or therapy requiring specialized equipment to resolve or alleviate the health condition.

3. The requirement for treatment by a health care provider means an in-person visit or telehealth visit to a health care provider. The first (or only) in-person or telehealth visit must take place within seven calendar days of the first day of incapacity

4. Whether additional treatment visits or a regimen of continuing treatment is necessary within the 30-calendar day period shall be determined by the health care provider.

5. The term extenuating circumstances means circumstances beyond the covered individual's control that prevent the follow-up visit from occurring as planned by the health care provider. Whether a given set of circumstances are extenuating depends on the facts. For example, extenuating circumstances exist if a health care provider determines that a second in-person visit is needed within the 30-calendar day period, but the health care provider does not have any available appointments during that time period.

(b) Pregnancy or Prenatal Care. Any period of incapacity due to pregnancy, or for prenatal care.

(c) Chronic Conditions. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:

1. Requires periodic visits (defined as at least twice per calendar year) for treatment by a health care provider, or by a nurse under direct supervision of a health care provider;

2. Continues over an extended period of time (including recurring episodes of a single underlying condition); and

3. May cause episodic rather than a continuing period of incapacity (*e.g.*, asthma, diabetes, epilepsy, *etc.*).

(d) Permanent or Long-term Conditions. A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The covered individual or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

(e) Conditions Requiring Multiple Treatments. Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, for:

1. Restorative surgery after an accident or other injury; or

2. A condition that would likely result in a period of incapacity of more than three consecutive, full calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, *etc.*), severe arthritis (physical therapy), or kidney disease (dialysis).

(f) Absences attributable to incapacity under 458 CMR 2.02: Continuing Treatment by a Health Care Provider(b) or (c) qualify for leave even though the covered individual or the covered family member does not receive treatment from a health care provider during the absence, and even if the absence does not last more than three consecutive, full calendar days.

(g) Cosmetic treatments are not serious health conditions, unless inpatient hospital care is required or unless complications develop.

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2.02: continued

Contributions. The payments made by an employer, a covered business entity, or a covered individual to the Family and Employment Security Trust Fund, as required by M.G.L. c. 175M.

Covered Business Entity. A business or trade that contracts with self-employed individuals for services and is required to report the payment for services to such individuals on IRS Form 1099-MISC for more than 50% of its workforce.

Covered Contract Worker. A self-employed individual:

(a) for whom an employer or covered business entity is required to report payment for services on IRS Form 1099-MISC;

(b) for whom an employer or covered business entity is required to remit contributions to the Family and Employment Security Trust Fund pursuant to the requirements of M.G.L. c. 175M, § 6;

(c) who performs services as an individual in Massachusetts;

(d) who resides in Massachusetts; and

(e) who is not classified as an independent contractor pursuant to M.G.L. c. 151A, § 2.

Covered Individual, either:

(a) an employee who meets the financial eligibility requirements of M.G.L. c. 151A, § 24(a); provided, however, that all such employment shall have been with an employer in the Commonwealth;

(b) a self-employed individual:

1. who has elected coverage under M.G.L. c. 175M, § (2)(j);

2. whose reported earnings to the Massachusetts Department of Revenue from self-employment meet the financial eligibility requirements of M.G.L. c. 151A, § 24(a) as if the individual were an employee; and

3. who has made contributions as required by M.G.L. c. 175M, § 6, for at least two of the previous four calendar quarters;

(c) a covered contract worker:

1. for whom at least one employer or covered business entity is required to remit contributions to the Family and Employment Security Trust Fund pursuant to M.G.L. c. 175M, § 6; and

2. whose payments from such employer or covered business entity satisfy the financial eligibility requirements of M.G.L. c. 151A, § 24(a) as if the covered contract worker were an employee; or

(d) a former employee who has:

1. met the financial eligibility requirements of M.G.L. c. 151A, § 24(a) at the time of the former employee's separation from employment; provided, however, that all such employment shall have been with an employer in the Commonwealth; and

2. been separated from employment for not more than 26 weeks at the start of the former employee's family or medical leave; or

(e) a personal care attendant, as defined in M.G.L. c. 118E, § 70, whose wages from working as a personal care attendant meet the financial eligibility requirements of M.G.L. c. 151A, § 24(a); or

(f) a family child care provider, as defined in M.G.L. c.15D, § 17(a), whose payments from working as a family child care provider meet the financial eligibility requirements of M.G.L. c. 151A, § 24(a).

Covered Servicemember, either:

(a) a member of the Armed Forces, as defined in M.G.L. c. 4, § 7, including a member of the National Guard or Reserves, who is:

1. undergoing medical treatment, recuperation or therapy;

2. otherwise in outpatient status; or

3. is otherwise on the temporary disability retired list for a serious injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces, or a serious injury or illness that existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces; or

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2.02: continued

(b) a former member of the Armed Forces, including a former member of the National Guard or Reserves, who is undergoing medical treatment, recuperation or therapy for a serious injury or illness that was incurred by the member in line of duty on active duty in the Armed Forces, or a serious injury or illness that existed before the beginning of the member's active duty and was aggravated by service in line of duty on active duty in the Armed Forces and manifested before or after the member was discharged or released from service.

Department. The Department of Family and Medical Leave established in M.G.L. c. 175M, § 8.

Director. The Director of the Department of Family and Medical Leave.

Domestic Partner. A person 18 years of age or older who:

(a) is dependent upon the covered individual for support as shown by either unilateral dependence or mutual interdependence that is evidenced by a nexus of factors including, but not limited to:

1. common ownership of real or personal property;
2. common householding;
3. children in common;
4. signs of intent to marry;
5. shared budgeting; and
6. the length of the personal relationship with the covered individual; or

(b) has registered as the domestic partner of the covered individual with any registry of domestic partnerships maintained by the employer of either party, or in any state, county, city, town or village in the United States.

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NON-TEXT PAGE

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2.02: continued

Earnings from Self-employment or Income from Self-Employment. Shall have the same meaning as "net earnings from self-employment", as defined in the Internal Revenue Code at 26 U.S.C. § 1402(a), in effect for the taxable year, and the implementing regulations at 26 CFR § 1.1402(a).

Employee. Shall have the same meaning as provided in M.G.L. c. 151A, § 1(h); provided, however, that notwithstanding M.G.L. c. 151A, § 1(h); or any other special or general law to the contrary and solely for the purposes of M.G.L. c. 175M, § 6 and the notice provisions set forth in M.G.L. c. 175M, § 4(a) and (b), Employee shall include:

(a) a family child care provider, as defined in M.G.L. c. 15D, § 17(a); and

(b) a personal care attendant, as defined in M.G.L. c. 118E, § 70.

Employer. Shall have the same meaning as provided in M.G.L. c. 151A, § (1)(i); provided, however, that

(a) an individual employer shall be determined by the Federal Employer Identification Number;

(b) the Department of Early Education and Care shall be deemed the employer of family child care providers, as defined in M.G.L. c. 15D, § 17(a), solely for the purposes of M.G.L. c. 175M, § 6 the notice provisions set forth in M.G.L. c. 175M, § 4(a) and (b), and § 8(d);

(c) any employer not subject to M.G.L. c. 175M may become a covered employer under M.G.L. c. 175M by notifying the Department of Family and Medical Leave and completing the procedure established by the Department;

(d) a municipality, district, political subdivision or its instrumentalities shall not be subject to M.G.L. c. 175M, unless it adopts M.G.L. c. 175M by majority vote of its authorized local legislative body or governing body and otherwise as provided by M.G.L. c. 175M, § 10; and

(e) the PCA Quality Home Care Workforce Council established in M.G.L. c. 118E, § 71 shall be the employer of personal care attendants, as defined in M.G.L. c. 118E, § 70(a), solely for the purposes of M.G.L. c. 175M, § 6, and consumers, as defined in M.G.L. c. 118E, § 70, shall be considered the employers of personal care attendants solely for the purposes of the notice requirements set forth in M.G.L. c. 175M, § 4(a) and (b), and § 8(d);

(f) Notwithstanding any general or special law to the contrary, for the purposes of M.G.L. c. 175M, § 6, the PCA Quality Home Care Workforce Council established in M.G.L. c. 118E, § 71 shall be the employer of personal care attendants, as defined in M.G.L. c. 118E, § 70, and the Department of Early Education and Care shall be the employer of family child care providers, as defined in M.G.L. c. 15D, § 17(a).

Employment. Shall have the same meaning as provided by M.G.L. c. 151A, § 1(k); provided, further, that employment shall not include any service not included in "employment" pursuant to M.G.L. c. 151A, § 6A.

Employment Benefits. All benefits provided or made available to covered individuals by an employer or covered business entity, if any, including, but not limited to, group life insurance, health insurance, disability insurance, sick leave, annual or vacation leave, educational benefits and pensions.

Extended Illness Leave Bank. A voluntary program where covered individuals may donate accrued leave time to fund a bank for the benefit of a co-worker experiencing a qualifying reason under M.G.L. c. 175M.

Family Leave. Leave taken to care for a family member with a serious health condition, for a parent to bond with the parent's child during the first 12 months after the child's birth, adoption, or foster care placement, to care for a family member who is a covered service member, or because of a qualifying exigency arising out of the fact that a family member is on active duty or has been notified of an impending call or order to active duty in the Armed Forces.

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2.02: continued

Family Leave Benefits. Wage replacement paid pursuant to M.G.L. c. 175M, § 3 and provided in accordance with M.G.L. c. 175M, § 2, to a covered individual while the covered individual is on family leave.

Family Member. The spouse, domestic partner, child, parent or parent of a spouse or domestic partner of the covered individual; a person who stood in *loco parentis* to the covered individual when the covered individual was a minor child; or a grandchild, grandparent or sibling of the covered individual.

Financial Eligibility Test. A demonstration that, over the 12 months preceding an individual's application for benefits with the Department, the individual has received total wages as an employee or payments for service as a covered contract worker from Massachusetts employers or Massachusetts covered business entities that in the aggregate equal or exceed 30 times the individual's weekly benefit amount as determined under 458 CMR 2.12, and that in the aggregate are not less than the dollar amount calculated annually by the Massachusetts Department of Unemployment Assistance pursuant to M.G.L. c. 151A, § 24(a). Wages received from multiple employers or covered business entities within the base period can be aggregated to determine financial eligibility for leave.

Foster Care. 24-hour care for children in substitution for and away from their parents or guardian. Such placement is made by or with the agreement of Massachusetts or any other state, commonwealth, or territory as a result of a voluntary agreement between the parent and guardian that the child be removed from the home, or pursuant to a judicial determination of the necessity for foster care, and involves agreement between Massachusetts or any other state, commonwealth, or territory and foster family that the foster family will care for the child. Although foster care may be with relatives of the child, State action is involved in the removal of the child from parental custody.

Former Member of the Armed Forces. An individual who was a member of the Armed Forces, including a member of the National Guard or Reserves, and was discharged or released at any time during the five-year period prior to the first date the covered individual completes an application for benefits to care for the former member of the Armed Forces.

Grandparent. A parent of the covered individual's parents.

Good Cause. A demonstration by a party that a failure to comply with a requirement of M.G.L. c. 175M, and 458 CMR 2.00 was due to circumstances beyond the party's control.

Health Care Provider. An individual licensed by the state, commonwealth, or territory in which the individual practices to practice medicine, surgery, dentistry, chiropractic, podiatry, midwifery or osteopathy, and including the following:

(a) Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in by a State and performing within the scope of their practice as defined under the law of that state, commonwealth, or territory;

(b) Nurse practitioners, nurse-midwives, clinical social workers and physician assistants who are authorized to practice under State law and who are performing within the scope of their practice as defined under the law of that state, commonwealth or territory;

(c) Christian Science Practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts.

(d) A health care provider listed above who practices in a country other than the United States, who is authorized to practice in accordance with the law of that country, and who is performing within the scope of the person's practice as defined under such law.

Incapacity. An inability to perform the functions of one's position, or where the covered individual is a former employee, to perform the functions of one's most recent position or other suitable employment as that term is defined under M.G.L. c. 151A, § 25(c), due to the serious health condition, treatment therefor, or recovery therefrom.

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Docket # 4

THE COMMONWEALTH OF MASSACHUSETTS
William Francis Galvin
Secretary of the Commonwealth

Regulation Filing *To be completed by filing agency*

CHAPTER NUMBER: **458 CMR 3.00**

CHAPTER TITLE: **COVID-19 Emergency Regulations**

AGENCY: **Department of Family and Medical Leave**

SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*

Changes due to (a) the need to clarify the treatment of leave applications submitted after M.G.L. c. 175M's effective date of January 1, 2021 that seek family leave for bonding related to births, adoptions, and foster care placements that occurred in calendar year 2020; (b) the need for the department to account for accrued eligibility for family leave to bond with an individual's child based on qualifying circumstances occurring both in 2020 and 2021; and (c) the continuing danger to public health and welfare presented by the COVID-19 pandemic emergency and the corresponding need to maximize staffing capacity for acute care hospitals in the Commonwealth.

REGULATORY AUTHORITY: **M.G.L. c. 175M**

AGENCY CONTACT: **William Alpine** PHONE: **617-626-6565**

ADDRESS: **19 Staniford St., Boston, MA 02114**

Compliance with M.G.L. c. 30A

EMERGENCY ADOPTION - *if this regulation is adopted as an emergency, state the nature of the emergency.*

The need to clarify the treatment of applications that seek family leave for bonding for events that occurred in calendar year 2020, and the continuing danger to public health and welfare presented by the COVID-19 pandemic emergency and the corresponding need to maximize staffing capacity for acute care hospitals in the Commonwealth.

PRIOR NOTIFICATION AND/OR APPROVAL - *If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.*

PUBLIC REVIEW - *M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period, including a small business impact statement, be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.*

Date of public hearing or comment period: _____

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FISCAL EFFECT - *Estimate the fiscal effect of the public and private sectors.*

For the first and second year: **0**

For the first five years: **0**

No fiscal effect: **No Fiscal Effect**

SMALL BUSINESS IMPACT - *M.G.L. c. 30A section 5 requires each agency to file an amended small business impact statement with the Secretary of the Commonwealth prior to the adoption of a proposed regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.*

Date amended small business impact statement was filed: _____

CODE OF MASSACHUSETTS REGULATIONS INDEX - *List key subjects that are relevant to this regulation:*

PROMULGATION - *State the action taken by this regulation and its effect on existing provisions of the Code of Massachusetts Regulations (CMR) or repeal, replace or amend. List by CMR number:*

New Chapter 458 CMR 3.00.

ATTESTATION - *The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency.* ATTEST:

SIGNATURE: SIGNATURE ON FILE DATE: **Dec 21 2020**

Publication - *To be completed by the Regulations Division*

MASSACHUSETTS REGISTER NUMBER: **1434** DATE: **01/08/2021**

EFFECTIVE DATE: **12/21/2020**

CODE OF MASSACHUSETTS REGULATIONS

Remove these pages:	*Insert these pages:*
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A TRUE COPY ATTEST

WILLIAM FRANCIS GALVIN
SECRETARY OF THE COMMONWEALTH

DATE 12/21/2020 CLERK mrs

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458 CMR 3.00: COVID-19 EMERGENCY REGULATIONS

Section

3.01: Purpose
3.02: Family Leave for Births, Adoptions, and Foster Care Placements Occurring in Calendar Year 2020
3.03: Definition
3.04: Special Provisions Relating to Family Leave by an Employee of an Acute Care Hospital for Purposes of Bonding with the Employee's Child during the First 12 Months after the Child's Birth, Adoption, or Foster Care Placement with the Employee
3.05: Other Provisions

EMERGENCY PREAMBLE

The Director finds that immediate adoption of 458 CMR 3.00 is necessary for the preservation of the public health, safety and general welfare due to:

(a) the need to clarify the treatment of leave applications submitted after M.G.L. c. 175M's effective date of January 1, 2021 that seek family leave for bonding related to births, adoptions, and foster care placements that occurred in calendar year 2020;

(b) the need for the department to account for accrued eligibility for family leave to bond with an individual's child based on qualifying circumstances occurring both in 2020 and 2021; and

(c) the continuing danger to public health and welfare presented by the COVID-19 pandemic emergency and the corresponding need to maximize staffing capacity for acute care hospitals in the Commonwealth.

The Director, therefore, also finds that observance of requirements of notice and a public hearing would be contrary to the public interest.

3.01: Purpose

The purpose of 458 CMR 3.00 is:

(a) to clarify that births, adoptions, and foster care placements occurring during 2020 shall be treated as qualifying events for family leave under M.G.L. c. 175M, provided that the covered individual is otherwise qualified for such leave, and provided further that such leave must be taken during the first 12 months after the child's birth, adoption, or foster care placement with the covered individual, and must be completed within calendar year 2021; and

(b) to establish procedures that will permit acute care hospitals to maintain maximum capacity for delivery of health care services during the COVID-19 pandemic emergency by reducing the risk of unmanageable reductions in staffing caused by the one-time need to accommodate accrued eligibility for family leave for bonding with an individual's child based on qualifying circumstances occurring both in 2020 and 2021.

3.02: Family Leave for Births, Adoptions, and Foster Care Placements Occurring in Calendar Year 2020

(1) A covered individual may be eligible for family leave to bond with the covered individual's child for births, adoptions, and foster care placements that occurred in 2020.

(2) The leave must be completed during the first 12 months after the child's birth, adoption, or foster care placement with the covered individual.

(3) Such leave must be completed during calendar year 2021.

3.03: Definition

For the purposes of 458 CMR 3.00, the following term shall have the following meaning:

Acute Care Hospital. A hospital licensed under M.G.L. c. 111, § 51 and the teaching hospital of the University of Massachusetts Medical School.

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3.04: Special Provisions Relating to Family Leave by an Employee of an Acute Care Hospital for Purposes of Bonding with the Employee's Child during the First 12 Months after the Child's Birth, Adoption, or Foster Care Placement with the Employee

(1) An employee of an acute care hospital who is eligible for family leave for bonding in connection with a birth, adoption, or foster care placement that occurred during calendar year 2020 may request, and the employer may grant, a period of family leave for bonding that extends beyond the 12-month period specified in 458 CMR 3.02(2), provided that such leave shall not extend beyond December 31, 2021.

(2) Any extension of the period for family leave for bonding allowed pursuant to 458 CMR 3.04(1) shall not affect the total amount of leave available to the employee.

(3) Employers that are acute care hospitals may initiate discussions with employees eligible for the extension permitted in 458 CMR 3.04(1) to determine if they intend to request the allowable extension.

(4) An employer's decision to deny an employee's request to extend a period of family leave for bonding beyond the period specified in 458 CMR 3.02(2) pursuant to 458 CMR 3.00 shall not constitute retaliation pursuant to M.G.L. c. 175M, § 9 or 458 CMR 2.16: *Employee Job Protection, Prohibition on Retaliation*. An employee whose leave is extended beyond the period specified in 458 CMR 3.02(2) pursuant to 458 CMR 3.00, shall be afforded all protections conferred by M.G.L. c. 175M, § 9 or 458 CMR 2.16 during any period of extension.

(5) 458 CME 3.00 shall apply to all acute care hospital employers, regardless of whether the employer provides family leave benefits through contributions to the Family and Employment Security Trust Fund as provided in M.G.L. c. 175M, § 6 or through an approved private plan as provided in M.G.L. c. 175M, § 11.

(6) The allowance provided in 458 CMR 3.00 shall have no effect on the availability of medical leave pursuant to M.G.L. c. 175M, § 2(b) or to other leave that may be available pursuant to M.G.L. c. 149, § 105D, 29 U.S.C. 2601, *et. seq*., or under any other State or Federal law.

3.05: Other Provisions

The Department may enact provisions to assist other classes of covered individuals, covered business entities, and employers in moderating the effect of accommodating accrued family bonding leave for 2020 births, adoptions, and foster care placements if the Director determines that the effect of the accrual presents an unmanageable risk of disruption to operations that presents a risk to public health and safety or is otherwise contrary to the public interest. An employer or covered business entity that is not an acute care hospital seeking to extend the period in which an employee may schedule family bonding leave in the manner provided in 458 CMR 3.00 shall submit a written request to the Director who, in his or her discretion, shall grant or deny any such request after considering likely effects on public health and safety and the public interest.

REGULATORY AUTHORITY

458 CMR 3.00: M.G.L. c. 175M.

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Docket # 422

THE COMMONWEALTH OF MASSACHUSETTS
William Francis Galvin
Secretary of the Commonwealth

Regulation Filing *To be completed by filing agency*

CHAPTER NUMBER: **603 CMR 27.00**

CHAPTER TITLE: **Student Learning Time**

AGENCY: **Department of Elementary and Secondary Education**

SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*

Emergency amendments to the Student Learning Time regulations adopted by the Board of Elementary and Secondary Education on December 15, 2020.

REGULATORY AUTHORITY: **M.G.L. c. 69, ss. 1B and 1G**

AGENCY CONTACT: **Mary Morales** PHONE: **781-338-3429**

ADDRESS: **75 Pleasant Street, Malden, MA 02148**

Compliance with M.G.L. c. 30A

EMERGENCY ADOPTION - *if this regulation is adopted as an emergency, state the nature of the emergency.*

The emergency amendments establish minimum standards for live and synchronous instruction that districts and schools operating hybrid and remote learning models must provide. The regulations help address critical needs of students, including the distressing increase in the mental health challenges students are facing.

PRIOR NOTIFICATION AND/OR APPROVAL - *If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.*

PUBLIC REVIEW - *M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period, including a small business impact statement, be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.*

Date of public hearing or comment period:

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FISCAL EFFECT - *Estimate the fiscal effect of the public and private sectors.*

For the first and second year: **XX**

For the first five years: **XX**

No fiscal effect: **XX**

SMALL BUSINESS IMPACT - *M.G.L. c. 30A section 5 requires each agency to file an amended small business impact statement with the Secretary of the Commonwealth prior to the adoption of a proposed regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.*

Date amended small business impact statement was filed: _____

CODE OF MASSACHUSETTS REGULATIONS INDEX - *List key subjects that are relevant to this regulation:*

Student Learning Time
Synchronous Learning
Live Learning
Hybrid Learning

PROMULGATION - *State the action taken by this regulation and its effect on existing provisions of the Code of Massachusetts Regulations (CMR) or repeal, replace or amend. List by CMR number:*

603 CMR 27.00

ATTESTATION - *The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency.* ATTEST:

SIGNATURE: SIGNATURE ON FILE DATE: **Dec 15 2020**

Publication - *To be completed by the Regulations Division*

MASSACHUSETTS REGISTER NUMBER: **1434** DATE: **01/08/2021**

EFFECTIVE DATE: **12/16/2020**

CODE OF MASSACHUSETTS REGULATIONS

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DATE 12/16/2020 CLERK mrs

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603 CMR 27.00: STUDENT LEARNING TIME

Section

27.01: Scope and Purpose
27.02: Definitions
27.03: School Year Requirements
27.04: Structured Learning Time Requirements
27.05: Early Release of High School Seniors
27.06: Waivers or Modifications
27.07: Implementation
27.08: Health and Safety Standards during a State of Emergency or Other Exigent Circumstances

27.01: Scope and Purpose

(1) 603 CMR 27.00 is promulgated by the Board of Elementary and Secondary Education pursuant to M.G.L. c. 69, § 1G, which requires the Board to establish the minimum length for a school day and the minimum number of days in a school year for Massachusetts public schools, and M.G.L. c. 69, § 1B, which requires the Board to establish standards to ensure that every student shall attend classes in a safe environment.

(2) The purposes of 603 CMR 27.00 are:
(a) to ensure that every public school in the Commonwealth provides its students with the structured learning time needed to enable the students to achieve competency in "core subjects" and "other subjects" as defined in 603 CMR 27.02; and
(b) to establish health and safety standards for schools during a declared state of emergency or other exigent circumstances that adversely affect the safe environment of schools as determined by the Board.

(3) The requirements set forth in 603 CMR 27.00 are not intended to confer privately enforceable legal rights upon individual students, or persons acting on their behalf.

27.02: Definitions

As used in 603 CMR 27.00, the terms listed in 603 CMR 27.02 shall have the following meanings:

Asynchronous Learning shall mean learning that occurs on a student's individual time and at their own pace.

Board shall mean the Board of Elementary and Secondary Education.

Commissioner shall mean the Commissioner of Elementary and Secondary Education.

Core Subjects shall mean the core academic subjects specified in M.G.L. c. 69, § 1D (science, technology and mathematics, history and social science, English, foreign languages and the arts), and the subjects covered in courses which are part of an approved vocational-technical education program under M.G.L. c. 74.

Department shall mean the Department of Elementary and Secondary Education.

District shall mean a municipal school department or regional school district, acting through its school committee or superintendent of schools, a county agricultural school, acting through its board of trustees or superintendent/director, any other public school established by statute or charter, acting through its governing board or director.

Elementary School shall mean a school providing instruction to grades one through five, six, seven, or eight, and, where so designated by a school committee prior to the commencement of a school year, may also include a middle school or other intermediate level school providing instruction to grades five through eight or any combination thereof.

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27.02: continued

Live Instruction shall mean the combination of in-person instruction and remote synchronous instruction.

Optional School Programs shall mean school activities not part of a course of study in either core subjects or other subjects, which are offered by a school district to enrich the educational experience of its students and meet educational goals set by the local or regional school committee. Examples include: activity clubs; driver education; extracurricular student performance groups; nonacademic assemblies; nonacademic field trips; pep-rallies; sports; standardized testing other than statewide assessments conducted under M.G.L. c. 69, §§ 1D and 1I; and student government.

Other Subjects shall mean subjects other than core academic subjects that are required to be taught pursuant to M.G.L. c. 71, §§ 1 and 3, and other subjects approved by the school committee as part of the district's program of studies.

Remote Learning shall mean learning that happens outside of the traditional classroom because the student and teacher are separated by distance. Remote learning may include synchronous or asynchronous components, provided that students have opportunities to interact on each school day with teachers, such as through feedback, office hours, and other regularly scheduled individual student interactions. Remote learning may include, but is not limited to, online learning.

School Services shall mean services which a school district provides to some or all students, either as a matter of state or federal law or regulation or local school district policy, to protect or improve student health and personal well-being, or enhance students' readiness and ability to learn. Examples include: special education diagnosis and evaluation; special education related services such as speech, physical and occupational therapy; health screening and prevention services; and school breakfast and lunch.

Secondary School shall mean a school providing instruction to grades six through twelve, or any combination of those grades, except where a school committee, prior to the commencement of the school year, has designated a middle or other intermediate level school providing instruction to grades five through eight, or any combination thereof, as an elementary school.

Structured Learning Time shall mean time during which students are engaged in regularly scheduled instruction, learning activities, or learning assessments within the curriculum for study of the "core subjects" and "other subjects". In addition to classroom time where both teachers and students are present, structured learning time may include directed study, independent study, technology-assisted learning, presentations by persons other than teachers, school-to-work programs, and statewide student performance assessments. Hybrid learning may constitute structured learning time if a district's hybrid learning model is consistent with the requirements of 603 CMR 27.08(3)(a). Remote learning may constitute structured learning time if a district's remote learning model is consistent with the requirements of 603 CMR 27.08(3)(c).

Synchronous Learning shall mean learning that is directed by a teacher and that happens in real time with other students, such as during live, whole-class instruction, and small group work.

27.03: School Year Requirements

(1) Prior to the beginning of each school year, every school committee shall establish school year schedules for each of the public schools under its supervision and control, based on the particular learning needs of students within each school. In determining the school year schedule for each school, the school committee shall be guided by the student learning time plan recommended by the school council for each school, and shall attempt to maximize high quality teaching, learning, and professional development opportunities.

(2) Every school committee shall schedule a school year which includes at least 185 school days at each elementary, middle, and secondary school within the school district.

(3) Every school committee shall operate the schools within its district at least 180 school days in a school year.

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27.03: continued

(4) School committees are encouraged to exceed the minimum number of school days wherever possible, and to offer extended day and extended year programs that expand student learning opportunities.

(5) A school committee may establish a separate school year and school day schedule for kindergarten programs which it maintains pursuant to 603 CMR 8.00: *Kindergartens: Minimum School Age*, so long as it provides a minimum of 425 annual hours of structured learning time. In those school districts which schedule two sessions of kindergarten daily, the school committee shall adopt a schedule for its kindergarten programs which ensures equal instructional time for all kindergarten students.

27.04: Structured Learning Time Requirements

(1) No later than the 1997 - 1998 school year, schools shall ensure that "every elementary school student " is scheduled to receive a minimum of 900 hours per school year of structured learning time, as defined in 603 CMR 27.02. Time which a student spends at school breakfast and lunch, passing between classes, in homeroom, at recess, in non-directed study periods, receiving school services, and participating in optional school programs shall not count toward meeting the minimum structured learning time requirement for that student.

(2) No later than the 1997 - 1998 school year, all schools shall ensure that "every secondary school student " is scheduled to receive a minimum of 990 hours per school year of structured learning time, as defined in 603 CMR 27.02. Time which a student spends at school breakfast and lunch, passing between classes, in homeroom, at recess, in non-directed study periods, receiving school services, and participating in optional school programs shall not count toward meeting the minimum structured learning time requirement for that student.

27.05: Early Release of High School Seniors

(1) As a matter of policy, the Board encourages school districts to schedule high school graduation as close as possible to the scheduled closing date of the high school to maximize the learning time offered to graduating seniors and minimize the disruption of instruction provided to other students.

(2) Notwithstanding the minimum school year requirements set forth in 603 CMR 27.03 and 27.04(2), at the discretion of the school committee, the scheduled school year for the graduating senior class of a high school or vocational/technical school may conclude, and the school graduation may be held, up to 12 school days before the regular scheduled closing date of that school.

27.06: Waivers or Modifications

(1) The Board may, upon the written application of a school committee and the recommendation of the Commissioner of Education, grant a waiver of any requirements set forth in 603 CMR 27.00 for good cause. School committees are encouraged to apply for waivers, as needed, to permit the district to initiate innovative programs or schedules intended to improve student learning.

(2) Upon the written request of a school district, the Commissioner of Education may, in his or her discretion, grant a waiver of the minimum school year requirement set forth in 603 CMR 27.03(3) in situations where an emergency or extraordinary circumstance forces the closing of one or more of the district's schools.

(3) Upon a declaration by the Governor that an emergency exists which is detrimental to the public health, or upon a determination by the Board that exigent circumstances exist that adversely affect the ability of students to attend classes in a safe environment, unless additional health and safety measures are put in place, the Commissioner may modify the minimum school year and structured learning time requirements set forth in 603 CMR 27.03 and 27.04.

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27.06: continued

(4) Upon the written request of a school district, the Commissioner may, in his or her discretion, grant a waiver of the requirements set forth in 603 CMR 27.08(3)(a)1. and 603 CMR 27.08(3)(b)5. and 6.

27.07: Implementation

(1) The requirements set forth in 603 CMR 27.00, as amended, shall be effective July 1, 1995, and shall govern the operation of all public schools within the Commonwealth of Massachusetts beginning with the 1995 - 1996 school year, with the exception of the structured learning time requirements set out in 603 CMR 27.04, which shall be effective July 1, 1997.

(2) During the 1995 - 1996 and 1996 - 1997 school years, schools and school districts are urged to meet the structured learning time requirements set out in 603 CMR 27.04 to the extent feasible. However, the following minimum learning time requirements, rather than those set out in 603 CMR 27.04(1) and (2), shall apply during the 1995 - 1996 and 1996 - 1997 school years:

(a) Elementary Schools shall offer to all enrolled students a minimum of 900 hours per school year of learning time. Structured learning time, as defined in 603 CMR 27.02 shall be the focus of that time, but time spent delivering school services other than those listed below and offering optional school programs may also be counted toward meeting the minimum learning time requirement. Time scheduled for school breakfast and lunch, passing between classes, homeroom, and recess will not count toward meeting the minimum learning time requirement.

(b) Secondary Schools shall offer to all enrolled students a minimum of 990 hours per school year of learning time. Structured learning time, as defined in 603 CMR 27.02 shall be the focus of that time, but time spent delivering school services other than those listed below and offering optional school programs may also be counted toward meeting the minimum learning time requirement. Time scheduled for school breakfast and lunch, passing between classes, homeroom, and recess will not count toward meeting the minimum learning time requirement.

(3) In preparation for the 1995 - 1996 school year, each school council shall submit to the district school committee, as part of its school improvement plan, any recommended scheduling changes or changes in school practices or structure that will be needed to ensure that their school will be in compliance with the learning time requirements set out in 603 CMR 27.07(2) and school year requirements set out in 603 CMR 27.03.

(4) During the 1995 - 1996 school year, each school council shall submit to the district school committee, as part of its school improvement plan, recommended actions to be taken to ensure that, no later than September 1997, each student within the school will be scheduled to receive at least the minimum required hours per year of structured learning time required under 603 CMR 27.00, and the school will comply with all other requirements set forth in 603 CMR 27.00.

(5) No later than June 30, 1996, every school district shall submit to the Department of Education, for review and approval, a Learning Time Implementation Plan which describes changes that are being undertaken at the school and district level to ensure that, on or before September 1997, every student in every school within the district is scheduled to receive at least the minimum amount of structured learning time per school year specified in 603 CMR 27.04, and the district's schools will comply with all other requirements set forth in 603 CMR 27.04. The Department of Education shall issue guidelines regarding the issues to be addressed in school district-wide Learning Time Implementation Plans.

27.08: Health and Safety Standards during a State of Emergency or Other Exigent Circumstances

(1) Upon a declaration by the Governor that an emergency exists which is detrimental to the public health, or upon a determination by the Board that exigent circumstances exist that adversely affect the ability of students to attend classes in a safe environment, unless additional health and safety measures are put in place, the Commissioner, in consultation with medical experts and state health officials, shall issue health and safety requirements and related guidance for districts.

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27.08: continued

(2) Upon such a declaration by the Governor or determination by the Board, the Commissioner shall require each district to develop and submit a plan that prioritizes providing in-person instruction to all students in a safe environment. The plan shall include:

(a) health and safety procedures that are consistent with the requirements issued by the Commissioner; and

(b) a description of the in-person learning model the district will use to provide instruction to students. The in-person learning model shall mean all students receive in-person instruction in school environments that have been appropriately modified to address health and safety requirements issued by the Commissioner.

(c) The Commissioner may require districts to include the alternative education models set forth in 603 CMR 27.08(3) in their plans, to address circumstances in which students cannot safely attend classes in an in-person setting.

(3) Alternative education models shall include the following:

(a) Hybrid Learning Model. Hybrid learning model means students alternate between in-person learning with safety requirements and remote learning. Hybrid learning models shall include the following requirements: Effective January 19, 2021, districts and schools operating a hybrid learning model shall provide at least 35 hours of live instruction over a ten-school day period, averaged across the grades in the hybrid learning model.

(b) Remote Learning Model. Remote learning model means students are educated remotely. Remote learning models shall include the following requirements:

1. procedures for all students to participate in remote learning, including a system for tracking attendance and participation;
2. remote academic work shall be aligned to state standards;
3. a policy for issuing grades for students' remote academic work;
4. teachers and administrators shall regularly communicate with students and their parents and guardians, including providing interpretation and translation services to limited English proficient parents and guardians;
5. effective January 19, 2021, districts and schools operating a remote learning model shall provide synchronous instruction each school day; and
6. effective January 19, 2021, districts and schools operating a remote learning model shall provide at least 40 hours of synchronous instruction over a ten-school day period, averaged across the grades in the remote learning model.

(c) District Approved Model. Means an education model submitted by a district and approved by the Commissioner.

(4) Upon such a declaration by the Governor or determination by the Board, the Commissioner shall direct each district providing in-person summer school programs to implement health and safety procedures that are consistent with requirements issued by the Commissioner.

(5) The Commissioner shall determine the form and manner for submission of district plans and may publish templates, guidance, and other resources.

(6) Each district shall post its plan on its website.

REGULATORY AUTHORITY

603 CMR 27.00: M.G.L. c. 69, § 1G; M.G.L. c. 69, § 1B.

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Docket # 326

THE COMMONWEALTH OF MASSACHUSETTS
William Francis Galvin
Secretary of the Commonwealth

Regulation Filing *To be completed by filing agency*

CHAPTER NUMBER: **760 CMR 57.00**

CHAPTER TITLE: **RAFT COVID-19 Emergency Regulation**

AGENCY: **Department of Housing and Community Development**

SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*

The regulation allows the Department of Housing and Community Development to expeditiously process applications for families at risk of eviction to access Residential Assistance for Families in Transition (RAFT) program benefits in order to preserve safe and stable housing

REGULATORY AUTHORITY: **M.G.L. c. 23B, §§ 3 and 6.**

AGENCY CONTACT: **Christine McClave** PHONE: **508-265-2080**

ADDRESS: **100 Cambridge Street, Suite 300, Boston, MA 02114**

Compliance with M.G.L. c. 30A

EMERGENCY ADOPTION - *if this regulation is adopted as an emergency, state the nature of the emergency.*

This regulation is related to the state of emergency declared by Governor Baker in response to the COVID-19 public health emergency.

PRIOR NOTIFICATION AND/OR APPROVAL - *If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.*

N/A

PUBLIC REVIEW - *M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period, including a small business impact statement, be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.*

Date of public hearing or comment period: **N/A**

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FISCAL EFFECT - *Estimate the fiscal effect of the public and private sectors.*

For the first and second year: _____

For the first five years: _____

No fiscal effect: _____

SMALL BUSINESS IMPACT - *M.G.L. c. 30A section 5 requires each agency to file an amended small business impact statement with the Secretary of the Commonwealth prior to the adoption of a proposed regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.*

Date amended small business impact statement was filed: **N/A**

CODE OF MASSACHUSETTS REGULATIONS INDEX - *List key subjects that are relevant to this regulation:*
Housing; Evictions

PROMULGATION - *State the action taken by this regulation and its effect on existing provisions of the Code of Massachusetts Regulations (CMR) or repeal, replace or amend. List by CMR number:*

N/A

ATTESTATION - *The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency.* ATTEST:

SIGNATURE: SIGNATURE ON FILE DATE: **Dec 16 2020**

Publication - *To be completed by the Regulations Division*

MASSACHUSETTS REGISTER NUMBER: **1434** DATE: **01/08/2021**

EFFECTIVE DATE: **12/16/2020**

CODE OF MASSACHUSETTS REGULATIONS

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SECRETARY OF THE COMMONWEALTH
DATE 12/16/2020 CLERK RB

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760 CMR 57.00: RAFT COVID-19 EMERGENCY REGULATIONS

Section

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57.02: Scope and Applicability
57.03: Eligibility
57.04: Requirement for MassHealth and DTA to Disclose Eligibility Information
57.06: Eligibility Information
57.05: Requirement for DOR and DUA to Disclose Eligibility Information to DHCD
57.07: Privacy, Confidentiality, and Safeguards
57.08: Guidance
57.09: Severability

EMERGENCY PREAMBLE

On March 10, 2020 Governor Baker declared a state of emergency in the Commonwealth because of the public health risks caused by the novel coronavirus, COVID-19. The Secretary finds that immediate adoption of 760 CMR 57.00 is necessary during the state of emergency to address the immediate need for families facing eviction to access benefits through the Residential Assistance for Families in Transition (RAFT) program. Expeditiously processing applications for this assistance will help at-risk families to preserve safe and stable housing.

57.01: Purpose

The purpose of 760 CMR 57.00 is to establish legal authority for the Department of Housing and Community Development (DHCD) and its contracted regional administering agencies to obtain personal information from other state agencies that will expedite the processing of RAFT applications.

57.02: Scope and Applicability

Notwithstanding anything in 760 CMR 57.00 to the contrary, 760 CMR 57.00 applies to all persons who have applied for RAFT benefits or intend to apply for RAFT benefits during the state of emergency.

57.03: Eligibility

RAFT applicants who are receiving MassHealth benefits or Department of Transitional Assistance (DTA) administered benefits will be presumed income eligible for RAFT benefits.

57.04: Requirement for MassHealth and DTA to Disclose Eligibility Information

Upon the request of DHCD, and to the extent the use or disclosure is not inconsistent with applicable federal or state law or regulation, MassHealth and DTA must disclose Eligibility Information, including personal data, as defined in M.G.L. c. 66A, § 1, protected health information defined in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and 45 CFR 160 and 164, and any other personal information.

57.05: Requirement for DOR and DUA to Disclose Eligibility Information to DHCD

Upon the request of DHCD, and to the extent the use or disclosure is not inconsistent with applicable federal or state law or regulation, Department of Revenue (DOR) and Department of Unemployment Assistance (DUA) must disclose Eligibility Information, including personal data, as defined in M.G.L. c. 66A, § 1, eligibility, income, wage, and other personal information, as necessary, for DHCD and its contracted regional administering agencies to expeditiously process RAFT applications.

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57.06: Eligibility Information

For the purposes of 760 CMR 57.00, Eligibility Information shall consist of the following:
(a) For information owned by MassHealth, it shall consist of eligibility status for MassHealth programs, coverage, plan, or benefit type.
(b) For information owned by DTA, it shall consist of eligibility status for DTA programs, benefit type, and household income.
(c) For information owned by DUA, it shall consist of unemployment insurance benefit payment information.
(d) For information owned by DOR, it shall consist wage reporting match to verify wages and financial eligibility.

As directed by DHCD, Eligibility Information may be disclosed to DHCD or to its contracted administering agencies to expeditiously process RAFT applications.

57.07: Privacy, Confidentiality, and Safeguards

Information received by DHCD and its contracted administering agencies from MassHealth, DOR, DUA and DTA shall be kept private, confidential, and safeguarded at all times and in accordance with applicable law. DHCD and its contracted agencies will comply with all state and federal laws concerning the confidentiality of information, including M.G.L. c. 66A, M.G.L. c. 93H; 801 CMR 3.00: *Privacy and Confidentiality*; and 201 CMR 17.00: *Standards for the Protection of Personal Information of Residents of the Commonwealth*.

57.08: Guidance

Further guidance on administration of the RAFT program is provided in the RAFT Administrative Plan.

57.09: Severability

The provisions of 760 CMR 57.00 are severable. If any provisions of 760 CMR 57.00 or the applications of such provisions to any person or circumstance are held invalid or unconstitutional, the other provisions of 760 CMR 57.00, or the application of such provisions to any person or circumstance other than that as to which it is held invalid or unconstitutional, will not be affected thereby.

REGULATORY AUTHORITY

760 CMR 57.00: M.G.L. c. 23B, §§ 3 and 6.

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Docket # 100

THE COMMONWEALTH OF MASSACHUSETTS
William Francis Galvin
Secretary of the Commonwealth

Regulation Filing *To be completed by filing agency*

CHAPTER NUMBER: **803 CMR 2.00**

CHAPTER TITLE: **Criminal Offender Record Information (CORI)**

AGENCY: **Department of Criminal Justice Information Services**

SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*

803 CMR 2.00 sets forth the establishment and use of the iCORI system to access CORI. 803 CMR 2.00 further sets forth procedures for accessing CORI for the purposes of evaluating applicants for employment, volunteer opportunities, and professional licensing, and it also details CORI complaint procedures. The exact language of this emergency regulation is already in effect, and DCJIS merely seeks to extend it. Specifically, this emergency regulation amends 803 CMR 2.09 to permit CORI requestors to verify a subject's identity by teleconference or by an alternative means specifically approved by DCJIS. It incorporates additions made after and as a result of a public hearing held on June 19, 2020.

REGULATORY AUTHORITY: **M.G.L. c. 6, § 172(c); M.G.L. c. 6, § 167A**

AGENCY CONTACT: **Jamison R. Gagnon, Commissioner** PHONE: **617-660-4643**

ADDRESS: **200 Arlington Street, Suite 2200, Chelsea, MA 02150**

Compliance with M.G.L. c. 30A

EMERGENCY ADOPTION - *if this regulation is adopted as an emergency, state the nature of the emergency.*

Given the continuing nature of the COVID-19 pandemic, DCJIS seeks to extend its emergency regulation which adds procedures to address the difficulty of in-person verification for accessing a subject's CORI. This emergency regulation is necessary to enable employers to bring on new employees or volunteers and allow agencies to continue vital functions during the pandemic.

PRIOR NOTIFICATION AND/OR APPROVAL - *If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.*

Public Hearing Held: 6/19/20; Written Comments Accepted Through: 6/22/20
Notification to Local Government Advisory Commission: 12/11/20
Approval by Governor's Office of Administration & Finance: 6/26/20

PUBLIC REVIEW - *M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period, including a small business impact statement, be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.*

Date of public hearing or comment period: **6/19/20 (Hearing); 6/22/20 (Comment Deadline)**

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FISCAL EFFECT - *Estimate the fiscal effect of the public and private sectors.*

For the first and second year: **No fiscal impact**

For the first five years: **No fiscal impact**

No fiscal effect: **No fiscal impact**

SMALL BUSINESS IMPACT - *M.G.L. c. 30A section 5 requires each agency to file an amended small business impact statement with the Secretary of the Commonwealth prior to the adoption of a proposed regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.*

Date amended small business impact statement was filed: **N/A (Emergency Regulation)**

CODE OF MASSACHUSETTS REGULATIONS INDEX - *List key subjects that are relevant to this regulation:*

Criminal Offender Record Information
iCORI
Criminal Justice Information System
CORI Verification

PROMULGATION - *State the action taken by this regulation and its effect on existing provisions of the Code of Massachusetts Regulations (CMR) or repeal, replace or amend. List by CMR number:*

This regulation will extend amendments to 803 CMR 2.09 which allow iCORI users to verify the identity of an applicant by teleconference rather than in person or by an alternate method approved by DCJIS.

ATTESTATION - *The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency.* ATTEST:

SIGNATURE: SIGNATURE ON FILE DATE: **Dec 21 2020**

Publication - *To be completed by the Regulations Division*

MASSACHUSETTS REGISTER NUMBER: **1434** DATE: **01/08/2021**

EFFECTIVE DATE: **06/29/2020**

CODE OF MASSACHUSETTS REGULATIONS

Remove these pages:	*Insert these pages:*
This is an Emergency Regulation.	**There are no Replacement Pages.**

A TRUE COPY ATTEST
WILLIAM FRANCIS GALVIN
SECRETARY OF THE COMMONWEALTH
DATE 12/22/2020 CLERK MG

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2.09: continued

(4) In the course of reviewing a CORI acknowledgment form, if the requestor finds other names or dates of birthused by the subject or by which the subject has been known, the requestor may submit this information to the iCORI system. Requestors shall notify the subject of the source of the identifying information when the CORI results are returned. When the requestor is a CRA, the CRA's client shall notify the subject of the source of the identifying information.

(5) A requestor shall verify a subject's identity by examining a suitable form of government-issued identification containing a photograph of the subject. Acceptable types of government-issued identification are:

(a) a state-issued driver's license;
(b) a state-issued identification card with a photograph;
(c) a passport;
(d) a military identification card;
(e) Native American Tribal documents; and
(f) other forms of documentation as determined by the DCJIS.

(6) If a subject does not have an acceptable form of government-issued identification, a requestor shall verify identity by reviewing either the subject's birth certificate or social security card.

(7) If a requestor is unable to verify a subject's identity and signature in person, the subject may submit a completed CORI Acknowledgement Form acknowledged by the subject before a notary public.

(8) During the state of emergency declared by the Governor on March 10, 2020 as a result of the COVID-19 Pandemic, requestors that are unable to verify a subject's identity either in person or by acceptance of a notarization CORI Acknowledgment Form as provided in 803 CMR 2.09(7) and must complete a CORI request in response to the 2020 COVID-19 Pandemic shall verify the identity of the subject by inspection of a photographic form of government issued identification *via* teleconference. Effective upon termination of the state of emergency, all CORI requests verified in this manner shall be verified either in person or through the submission of a notarized CORI Acknowledgement Form within seven business days.

An advocate or attorney may use 803 CMR 2.09(8) to submit a personal CORI request for and on behalf of that advocate/attorney's client; effective upon termination of the state of emergency, all such CORI requests submitted by an advocate or attorney pursuant to 803 CMR 2.09(8) shall be verified either in person or through the submission of a notarized CORI Acknowledgement Form within 30 calendar days.

(9) Requestors that are unable to verify a subject's identity as outlined in 803 CMR 2.09(7) or (8) and have a need to submit a CORI request in response to the 2020 COVID-19 Pandemic, may petition DCJIS for an alternative means of identity verification. An advocate or attorney may use 803 CMR 2.09(9) to submit such a petition for a personal CORI request for and on behalf of that advocate/attorney's client. DCJIS may grant, deny or suggest an alternative means of identity verification sufficient to reasonably verify the subject's identity. Effective upon termination of the state of emergency, DCJIS may require CORI requests verified under such alternative means to be verified either in person or through the submission of a notarized CORI Acknowledgement Form within seven business days.

(10) A requestor shall submit the subject's name, date of birth, and, if available, the last six digits of the subject's social security number.

(11) For employers, volunteer organizations, and governmental licensing agencies, CORI Acknowledgment Forms shall be valid for one year from the subject's having signed the form or until the conclusion of a subject's employment or licensing period, whichever comes first.

An employer, volunteer organization and government licensing agency may submit a new request for CORI within one year of the subject's having signed the original CORI Acknowledgment Form as long as the requestor notifies the subject on its CORI Acknowledgment Form that a CORI may be requested at any time within that one year.

(12) Nothing in 803 CMR 2.00 shall be construed to prohibit an employer or governmental licensing agency from making an adverse employment, volunteer, or licensing decision on the basis of a subject's objection to a request for CORI.

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2.09: continued

(13) If a subject's professional license expires or is revoked, a subject's CORI Acknowledgment Form shall become invalid.

(14) CORI Acknowledgement Forms must be retained by the requestor for a minimum of one year from the date of the subject's signature.

2.10: Electronic Submission of CORI Acknowledgment Forms

(1) A requestor may collect CORI Acknowledgment Forms through electronic means including, but not limited to, the requestor's electronic application. When CORI Acknowledgment Forms are collected electronically, the requestor must comply with all provisions set forth in 803 CMR 2.09.

(2) To satisfy the requirement pertaining to verification of the subject's identity as set forth in 803 CMR 2.09(3), the subject may submit a notarized copy of the CORI Acknowledgment Form as provided in 803 CMR 2.09(5). Such notarized form shall be either uploaded into the requestor's electronic system or transmitted electronically to the requestor prior to the submission of the subject's CORI request.

2.11: Identity Verification Exemption for Subsequent CORI Checks

(1) A new CORI request may be submitted within one year as provided in 803 CMR 2.09(7).

(2) For CORI requests submitted for the same subject after one year, requestors shall obtain a new completed CORI Acknowledgment Form.

(a) If the information provided on the CORI Acknowledgment Form exactly matches the information on the expired CORI Acknowledgement Form, then the requestor is not required to verify the subject's identity a second time.

(b) If the name and/or date of birth provided on the CORI Acknowledgement Form differs from the information on the expired CORI Acknowledgment Form, then all steps, including verification of identity as provided in 803 CMR 2.09, must be followed prior to the submission of a new CORI request.

2.12: Storage and Retention of CORI

(1) Hard copies of CORI shall be stored in a separate locked and secure location, such as a file cabinet. Access to the locked and secure location shall be limited to employees who have been approved to access CORI.

(2) Electronically-stored CORI shall be password protected and encrypted. Password access shall be limited to only those employees who have been approved to access CORI.

(3) CORI may be stored using cloud storage methods. When CORI is stored using cloud storage methods the following shall be followed:

(a) The requestor must have a written agreement with the cloud storage provider. The written agreement shall include the minimum security requirements published by the DCJIS concerning cloud storage. Said agreement is subject to inspection by the DCJIS and shall be provided to DCJIS upon request.

(b) The cloud storage method must provide for encryption and password protection of all CORI.

(4) CORI shall not be retained for longer than seven years from the date of employment or volunteer service, or from the date of the final employment, volunteer, or licensing decision of the requestor regarding the subject, whichever occurs later.

2.13: Destruction of CORI and CORI Acknowledgment Forms

(1) Hard copies of CORI and CORI Acknowledgment Forms shall be destroyed by shredding or burning.

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2.13: continued

(2) Electronic copies of CORI and CORI Acknowledgment Forms shall be destroyed by deleting them from the device on which they are stored and from any system used to back up the information and by degaussing the device or overwriting the files with 1s and 0s multiple times.

(3) CORI and CORI Acknowledgment Forms shall be appropriately destroyed by electronic or mechanical means before disposing of, or repurposing, a computer or other device used to store CORI.

2.14: Required Dissemination of CORI by an Employer, Volunteer Organization, or Governmental Licensing Agency

(1) Each employer, volunteer organization, and governmental licensing agency shall provide a copy of a subject's CORI or other criminal history information, and shall disclose the source of the information, to him or her:

(a) before asking any questions about the subject's criminal history; and

(b) before making an adverse employment, volunteer, or licensing decision based on the subject's CORI.

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Docket # 317

THE COMMONWEALTH OF MASSACHUSETTS
William Francis Galvin
Secretary of the Commonwealth

Notice of Compliance

Regulation Filing *To be completed by filing agency*

CHAPTER NUMBER: **101 CMR 21.00**

CHAPTER TITLE: **COVID-19 Testing for Staff at Agency Facilities**

AGENCY: **Executive Office of Health and Human Services**

THIS REGULATION WAS ORIGINALLY FILED AS AN EMERGENCY:

Published in Massachusetts Register Number: **1429** *Date:* **10/30/2020**

PRIOR NOTIFICATION AND/OR APPROVAL - *If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.*

Executive Order 145 notifications: 10/5/20

Executive Order 562 approval: 12/14/20

PUBLIC REVIEW - *M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period, including a small business impact statement, be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.*

Date of public hearing or comment period: **10/16/20 -11/6/20**

SMALL BUSINESS IMPACT - *M.G.L. c. 30A section 5 requires each agency to file an amended small business impact statement with the Secretary of the Commonwealth prior to the adoption of a proposed regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.*

Date amended small business impact statement was filed: **12/23/20**

AGENCY CONTACT: **Deborah Briggs, MassHealth Publications** PHONE: **617-847-3302**

ADDRESS: **100 Hancock Street, Quincy, MA 02171**

ATTESTATION - *The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency.*

ATTEST:

SIGNATURE: SIGNATURE ON FILE DATE: **Dec 24 2020**

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Publication - *To be completed by the Regulations Division*

MASSACHUSETTS REGISTER NUMBER: **1434** DATE: **01/08/2021**

EFFECTIVE DATE: **10/05/2020**

CODE OF MASSACHUSETTS REGULATIONS

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WILLIAM FRANCIS GALVIN
SECRETARY OF THE COMMONWEALTH

DATE 12/24/2020 CLERK MG

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NON-TEXT PAGE

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101 CMR 21.00: COVID-19 TESTING FOR STAFF AT AGENCY FACILITIES

Section

21.01: Applicability
21.02: Purpose
21.03: Definitions
21.04: COVID-19 Testing for Staff at Agency Facilities
21.05: Implementation and Clarification
21.06: Severability

21.01: Applicability

101 CMR 21.00 applies to staff at Agency facilities.

21.02: Purpose

The purpose of 101 CMR 21.00 is to identify staff with asymptomatic or symptomatic COVID-19 infections in order to prevent viral transmission.

21.03: Definitions

As used in 101 CMR 21.00, unless the context requires otherwise, terms have the meanings in 101 CMR 21.03.

Agency. The Executive Office of Health and Human Services (EOHHS) or any department, agency, commission, office, board, division, or any other body within EOHHS as set out in M.G.L. c. 6A, § 16, including the Executive Office of Elder Affairs.

COVID-19. A contagious, sometimes fatal, respiratory disease caused by a newly discovered coronavirus that led to the declaration of a federal public health emergency and a state of emergency for the Commonwealth of Massachusetts.

COVID-19 Testing. The process of a collection of a specimen from an individual for the purposes of determining the presence or absence of SARS-CoV-2 viral material in said specimen at an EOHHS-approved COVID-19 testing vendor.

COVID-19 Testing Vendor. Providers of COVID-19 Tests as defined in 101 CMR 22.00.

21.04: COVID-19 Testing for Staff at Agency Facilities

(1) Testing Requirement. Staff at the following Agency facilities will receive periodic COVID-19 tests:
(a) state hospitals;
(b) the Chelsea and Holyoke Soldiers' Homes;
(c) state-operated congregate care facilities; and
(d) any other Agency facility designated by the Secretary.

(2) Staff Subject to Testing Requirement. The following staff are subject to mandatory, periodic testing for COVID-19 in accordance with implementation guidance issued by EOHHS:
(a) All persons regularly reporting, whether part-time or full-time, paid or unpaid, working, interning, or volunteering at the physical facility or site, who have the potential for exposure to patients or residents or to infectious materials, including body substances, contaminated medical supplies and equipment, contaminated environmental surfaces, or contaminated air;
(b) Staff (whether employed directly by or contracted by an Agency) who are potentially exposed to infectious agents that can be transmitted to and from staff and patients or residents including, but not limited to, direct care staff, clinicians, physicians, nurses, nursing assistants, therapists, technicians, dental personnel, pharmacists, laboratory personnel, students and trainees, and contractual personnel; and

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21.04: continued

(c) Staff not directly involved in patient or resident care, but potentially exposed to infectious agents that can be transmitted to and from staff and patients or residents (such as administrative, clerical, dietary, housekeeping, human resources, laundry, security, maintenance, or billing staff; chaplains; volunteers; or any other individual working at the facility).

(3) Staff Not Subject to Testing. The following staff are not subject to the testing requirement in 101 CMR 21.04(1):

(a) persons who work entirely remotely or off-site;

(b) staff on leave, such as family medical leave; or

(c) temporary staff provided by the Commonwealth (such as by an EOHHS clinical rapid response team or the Massachusetts National Guard).

(4) Failure to Comply with Testing Requirement. Agency staff who fail to comply with the testing requirement will be subject to discipline, up to and including, termination. Contracted staff will not be permitted to work at the facility.

21.05: Implementation and Clarification

(1) Administrative Bulletins. EOHHS may issue administrative bulletins to clarify substantive provisions of 101 CMR 21.00.

(2) Implementation Guidance. EOHHS may develop policies, guidelines, or memoranda to implement 101 CMR 21.00, including testing requirements, frequency, or other process and operational components.

21.06: Severability

The provisions of 101 CMR 21.00 are severable. If any provisions of 101 CMR 21.00 or the applications of such provisions to any person or circumstance are held invalid or unconstitutional, the other provisions of 101 CMR 21.00, or the application of such provisions to any person or circumstance other than that as to which it is held invalid or unconstitutional, will not be affected thereby.

REGULATORY AUTHORITY

101 CMR 21.00: M.G.L. c. 6A, § 16.

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Docket # 318

THE COMMONWEALTH OF MASSACHUSETTS
William Francis Galvin
Secretary of the Commonwealth

Notice of Compliance

Regulation Filing *To be completed by filing agency*

CHAPTER NUMBER: **101 CMR 22.00**

CHAPTER TITLE: **Requirement to Disclose COVID-19 Test Results to EOHHS**

AGENCY: **Executive Office of Health and Human Services**

THIS REGULATION WAS ORIGINALLY FILED AS AN EMERGENCY:

Published in Massachusetts Register Number: **1429** *Date:* **10/30/2020**

PRIOR NOTIFICATION AND/OR APPROVAL - *If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.*

Executive Order 145 notifications: 10/5/20

Executive Order 562 approval: 12/11/20

PUBLIC REVIEW - *M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period, including a small business impact statement, be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.*

Date of public hearing or comment period: **10/16/20 -11/6/20**

SMALL BUSINESS IMPACT - *M.G.L. c. 30A section 5 requires each agency to file an amended small business impact statement with the Secretary of the Commonwealth prior to the adoption of a proposed regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.*

Date amended small business impact statement was filed: **12/23/20**

AGENCY CONTACT: **Deborah Briggs, MassHealth Publications** PHONE: **617-847-3302**

ADDRESS: **100 Hancock Street, Quincy, MA 02171**

ATTESTATION - *The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency.*

ATTEST:

SIGNATURE: SIGNATURE ON FILE DATE: **Dec 24 2020**

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Publication - *To be completed by the Regulations Division*

MASSACHUSETTS REGISTER NUMBER: **1434** DATE: **01/08/2021**

EFFECTIVE DATE: **10/05/2020**

CODE OF MASSACHUSETTS REGULATIONS

Remove these pages:	*Insert these pages:*

A TRUE COPY ATTEST

WILLIAM FRANCIS GALVIN
SECRETARY OF THE COMMONWEALTH

DATE 12/24/2020 CLERK MG

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101 CMR 22.00: REQUIREMENT TO DISCLOSE COVID-19 TEST RESULTS TO EOHHS

Section

22.01: Applicability
22.02: Purpose
22.03: Definitions
22.04: Requirement to Disclose COVID-19 Test Results to EOHHS
22.05: Use, Disclosure, and Safeguarding of COVID-19 Test Results
22.06: Implementation and Clarification
22.07: Severability

22.01: Applicability

101 CMR 22.00 applies to COVID-19 Testing Vendors.

22.02: Purpose

(1) The purpose of 101 CMR 22.00 is to require COVID-19 Testing Vendors to disclose COVID-19 Test Results to EOHHS to effectively manage and coordinate the health and safety of Agency Staff, Clients, and the Commonwealth.

(2) Nothing in 101 CMR 22.00 is intended to conflict, limit, or prohibit COVID-19 Testing Vendors from disclosing COVID-19 Test Results in any other manner authorized, permitted, or required by federal or state law.

(3) Nothing in 101 CMR 22.00 is intended to conflict, limit, or prohibit the Department of Public Health or any other public health entity from receiving, using, or disclosing COVID-19 information under separate or existing authority.

22.03: Definitions

As used in 101 CMR 22.00, unless the context requires otherwise, terms have the meanings in 101 CMR 22.03.

Agency. The Executive Office of Health and Human Services (EOHHS) or any department, agency, commission, office, board, division, or any other body within EOHHS as set out in M.G.L. c. 6A, § 16, including the Executive Office of Elder Affairs.

Applicable Law. Any other applicable federal or state law or regulation pertaining to the use, disclosure, maintenance, privacy, security, or confidentiality of personally identifiable information.

Business Associate. A term defined in 45 CFR Part 160, § 103.

Covered Entity. An entity as defined in 45 CFR Part 160, § 103.

COVID-19. A contagious, sometimes fatal, respiratory disease caused by a newly discovered coronavirus that led to the declaration of a federal public health emergency and a state of emergency for the Commonwealth of Massachusetts.

COVID-19 Test Result. The result of a collection of a specimen from an individual for the purpose of determining the presence or absence of SARS-CoV-2 viral material in said specimen along with personally identifiable information that identifies the individual. Such result may be subject to HIPAA, FIPA, and/or Applicable Law.

COVID-19 Testing Vendor. A vendor, including a Covered Entity, Business Associate, Holder, or any other entity subject to HIPAA, FIPA, or Applicable Law, that provides COVID-19 Test Results.

FIPA. The Fair Information Practices Act, found at M.G.L. c. 66A, and its attendant regulations at 801 CMR 3.00: *Privacy and Confidentiality*.

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22.03: continued

HIPAA. The Health Insurance Portability and Accountability Act of 1996 and its attendant regulations at 45 CFR Parts 160, 162 and 164.

Holder. A term defined in M.G.L. c. 66A, § 1.

22.04: Requirement to Disclose COVID-19 Test Results to EOHHS

Upon the request of EOHHS, COVID-19 Testing Vendors must disclose COVID-19 Test Results to EOHHS. EOHHS may disclose such COVID-19 Test Results to its Agencies.

22.05: Use, Disclosure, and Safeguarding of COVID-19 Test Results

EOHHS or its Agencies may use, disclose, and safeguard COVID-19 Test Results pursuant to 101 CMR 16.00: *Personal Data Use and Permitted Disclosures by and among EOHHS and Its Agencies*.

22.06: Implementation and Clarification

(1) Administrative Bulletins. EOHHS may issue administrative bulletins to clarify substantive provisions of 101 CMR 22.00.

(2) Implementation Guidance. EOHHS may develop policies, guidelines, or memoranda to implement 101 CMR 22.00, and which may include disclosure requirements, manner transmission, or security.

22.07: Severability

The provisions of 101 CMR 22.00 are severable. If any provisions of 101 CMR 22.00 or the applications of such provisions to any person or circumstance are held invalid or unconstitutional, the other provisions of 101 CMR 22.00, or the application of such provisions to any person or circumstance other than that as to which it is held invalid or unconstitutional, will not be affected thereby.

REGULATORY AUTHORITY

101 CMR 22.00: M.G.L. c. 6A, § 16.

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(101 CMR 23.00 THROUGH 128.00: RESERVED)

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(PAGES 109 THROUGH 150 ARE RESERVED FOR FUTURE USE.)

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Docket # 329

THE COMMONWEALTH OF MASSACHUSETTS
William Francis Galvin
Secretary of the Commonwealth

Regulation Filing *To be completed by filing agency*

CHAPTER NUMBER: **101 CMR 206.00**

CHAPTER TITLE: **Standard Payments to Nursing Facilities**

AGENCY: **Executive Office of Health and Human Services**

SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*

101 CMR 206.00 governs the payments for services rendered to publicly aided and industrial accidentresidents by nursing facilities including residents in a residential care unit of a nursing facility.

REGULATORY AUTHORITY: **101 CMR 206.00: M.G.L. c. 118E.**

AGENCY CONTACT: **Deborah Briggs, MassHealth Publications** PHONE: **617-847-3302**

ADDRESS: **100 Hancock Street, Quincy, MA 02171**

Compliance with M.G.L. c. 30A

EMERGENCY ADOPTION - *if this regulation is adopted as an emergency, state the nature of the emergency.*

PRIOR NOTIFICATION AND/OR APPROVAL - *If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.*

EO 145 Notifications: October 5, 2020
EO 562 approval: December 24, 2020

PUBLIC REVIEW - *M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period, including a small business impact statement, be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.*

Date of public hearing or comment period: **November 6, 2020**

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FISCAL EFFECT - *Estimate the fiscal effect of the public and private sectors.*

For the first and second year: **Approximately $147 million**

For the first five years: _____

No fiscal effect: _____

SMALL BUSINESS IMPACT - *M.G.L. c. 30A section 5 requires each agency to file an amended small business impact statement with the Secretary of the Commonwealth prior to the adoption of a proposed regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.*

Date amended small business impact statement was filed: **N/A**

CODE OF MASSACHUSETTS REGULATIONS INDEX - *List key subjects that are relevant to this regulation:*

PROMULGATION - *State the action taken by this regulation and its effect on existing provisions of the Code of Massachusetts Regulations (CMR) or repeal, replace or amend. List by CMR number:*

101 CMR 206.00 is being amended.

ATTESTATION - *The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency.* ATTEST:

SIGNATURE: SIGNATURE ON FILE DATE: **Dec 20 2020**

Publication - *To be completed by the Regulations Division*

MASSACHUSETTS REGISTER NUMBER: **1434** DATE: **01/08/2021**

EFFECTIVE DATE: **01/08/2021**

CODE OF MASSACHUSETTS REGULATIONS

Remove these pages:	*Insert these pages:*
401 - 420.4	**401 - 420.6**

A TRUE COPY ATTEST

WILLIAM FRANCIS GALVIN
SECRETARY OF THE COMMONWEALTH

DATE 12/24/2020 CLERK MG

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101 CMR 206.00: STANDARD PAYMENTS TO NURSING FACILITIES

Section

206.01: Scope and Purpose
206.02: General Definitions
206.03: General Payment Provisions
206.04: Nursing Standard Payments and Operating Cost Standard Payments
206.05: Capital Standard Payments
206.06: Other Payment Provisions
206.07: Payments for Individuals in a Disaster Struck Nursing Facility
206.08: Reporting Requirements
206.09: Special Provisions
206.10: COVID-19 Payment Provisions
206.11: Rates for Severe Mental and Neurological Disorder Services
206.12: Direct Care Cost Quotient
206.13: Average Staffing Hours Incentive
206.14: Density Reduction in Nursing Facilities

206.01: Scope and Purpose

101 CMR 206.00 governs the payments effective October 1, 2020 for services rendered to publicly aided and industrial accident residents by nursing facilities, including residents in a residential care unit of a nursing facility. 101 CMR 206.00 does not govern nursing facility payments pursuant to a contract with the Office of Medicaid.

206.02: General Definitions

As used in 101 CMR 206.00, unless the context requires otherwise, terms have the following meanings.

Administrative and General Costs. Administrative and general costs include the amounts reported in the following accounts: administrator salaries; payroll taxes - administrator; worker's compensation - administrator; group life/health - administrator; administrator pensions; other administrator benefits; clerical; EDP/payroll/bookkeeping services; administrator-in-training; office supplies; phone; conventions and meetings; help wanted advertisement; licenses and dues, resident-care related; education and training - administration; accounting - other; insurance - malpractice; other operating expenses; realty company variable costs; management company allocated variable costs; and management company allocated fixed costs.

Administrator-in-training. A person registered with the Board of Registration of Nursing Home Administrators and involved in a course of training as described in 245 CMR: *Board of Registration of Nursing Home Administrators*.

Advanced Dementia Exclusion. A determination by the Department of Mental Health or its designee, the Massachusetts Medical School Pre-admission Screening and Resident Review (PASRR) Unit, that a diagnosis of serious mental illness does not apply to an individual, for the purposes of PASRR, when that individual has a diagnosis of dementia or Alzheimer's disease and/or related disorder (ADRD) that co-occurs with a mental illness/disorder diagnosis, and the dementia/ADRD is both primary and so severe that the individual would be unable to benefit from treatment.

Audit. An examination of the provider's cost report and supporting documentation to evaluate the accuracy of the financial statements and identification of Medicaid patient-related costs.

Base Year. The calendar year used to compute the standard payments.

Capital Costs. Capital costs include building depreciation, financing contribution, building insurance, real estate taxes, non-income portion of Massachusetts Corporate Excise Taxes, other rent, and other fixed costs.

Center. The Center for Health Information and Analysis established under M.G.L. c. 12C.

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206.02: continued

Centers for Medicare and Medicaid Services (CMS). The federal agency under the U.S. Department of Health and Human Services that is responsible for administering the Medicare and Medicaid programs.

Department of Public Health (DPH). An agency of the Commonwealth of Massachusetts, established under M.G.L. c. 17, § 1.

Direct Restorative Therapy. Services of physical therapists, occupational therapists, and speech, hearing, and language therapists provided directly to individual residents to reduce physical or mental disability and to restore the resident to maximum functional level. Direct restorative therapy services are provided only upon written order of a physician, physician assistant, or nurse practitioner who has indicated anticipated goals and frequency of treatment to the individual resident. Direct restorative therapy services include supervisory, administrative, and consulting time associated with provision of the services. These include, but are not limited to, reviewing preadmission referrals, informally communicating with families, scheduling treatments, completing resident care documentation including MDS documentation, screening of patients, writing orders, meeting with aides to discuss patients, consulting with physicians and nurse practitioners, managing equipment, and assessing equipment needs of patients.

Equipment. A fixed asset, usually moveable, accessory or supplemental to the building, including such items as beds, tables, and wheelchairs.

Executive Office of Health and Human Services (EOHHS). The executive department of the Commonwealth of Massachusetts established under M.G.L. c. 6A, § 2 that, through the Executive Office of Elder Affairs, the MassHealth program, and other agencies within EOHHS, as appropriate, operates and administers the programs of medical assistance and medical benefits under M.G.L. c. 118E and that serves as the single state agency under section 1902(a)(5) of the Social Security Act.

Financing Contribution. Payment for the use of necessary capital assets whether internally or externally funded.

Generally Available Employee Benefits. Employee benefits that are nondiscriminatory and available to all full-time employees.

Hospital-based Nursing Facility. A separate nursing facility unit or units located in a hospital building licensed for both hospital and nursing facility services in which the nursing facility licensed beds are less than a majority of the facility's total licensed beds and the nursing facility patient days are less than a majority of the facility's total patient days. It does not include freestanding nursing facilities owned by hospitals.

Improvements. Expenditures that increase the quality of the building by rearranging the building layout or substituting improved components for old components so that the provider is in some way better than it was before the renovation. Improvements do not add to or expand the square footage of the building. An improvement is measured by the provider's increased productivity, greater capacity, or longer life.

Indirect Restorative Therapy. Indirect restorative therapy services consist only of services of physical therapists, occupational therapists, and speech, hearing, and language therapists to provide the following: orientation programs for aides and assistants; in-service training to staff; consultation and planning for continuing care after discharge; preadmission meetings with families; quality improvement activities such as record reviews, analysis of information and writing reports; personnel activities including hiring, firing, and interviewing; rehabilitation staff scheduling; and attending team meetings, including quality improvement, falls, skin team, daily admissions, interdisciplinary, departmental staff, discharge planning, and family meetings when resident is not present.

Industrial Accident Resident. A person receiving nursing facility services for which an employer or an insurer is liable under the Workers' Compensation Act, M.G.L. c. 152.

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Management Minutes. A method of measuring resident care intensity, or case mix, by discrete care-giving activities or the characteristics of residents found to require a given amount of care.

Massachusetts Corporate Excise Tax. Those taxes that have been paid to the Massachusetts Department of Revenue in connection with the filing of Form 355A, Massachusetts Corporate Excise Tax Return.

Mortgage Acquisition Costs. Those costs (such as finder's fees, certain legal fees, and filing fees) necessary to obtain long-term financing through a mortgage, bond, or other long-term debt instrument.

Nursing Costs. Nursing costs include the reported costs for director of nurses, registered nurses, licensed practical nurses, nursing aides, nursing assistants, orderlies, nursing purchased services, and the workers compensation expense, payroll tax expense, and fringe benefits, including pension expense, associated with those salaries.

Nursing Facility. A nursing or convalescent home; an infirmary maintained in a town; a charitable home for the aged, as defined in M.G.L. c. 111, § 71; or a nursing facility operating under a hospital license issued by the Department pursuant to M.G.L. c. 111, and certified by the Department for participation in MassHealth. It includes facilities that operate a licensed residential care unit within the nursing facility.

Operating Costs. Operating costs include, but are not limited to, the following reported costs: plant, operations and maintenance; dietary; laundry; housekeeping; ward clerks and medical records librarian; medical director; advisory physician; Utilization Review Committee; employee physical exams; other physician services; house medical supplies not resold; pharmacy consultant; social service worker; indirect restorative and recreation therapy expense; other required education; job related education; quality assurance professionals; Management Minute Questionnaire nurses; staff development coordinator; motor vehicle expenses including, but not limited to, depreciation, mileage payments, repairs, insurance, excise taxes, finance charges, and sales tax; and administrative and general costs.

Patient Days. The total number of days of occupancy by residents in the facility. The day of admission is included in the computation of patient days; the day of discharge is not included. If admission and discharge occur on the same day, one resident day is included in the computation. It includes days for which a provider reserves a vacant bed for a publicly aided resident temporarily placed in a different care situation, pursuant to an agreement between the provider and the MassHealth agency. It also includes days for which a bed is held vacant and reserved for a non-publicly aided resident.

Private Nursing Facility. A nursing facility that formerly served only non-Medicaid residents and does not have a provider agreement with the MassHealth agency to provide services to public residents.

Provider. A nursing facility providing care to publicly aided residents or industrial accident residents.

Prudent Buyer Concept. The assumption that a purchase price that exceeds the market price for a supply or service is an unreasonable cost.

Publicly Aided Resident. A person for whom care in a nursing facility is in whole or in part subsidized by the Commonwealth or a political subdivision of the Commonwealth. Publicly aided residents do not include residents whose care is in whole or in part subsidized by Medicare.

Related Party. An individual or organization associated or affiliated with, or that has control of, or is controlled by, the provider; or is related to the provider, or any director, stockholder, trustee, partner, or administrator of the provider by common ownership or control or in a manner specified in §§ 267(b) and (c) of the Internal Revenue Code of 1954; provided, however, that 10% is the operative factor as set out in §§ 267(b)(2) and (3). Related individuals include spouses, parents, children, spouses of children, grandchildren, siblings, fathers-in-law, mothers-in-law, brothers-in-law, and sisters-in-law.

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Replacement Facility. A nursing facility that replaces its entire building with a newly constructed facility pursuant to an approved determination of need under 105 CMR 100.000: *Determination of Need*. A facility that renovates a building previously licensed as a nursing facility is not a replacement facility.

Reported Costs. All costs reported in the cost report, less costs adjusted and/or self-disallowed in the HCF-1.

Required Education. Educational activities, conducted by a recognized school or authorized organization, required to maintain a professional license of employees that provide care to publicly aided residents. Required education also includes training for nurses' aides.

Residential Care. The minimum basic care and services and protective supervision required by the Department in accordance with 105 CMR 150.000: *Licensing of Long-term Care Facilities* for residents who do not routinely require nursing or other medically related services.

Residential Care Unit. A unit within a nursing facility licensed by the Department to provide residential care.

State Fiscal Year (SFY). The 12-month period from July 1st through June 30th.

Unit. A unit is an identifiable section of a nursing facility such as a wing, floor, or ward as defined in 105 CMR 150.000: *Licensing of Long-term Care Facilities*.

206.03: General Payment Provisions

(1) General. Nursing facility payments are prospective rates based on reported costs for a prior base year.

(a) The nursing standard payments and the operating cost standard payments are established in 101 CMR 206.04. The base year for the nursing standard payments and the operating cost standard payments effective October 1, 2020 is 2018. The nursing and operating payments are increased from the base year by a cost adjustment factor of 3.06%.

(b) The capital payments are established in 101 CMR 206.05. The base year for the capital payments effective October 1, 2020 is 2014. The capital payments are increased from the base year by a cost adjustment factor of 7.10%.

(c) Payments may be adjusted to include additional payments in accordance with 101 CMR 206.06.

(2) Ancillary Costs. Unless a provider participates in the Ancillary Pilot Program with the MassHealth agency, or a provider's payments include ancillary services pursuant to the regulations or written policy of the purchasing agency, the provider must bill ancillary services directly to the purchaser in accordance with the purchaser's regulations or policies.

(3) Disclaimer of Authorization of Services. 101 CMR 206.00 is not authorization for or approval of the substantive services, or lengths of time, for which rates are determined pursuant to 101 CMR 206.00. Governmental units that purchase services from eligible providers are responsible for the definition, authorization, and approval of services and lengths of time provided to publicly aided individuals. Information concerning substantive program requirements must be obtained from purchasing governmental units.

206.04: Nursing Standard Payments and Operating Cost Standard Payments

(1) Nursing Standard Payments. Effective October 1, 2020 nursing facilities will receive the following nursing standard payments.

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Payment Group	Management Minute Range	Nursing Standard Payment
H	0 - 30	$17.00
JK	30.1 - 110	$45.56
LM	110.1 - 170	$81.54
NP	170.1 - 225	$113.76
RS	225.1 - 270	$137.48
T	270.1 and above	$162.29

(2) Operating Cost Standard Payments. Effective October 1, 2020 nursing facilities will receive operating cost standard payments of $102.16.

206.05: Capital Standard Payments

(1) Effective October 1, 2020 nursing facilities will receive capital standard payments based on the county in which the facility is located, with exceptions as described in 101 CMR 206.05(2), 101 CMR 206.05(3) and 101 CMR 206.05(4):

County	Capital Standard Payment
Berkshire, Franklin, Hampden, Hampshire	$15.08
Middlesex, Suffolk	$17.20
Barnstable, Dukes, Nantucket	$19.32
Bristol, Essex, Norfolk, Plymouth, Worcester	$17.20

(2) Nursing Facility Capital Standard Payment Upward Adjustments.

(a) Effective October 1, 2020, if a nursing facility capital standard payment as listed in 101 CMR 206.05(1) is less than the facility's capital payment that it received as of September 30, 2020, the facility will receive the capital payment listed in 101 CMR 206.05(1), plus an upward adjustment equal to the difference between the capital standard payment as listed in 101 CMR 206.05(1) and the capital standard rate that the facility received as of September 30, 2020.

(b) Nursing facilities that meet any of the criteria listed in 101 CMR 206.05(2)(c) will be eligible for an upward adjustment to its capital standard payment as follows:

1. Determine the standard capital payment listed in 101 CMR 206.05(1) that is applicable to the facility based on the county in which the facility is located;

2. Determine the rebased capital payment that the facility would have received based on the capital standard payment calculation methodology in effect prior to October 1, 2019. For petitions for revised capital payments that were submitted on or before November 1, 2019, the calculation methodology will use a financing factor of 7.625%. For petitions for revised capital payments that were submitted after November 1, 2019, the calculation methodology will use a financing factor of 2.875%;

3. The upward adjustment is equal to the difference between the results of 101 CMR 206.05(2)(b)1. and 101 CMR 206.05(2)(b)2.

(c) A nursing facility will be eligible for an adjustment to its capital standard payment as described in 101 CMR 206.05(2)(b) if:

1. The facility has expended at least 50% of the maximum capital expenditure for an approved determination of need, and the facility has submitted a notification request for a revised capital payment to EOHHS between November 1, 2009 and November 1, 2019; or

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2. The facility expends at least 50% of the maximum capital expenditure for an approved determination of need, and the facility submits a notification request for a revised capital payment to EOHHS, provided that prior to September 30, 2021 the facility provided documentation to EOHHS of at least one of the criteria:

i. Department of Public Health plan review approval pursuant to an approved determination of need dated prior to January 1, 2020;

ii. Detailed architectural or engineering plans developed in response to an approved determination of need and submitted to the Department of Public of Health prior to January 1, 2020;

iii. Evidence of funding received, or a firm commitment to fund, from an outside lender dated prior to January 1, 2020, in an amount equal to or in excess of 50% of the maximum capital expenditure as specified in an approved determination of need;

iv. Evidence of applications made on or before January 1, 2020, to local government agencies for planning, zoning or building permits or other regulatory approvals required in connection with the implementation of an approved determination of need;

v. Evidence of the acquisition of land required for development of the project authorized by an approved determination of need;

vi. An application for a determination of need submitted to the Department of Public Health prior to January 1, 2020, and detailed architectural or engineering plans, dated prior to January 1, 2020, for the capital project contemplated in the facility's determination of need application; or

vii. Detailed architectural or engineering plans for, or evidence of applications made to local government agencies for planning, zoning, or building permits or other regulatory approvals required in connection with, conversion of rooms with three or more residents to one- and two-bedded rooms.

(3) A nursing facility that becomes operational on or after November 1, 2019, an existing nursing facility that replaces its current building on or after November 1, 2019, or an existing nursing facility that fully relocates to a newly constructed location on or after November 1, 2019 will be eligible for a capital standard payment in the amount of $37.60. Such facility will not be eligible for additional capital payments as listed 101 CMR 206.05(1) or for an adjustment to its capital standard payment as described in 101 CMR 206.05(2).

(4) A nursing facility will not receive an adjustment to its capital standard payment rate solely because of an increase or decrease in its number of licensed beds.

(5) Rate Adjustments. EOHHS may adjust any capital payment upon EOHHS's determination that there was a material error in the calculation of the payment or in the facility's documentation of its capital costs.

206.06: Other Payment Provisions

(1) Certification of Public Expenditures of a Nursing Facility Owned and Operated by a Municipality.

(a) Within 60 days after the filing of its Medicare CMS-2540 cost report, a nursing facility, which is owned and operated by a municipality, may submit a request for Certified Public Expenditures (CPE) to EOHHS. This CPE will account for its public expenditures of providing Medicaid services to eligible Medicaid recipients. The submission will be based on the inpatient routine service cost reported on the CMS-2540 Medicare cost report.

(b) Following review of the nursing facility's submission, EOHHS will, within 60 days of the submission, approve, deny, or revise the amount of the CPE request based upon its evaluation of the reported costs and payments. The final approved amount will be equal to the difference between the Medicaid interim payments and the total allowable Medicaid costs as determined by EOHHS. This final determined amount will be certified by the municipality as eligible for federal match.

(c) Interim payments are based on the standard payment methodology pursuant to 101 CMR 206.00.

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(d) EOHHS will determine total allowable Medicaid costs based on the Medicare CMS-2540 Cost Report and will determine a *per diem* rate calculated as follows.

1. Medicaid Allowable Skilled Nursing Facility Costs. Total allowable costs (Worksheet B, Part I, Line 30, Col 18), divided by total days (Worksheet S-3, Line 1, Col 7), times Medicaid days (Worksheet S-3, Line 1, Col 5).

2. Medicaid Allowable Nursing Facility Costs. Total allowable costs (Worksheet B, Part I, Line 31, Col 18), divided by total days (Worksheet S-3, Line 3, Col 7), times Medicaid days (Worksheet S-3, Line 3, Col 5).

3. Total Allowable Medicaid Costs. The sum of the amount determined in 101 CMR 206.06(1)(d)1. and 2.

(e) EOHHS will calculate an interim reconciliation based on the difference between the interim payments and total allowable Medicaid costs from the as-filed CMS-2540 Cost Report. The nursing facility must notify EOHHS immediately if the CMS-2540 is reopened or an audit is completed. Within 60 days after receiving notification of the final Medicare settlement EOHHS will retroactively adjust the final settlement amount.

(2) Quality Adjustments. Effective October 1, 2020 a nursing facility may be eligible for a quality adjustment in the form of an increase or decrease applied to the facility's nursing standard rate and operating standard rate at each acuity level. The quality adjustment will be equal to the sum of the percent increase or decrease assessed for performance on each of the following four quality measures: Quality Achievement Based on CMS Score, Quality Improvement Based on CMS Score, Quality Achievement Based on DPH Score, and Quality Improvement based on DPH Score.

(a) Quality Achievement Based on CMS Score. The quality adjustment a nursing facility will incur under the measure "Quality Achievement Based on CMS Score" will be based on the facility's overall rating on the Centers for Medicare and Medicaid Services Nursing Home Compare 5-Star Quality Rating Tool as of June 2020, as follows:

CMS Overall Score as of June 2020	Adjustment Percentage
1	-1.00%
2	-0.75%
3	0.00%
4	0.75%
5	1.00%

(b) Quality Improvement Based on CMS Score. The quality adjustment a nursing facility will incur under the measure "Quality Improvement Based on CMS Score" will be based on the facility's overall rating on the Centers for Medicare and Medicaid Services Nursing Home Compare 5-Star Quality Rating Tool, as follows. If a facility has a score of 5 Stars as of June 2020, its adjustment for this measure will be 2.0%, regardless of whether it meets any other criteria in the following table. If a facility meets the criteria for "CMS Chronic Low Quality", its adjustment for this measure will be -3.0%, regardless of whether it meets any other criteria in the following table.

Criteria based on CMS Rating	Adjustment Percentage
Facility has a score of 5 Stars as of June 2020	2%
Facility experienced an increase of 2 or more Stars from June 2019 to June 2020	1.5%
Facility experienced an increase of 1 Star from June 2019 to June 2020	1%
Facility experienced no change to its Star rating from June 2019 to June 2020	0%
Facility experienced a decrease of 1 Star from June 2019 to June 2020, and had a score of 5 Stars as of June 2019	0%
Facility experienced a decrease of 1 Star from June 2019 to June 2020, and did not have a score of 5 Stars as of June 2019	-2%

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Criteria based on CMS Rating	Adjustment Percentage
Facility experienced a decrease of 2 or more Stars from June 2019 to June 2020	-2.5%
CMS Chronic Low Quality: The average of a facility's scores as of June 2017, June 2018, June 2019 and June 2020 is less than or equal to 1.5 Stars	-3%

(c) Quality Achievement Based on DPH Score. The quality adjustment a nursing facility will incur under the measure "Quality Achievement Based on DPH Score" will be based on the facility's performance on the Department's Nursing Facility Survey Performance Tool (DPH NFSPT) as of July 1, 2020, as follows:

DPH NFSPT Score as of July 1, 2020	Adjustment Percentage
110 or less	-1.00%
111 – 115	-0.75%
116 – 119	0.00%
120 – 123	0.75%
124+	1.00%

(d) Quality Improvement Based on DPH Score. The quality adjustment a nursing facility will incur under the measure "Quality Improvement Based on DPH Score" will be based on the facility's performance on the DPH NFSPT, as follows. If a facility has an NFSPT score of 124 or higher as of July 1, 2020, its adjustment for this measure will be 2.0%, regardless of whether it meets any other criteria in the following table. If a facility meets the criteria for "DPH Chronic Low Quality", its adjustment for this measure will be -3.0%, regardless of whether it meets any other criteria in the following table.

Criteria based on DPH FSPT Score	Adjustment Percentage
Facility has a score of 124 or higher as of July 1, 2020	2.0%
Facility experienced an increase of 4 or more points from July 1, 2019 to July 1, 2020	1.5%
Facility experienced an increase of 1, 2, or 3 points from July 1, 2019 to July 1, 2020	1.0%
Facility experienced no change to its score from July 1, 2019 to July 1, 2020	0.0%
Facility experienced a decrease of 1, 2, or 3 points from July 1, 2019 to July 1, 2020, and had a score of 124 or higher as of July 1, 2019	0.0%
Facility experienced a decrease of 1, 2, or 3 points from July 1, 2019 to July 1, 2020, and did not have a score of 124 or higher as of July 1, 2019	-2.0%
Facility experienced a decrease of 4 or more points from July 1, 2019 to July 1, 2020	-2.5%
DPH Chronic Low Quality: Facility had a score of less than 100 as of each of the following dates: November 26, 2018; July 1, 2019; and July 1, 2020	-3%

(3) Kosher Food Services. Nursing facilities with kosher kitchen and food service operations may receive an add-on of up to $5 per day to reflect the additional costs of these operations.

(a) Eligibility. To be eligible for this add-on, the nursing facility must

1. maintain a fully kosher kitchen and food service operation that is, at least annually, rabbinically approved or certified; and in accordance with all applicable requirements of law related to kosher food and food products including, but not limited to, M.G.L. c. 94, § 156;

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2. provide to the Center a written certification from a certifying authority, including the complete name, address, and phone number of the certifying authority, that the applicant's nursing facility maintains a fully kosher kitchen and food service operation in accordance with Jewish religious standards. For purpose of 101 CMR 206.06(3)(a)2., the phrase "certifying authority" will mean a recognized kosher certifying organization or rabbi who has received Orthodox rabbinical ordination and is educated in matters of Orthodox Jewish law;

3. provide a written certification from the administrator of the nursing facility that the percentage of the nursing facility's residents requesting kosher foods or products prepared in accordance with Jewish religious dietary requirements is at least 50%; and

4. upon request, provide the Center with documentation of expenses related to the provision of kosher food services including, but not limited to, invoices and payroll records.

(b) Payment Amounts.

1. To determine the add-on amount, EOHHS will determine the statewide median dietary expense per day for all facilities. The add-on equals the difference between the eligible nursing facility's dietary expense per day and the statewide median dietary expense per day, not to exceed $5 per day. In calculating the per day amount, EOHHS will include allowable expenses for dietary and dietician salaries, payroll taxes and related benefits, food, dietary purchased service expense, dietician purchased service expense, and dietary supplies and expenses. The days used in the denominator of the calculation will be the higher of the nursing facility's actual days or 96% of available bed days.

2. EOHHS will compare the sum of the add-on amounts multiplied by each nursing facility's projected annual rate period Medicaid days to the state appropriation. In the event that the sum exceeds the state appropriation, each nursing facility's add-on will be proportionally adjusted.

(5) Leaves of Absence. If a purchasing agency pays for leaves of absence, the payment rate for a leave of absence day is $80.10 per day, unless otherwise determined by the purchasing agency.

(6) Nursing Cost. Eligible facilities will receive an add-on to reflect the difference between the standard payment amounts and actual base year nursing spending. To be eligible for such payment, the Department must certify to EOHHS that over 75% of the nursing facility's residents have a primary diagnosis of multiple sclerosis.

(7) Pediatric Nursing Facilities.

(a) Effective October 1, 2020 EOHHS will determine payments to facilities licensed to provide pediatric nursing facility services using allowable reported costs for nursing and other operating costs, excluding administrative and general costs, from the nursing facility's 2018 Cost Report. EOHHS will include an administrative and general payment based on the 85th percentile of the 2018 statewide administrative and general costs. EOHHS will apply an appropriate cost adjustment factor to nursing, other operating, and administrative and general costs.

(b) The nursing and operating components of the rate is increased by a cost adjustment factor of 3.06%.

(c) Facilities licensed to provide pediatric nursing facility services will receive the rates which are the greater of

1. the rates calculated as described in 101 CMR 206.06(7)(a) and (b); or

2. the Nursing Standard and Operating Cost Standard rates as listed in 101 CMR 206.04(1) and (2).

(9) Receiverships. EOHHS may adjust the rate of a receiver appointed under M.G.L. c. 111, § 72N solely to reflect the reasonable costs, as determined by EOHHS and the MassHealth agency, associated with the court-approved closure of the nursing facility.

(10) Residential Care Beds. Effective October 1, 2020 the total payment for nursing and other operating costs for residential care beds in a dually licensed nursing facility is $109.97.

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(11) State-operated Nursing Facilities. A nursing facility operated by the Commonwealth will be paid at the nursing facility's reasonable cost of providing covered Medicaid services to eligible Medicaid recipients.

(a) EOHHS will establish an interim *per diem* rate using a base year CMS-2540 cost report inflated to the rate year using the cost adjustment factor calculated pursuant to 101 CMR 206.06(11)(b) and a final rate using the final rate year CMS-2540 cost report.

(b) EOHHS will determine a cost adjustment factor using a composite index using price level data from the CMS Nursing Home without capital forecast, and regional health care consumer price indices, and the Massachusetts-specific consumer price index (CPI), optimistic forecast. EOHHS will use the Massachusetts CPI as proxy for wages and salaries.

(c) EOHHS may retroactively adjust the final settled amount when the Medicare CMS-2540 cost report is reopened or for audit adjustments.

(12) Low Occupancy Adjustment. Effective October 1, 2020 a nursing facility may be subject to a Low Occupancy Adjustment to its payment rate, according to the following methodology:

(a) Each facility's occupancy is calculated as follows:

1. Determine the facility's total resident days as reported on User Fee Reports covering the period from October 1, 2018 through September 30, 2019; and

2. Determine the facility's total number of licensed beds as of October 1, 2019, minus licensed Level IV beds and minus the number of beds not in service as reported in the facility's most recent Nursing Facility Occupancy Report, as of October 1, 2019. Multiply the result by 365 days.

3. Calculate the facility's occupancy by dividing the result of 206.06(12)(a)1 by the result of 206.06(12)(a)2.

(b) Based on the occupancy calculated in 101 CMR 206.06(12)(a), a facility may face a reduction to its nursing standard rate and operating rate, applied at each acuity level in accordance with the following chart:

Occupancy Rate	**Low Occupancy Penalty**
Occupancy below 80%	-3.0%
Occupancy of at least 80%, but below 84%	-2.0%
Occupancy of at least 84%, but below 88%	-1.0%
Occupancy of at least 88%	0.0%

(c) A nursing facility will be eligible for a one-time reconsideration of its Low Occupancy Adjustment as determined in 101 CMR 206.06(12)(b) to be applied beginning April 1, 2021, if the nursing facility:

1. Reduces by any amount its number of licensed beds from the number of licensed beds in the facility as of October 1, 2019 by March 1, 2021; and

2. Submits a rate review request to EOHHS by March 1, 2021.

(d) Upon receiving a rate review request from a nursing facility as described in 206.06(12)(c)2, EOHHS will recalculate the facility's occupancy, as follows:

1. Determine the facility's total resident days as reported on User Fee Reports covering the period October 1, 2018 through September 30, 2019; and

2. Determine the facility's total number of licensed beds as of March 1, 2021, minus the number of beds not in service as reported in the facility's most recent Nursing Facility Occupancy Report, as of October 1, 2019. Multiply the result by 365 days.

3. Calculate the facility's occupancy by dividing the result of 206.06(12)(d)1 by the result of 206.06(12)(d)2.

(e) The facility's new occupancy rate, as calculated in 206.06(12)(d)3, will be used to redetermine the amount or applicability of the Low Occupancy Adjustment, as described 206.06(12)(b). Any changes to a facility's Low Occupancy Adjustment as a result of a new occupancy rate will apply solely prospectively, beginning April 1, 2021.

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(13) Behavioral Indicator Adjustment. Effective October 1, 2020 a nursing facility may be eligible for a Behavioral Indicator Adjustment to its payment rate as follows. Eligibility for the Behavioral Indicator Adjustment will be determined based on the proportion of the facility's MassHealth residents in FY2019 who were coded as 2 or 3 on one or more of the following Minimum Data Set 3.0 (MDS 3.0) indicators: Behavioral Health (E0200A, E0200B, or E0200C), Rejection of Care (E0800), or Wandering (E0900).

(a) A facility for which at least 25% and less than 40% of its MassHealth residents that meet the eligibility criteria described in 101 CMR 206.06(13) will receive a 4% upward adjustment applied to its nursing standard rate and operating standard rate at each acuity level.

(b) A facility for which at least 40% and less than 55% of its MassHealth residents that meet the eligibility criteria described in 101 CMR 206.06(13) will receive a 5% upward adjustment applied to its nursing standard rate and operating standard rate at each acuity level.

(c) A facility for which at least 55% of its MassHealth residents that meet the eligibility criteria described in 101 CMR 206.06(13) will receive a 6% upward adjustment applied to its nursing standard rate and operating standard rate at each acuity level.

(14) High Medicaid Adjustment. Effective October 1, 2020 a nursing facility may be eligible for a High Medicaid Adjustment to its payment rate, based on the proportion of the facility's total resident days which are MassHealth resident days, as reported on the facility's quarterly User Fee Assessment Forms covering the period October 1, 2018 through September 30, 2019.

(a) A facility for which its MassHealth resident days are at least 50% and less than 75% of its total resident days will receive a 1% upward adjustment applied to its nursing standard rate and operating standard rate at each acuity level.

(b) A facility for which its MassHealth resident days are at least 75% and less than 90% of its total resident days will receive a 2% upward adjustment applied to its nursing standard rate and operating standard rate at each acuity level.

(c) A facility for which MassHealth resident days are at least 90% of its total resident days will receive a 4% upward adjustment applied to its nursing standard rate and operating standard rate at each acuity level.

(15) Low-income Municipality Adjustment. Effective October 1, 2020 a nursing facility will be eligible for a Low-income Municipality Adjustment to its payment rate if it is located in a city or town in Massachusetts with a median household income level that is below the 20th percentile of median household income across all Massachusetts cities and towns, based on the US Census Bureau's 2013-2017 American Community Survey (ACS) data. The Low-income Municipality Adjustment is a 0.5% upward adjustment applied to the facility's nursing standard rate and operating standard rate at each acuity level.

(16) Level-funding Upward Adjustment. Effective beginning October 1, 2020 a nursing facility will be eligible for an additional upward adjustment to its total standard nursing facility per diem rate established through 101 CMR 206.04, 205.05, and 101 CMR 206.06(2) through (15) for the dates of service October 1, 2020 through December 31, 2020, if such rate is less than the facility's total standard nursing facility rate that was in effect as of September 30, 2020. The upward adjustment will be calculated as follows:

(a) Determine the facility's standard nursing facility rate as calculated pursuant to 101 CMR 206.04, 206.05, and 101 CMR 206.06(2) through (15);

(b) Determine the facility's standard nursing facility rate that was in effect on September 30, 2020;

(c) Calculate the difference between the rate in 101 CMR 206.06(16)(a) and (b); and

(d) The upward adjustment will equal the amount calculated in 101 CMR 206.06(16)(c).

206.07: Payments for Individuals in a Disaster Struck Nursing Facility

(1) Payment to a Disaster Struck Nursing Facility for individuals that must be temporarily evacuated to another facility (Resident Accepting Nursing Facility) may continue for up to 30 days after the disaster event.

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(2) Payment will be the same as if the individual was residing in the Disaster Struck Nursing Facility. No other payment will be made to either the Disaster Struck Nursing Facility or the Resident Accepting Nursing Facility for evacuated individuals. The Disaster Struck Nursing Facility must meet the following conditions in order to receive payment for evacuated individuals:

(a) The Disaster Struck Nursing Facility must have a contract with the Resident Accepting Nursing Facility. The contract must include:

1. terms of payment and mechanisms to resolve any contract disputes;
2. protocols for sharing care and treatment information between the two facilities; and
3. requirements that both facilities meet all conditions of Medicaid participation, as determined by the MassHealth agency.

(b) The Disaster Struck Nursing Facility must notify the MassHealth agency of the disaster event, maintain records of all evacuated individuals that include each individual's name, date of evacuation, and Resident Accepting Nursing Facility, and update the MassHealth agency on the status of any necessary repairs.

(c) The Disaster Struck Nursing Facility must determine within 15 days of the disaster event whether evacuated individuals will be able to return to the facility within 30 days of the disaster event. If the Disaster Struck Nursing Facility determines that it is not able to reopen within 30 days, it must discharge all evacuated individuals and work with them to choose admission to other facilities or alternative placements. Nothing precludes an evacuated individual from asking to be discharged and admitted to another facility or alternative placement. Payment to the Disaster Struck Nursing Facility will cease when an individual is discharged from the facility.

206.08: Reporting Requirements

(1) Required Cost Reports.

(a) Nursing Facility Cost Report. Each provider must complete and file a Nursing Facility Cost Report each calendar year with the Center. The Nursing Facility Cost Report must contain the complete financial condition of the provider, including all applicable management company, central office, and real estate expenses. If a provider has closed on or before November 30th, the provider is not required to file an HCF-1 report.

(b) Realty Company Cost Report. A provider that does not own the real property of the nursing facility and pays rent to an affiliated or nonaffiliated realty trust or other business entity must file, or cause to be filed, a Realty Company Cost Report with the Center.

(c) Management Company Cost Report. A provider must file a separate Management Company Cost Report with the Center for each entity for which it reports management or central office expenses related to the care of Massachusetts publicly aided residents. If the provider identifies such costs, the provider must certify that costs are reasonable and necessary for the care of publicly aided residents in Massachusetts.

(d) Financial Statements. If a provider or its parent organization is required or elects to obtain independent audited financial statements for purposes other than 101 CMR 206.00, the provider must file a complete copy of its audited financial statements with the Center, that most closely correspond to the provider's Nursing Facility Cost Report fiscal period. If the provider or its parent organization does not obtain audited financial statements, but is required or elects to obtain reviewed or compiled financial statements for purposes other than 101 CMR 206.00, the provider must file with the Center a complete copy of its financial statements that most closely correspond to the Nursing Facility Cost Report fiscal period. Financial statements must accompany the provider's Nursing Facility Cost Report filing. Nothing in 101 CMR 206.08(1)(d) will be construed as an additional requirement that nursing homes complete audited, reviewed, or compiled financial statements solely to comply with the Center's reporting requirements.

(e) Clinical Data. EOHHS may require providers to submit patient level data for the purpose of measuring clinical performance in a format specified by EOHHS. EOHHS may designate required data, data specifications, and other data collection requirements by administrative bulletin.

(f) CMS-2540 Reports. State operated nursing facilities that meet the definition in 42 CFR 433.50(a)(i) must file a CMS-2540 report with the Center annually. The state-operated nursing facility must report the final disposition made by the Medicare intermediary.

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(2) General Cost Reporting Requirements.

(a) Accrual Method. Providers must complete all required reports using the accrual method of accounting.

(b) Documentation of Reported Costs. Providers must maintain accurate, detailed, and original financial records to substantiate reported costs for a period of at least five years following the submission of required reports or until the final resolution of any appeal of a rate for the period covered by the report, whichever is later. Providers must maintain complete documentation of all of the financial transactions and census activity of the provider and affiliated entities including, but not limited to, the books, invoices, bank statements, canceled checks, payroll records, governmental filings, and any other records necessary to document the provider's reported costs. Providers must be able to document expenses relating to affiliated entities for which it has identified costs related to the care of Massachusetts publicly aided residents whether or not they are related parties.

(c) Fixed Asset Ledger. Providers must maintain a fixed asset ledger that clearly identifies each asset for which expenses are reported, including location, date of purchase, cost, salvage value, accumulated depreciation, and the disposition of sold, lost, or fully depreciated assets.

(d) Job Descriptions and Time Records. Providers and management companies must maintain written job descriptions including qualifications, duties, responsibilities, and time records such as time cards for all positions that the provider identifies as related to the care of Massachusetts publicly aided residents. Facilities organized as sole proprietors or partnerships in which the sole proprietor or partner functions as administrator with no reported administrator salary or benefits must maintain documentation to support the provision of administrator services by the sole proprietor or partner.

(e) Indirect Restorative Therapy Services Record. Providers must maintain a record of indirect restorative therapy services documented by a written summary available for inspection in the nursing facility as required by 105 CMR 150.010(F): *Records and Reports*.

(f) Other Cost Reporting Requirements.

1. Administrative Costs.

a. The following expenses must be reported as administrative:

i. all compensation, including payroll taxes and benefits, for the positions of administrator, assistant administrator, administrator-in-training, business manager, secretarial and clerical staff, bookkeeping staff, and all staff or consultants whose duties are primarily administrative rather than directly related to the provision of on-site care to residents or to the on-site physical upkeep of the nursing facility;

ii. expenses related to tasks performed by persons at a management level above that of an on-site provider department head, that are associated with monitoring, supervising, and/or directing services provided to residents in a nursing facility as well as legal, accounting, financial, and managerial services or advice including computer services and payroll processing; and

iii. expenses related to policy making, planning, and decision-making activities necessary for the general and long-term management of the affairs of a nursing facility including, but not limited to, the following: the financial management of the provider, including the cost of financial accounting and management advisory consultants, the establishment of personnel policies, the planning of resident admission policies, and the planning of the expansion and financing of the provider.

b. Providers must report the cost of administrative personnel to the appropriate account. The cost of administrative personnel includes all expenses, fees, payroll taxes, fringe benefits, salaries, or other compensation.

c. Providers may allocate administrative costs among two or more accounts. The provider must maintain specific and detailed time records to support the allocation.

2. Draw Accounts. Providers may not report or claim proprietorship or partnership drawings as salary expense.

3. Expenses that Generate Income. Providers must identify the expense accounts that generate income.

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4. Fixed Costs.

a. Additions. If the square footage of the building is enlarged, providers must report all additions and renovations as building additions.

b. Allocation. Providers must allocate all fixed costs, except equipment, on the basis of square footage. A provider may elect to specifically identify equipment related to the nursing facility. The provider must document each piece of equipment in the fixed asset ledger. If a provider elects not to identify equipment, it must allocate equipment on the basis of square footage.

c. Replacement of Beds. If a provider undertakes construction to replace beds, it must write off the fixed assets that are no longer used to provide care to publicly aided residents and may not identify associated expenses as related to the care of Massachusetts publicly aided residents.

d. Fully Depreciated Assets. Providers must separately identify fully depreciated assets. Providers must report the costs of fully depreciated assets and related accumulated depreciation on all cost reports, unless they have removed such costs and accumulated depreciation from the provider's books and records. Providers must attach a schedule of the cost of the retired equipment, accumulated depreciation, and the accounting entries on the books and records of the provider to the cost report when equipment is retired.

e. Major Repair Projects. Providers must report all expenditures for major repair projects whose useful life is greater than one year including, but not limited to, wallpapering and painting as improvements. Providers may not report such expenditures as prepaid expenses.

5. Laundry Expense. Providers must separately identify the expense associated with laundry services for which non-publicly aided residents are billed. Providers must identify such expense as non-related to Medicaid patient care.

6. Mortgage Acquisition Costs. Providers must classify mortgage acquisition costs as other assets. Providers may not add mortgage acquisition costs to fixed asset accounts.

7. Nursing Costs. The costs must be associated with direct resident care personnel and be required to meet federal and state laws.

8. Related Parties. Providers must disclose salary expense paid to a related party and must identify all goods and services purchased from a related party. If a provider purchases goods and services from a related party, it must disclose the related party's cost of the goods and services.

(g) Special Cost Reporting Requirements.

1. Facilities in Which Other Programs Are Operated. If a provider operates an adult day health program, an assisted living program, or provides outpatient services, the provider may not identify expenses of such programs as related to the care of Massachusetts publicly aided residents.

a. If the provider converts a portion of the provider to another program, the provider must identify the existing equipment no longer used in nursing facility operations and remove such equipment from the nursing facility records.

b. The provider must identify the total square footage of the existing building, the square footage associated with the program, and the equipment associated with the program.

c. The provider must allocate all shared costs, including shared capital costs, using a well-documented and generally accepted allocation method. The provider must directly assign to the program any additional capital expenditures associated with the program.

2. Hospital-based Nursing Facilities. A hospital-based nursing facility must file cost reports on a fiscal year basis consistent with the fiscal year used in the DHCFP-403 Hospital Cost Report.

a. The provider must identify the existing building and improvement costs associated with the nursing facility. The provider must allocate such costs on a square footage basis.

b. The provider must report major moveable equipment and fixed equipment in a manner consistent with the Hospital Cost Report. In addition, the provider must classify fixed equipment as either building improvements or equipment in accordance with the definitions contained in 101 CMR 206.02. The provider may elect to report major moveable and fixed equipment by one of two methods.

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i. A provider may elect to specifically identify the major moveable and fixed equipment directly related to the care of publicly aided residents in the nursing facility. The provider must maintain complete documentation in a fixed asset ledger that clearly identifies each piece of equipment and its cost, date of purchase, and accumulated depreciation. The provider must submit this documentation to the Center with its first Notification of Change in Beds.

ii. If the provider elects not to identify specifically each item of major moveable and fixed equipment, EOHHS will allocate fixed equipment on a square footage basis.

c. The provider must report additional capital expenditures directly related to the establishment of the nursing facility within the hospital as additions. EOHHS will allocate capital expenditures that relate to the total plant on a square footage basis.

d. The provider must use direct costing whenever possible to obtain operating expenses associated with the nursing facility. The provider must allocate all costs shared by the hospital and the nursing facility using the statistics specified in the Hospital Cost Report instructions. The provider must disclose all analysis, allocations, and statistics used in preparing the Nursing Facility Cost Report.

(3) General Cost Principles. In order to report a cost as related to Medicaid patient care, a cost must satisfy the following criteria.

(a) The cost must be ordinary, necessary, and directly related to the care of publicly aided residents.

(b) The cost must adhere to the prudent buyer concept.

(c) Expenses otherwise allowable will not be included for purposes of determining rates under 101 CMR 206.00 where such expenses are paid to a related party, unless the provider identifies any such related party and expenses attributable to it in the reports submitted under 101 CMR 206.00 and demonstrates that such expenses do not exceed the lower of the cost to the related party or the price of comparable services, facilities, or supplies that could be purchased elsewhere. The Center may request either the provider or the related party, or both, to submit information, books, and records relating to such expenses for the purpose of determining whether the expenses are allowable.

(d) Only the provider's contribution of generally available employee benefits will be deemed an allowable cost. Providers may vary generally available employee benefits by groups of employees at the option of the employer. To qualify as a generally available employee benefit, the provider must establish and maintain evidence of its nondiscriminatory nature. Generally available employee benefits include, but are not limited to, group health and life insurance, pension plans, seasonal bonuses, child care, and job related education and staff training. Bonuses related to profit, private occupancy, or directly or indirectly to rates of reimbursement will not be included for calculation of prospective rates. Benefits that are related to salaries will be limited to allowable salaries. Benefits, including pensions related to non-administrative and non-nursing personnel will be part of the other operating cost center. Benefits that are related to the director of nurses, including pensions and education, will be part of the Nursing Cost Center. Providers may accrue expenses for employee benefits such as vacation, sick time, and holidays that employees have earned, but have not yet taken, provided that these benefits are both stated in the written policy and are the actual practice of the provider and that such benefits are guaranteed to the employee even upon death or termination of employment. Such expenses may be recorded and claimed for reimbursement purposes only as of the date that a legal liability has been established.

(e) The cost must be for goods or services actually provided in the nursing facility.

(f) The cost must be reasonable.

(g) The cost must actually be paid by the provider. Costs not considered related to the care of Massachusetts publicly aided residents include, but are not limited to: costs discharged in bankruptcy; costs forgiven; costs converted to a promissory note; and accruals of self-insured costs based on actuarial estimates.

(h) A provider must report the following costs as non-allowable costs:

1. bad debts, refunds, charity, and courtesy allowances and contractual adjustments to the Commonwealth and other third parties;

2. federal and state income taxes, except the non-income related portion of the Massachusetts corporate excise tax;

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3. expenses not directly related to the provision of resident care including, but not limited to, expenses related to other business activities and fund raising, gift shop expenses, research expenses, rental expense for space not required by the Department and expenditure of funds received under federal grants for compensation paid for training personnel and expenses related to grants of contracts for special projects;

4. compensation and fringe benefits of residents on a provider's payroll;

5. penalties and interest, incurred because of late payment of loans or other indebtedness, late filing of federal and state tax returns, or from late payment of municipal taxes;

6. any increase in compensation or fringe benefits granted as an unfair labor practice after a final adjudication by the court of last resort;

7. expenses for purchased service nursing services purchased from temporary nursing agencies not registered with the Department under 105 CMR 157.000: *The Registration and Operation of Temporary Nursing Service Agencies* or paid for at rates greater than the rates established by EOHHS pursuant to 101 CMR 345.00: *Temporary Nursing Services*;

8. any expense or amortization of a capitalized cost that relates to costs or expenses incurred prior to the opening of the nursing facility;

9. all legal expenses, including those accounting expenses and filing fees associated with any appeal process;

10. prescribed legend drugs for individual patients;

11. recovery of expense items, that is, expenses that are reduced or eliminated by applicable income including, but not limited to, rental of quarters to employees and others, income from meals sold to persons other than residents, telephone income, vending machine income, and medical records income. Vending machine income will be recovered against other operating costs. Other recoverable income will be recovered against an account in the appropriate cost group category, such as administrative and general costs, other operating costs, nursing costs, and capital costs. The cost associated with laundry income that is generated from special services rendered to private patients will be identified and eliminated from claims for reimbursement. Special services are those services not rendered to all patients (*e.g.*, dry cleaning, *etc.*). If the cost of special services cannot be determined, laundry income will be recovered against laundry expense;

12. costs of ancillary services required by a purchasing agency to be billed on a direct basis, such as prescribed drugs and direct therapy costs; and

13. accrued expenses that remain unpaid more than 120 days after the close of the reporting year, excluding vacation and sick time accruals, will not be included in the prospective rates. When the Center receives satisfactory evidence of payment, EOHHS may reverse the adjustment and include that cost, if otherwise allowable, in the applicable prospective rates.

(4) Filing Deadlines.

(a) General. Except as provided in 101 CMR 206.08(4)(a)1. and 2., or in accordance with alternative deadlines established by EOHHS or the Center through administrative bulletin or other written issuance, providers must file required cost reports for the calendar year by 5:00 P.M. on April 1st of the following calendar year. If April 1st falls on a weekend or holiday, the reports are due by 5:00 P.M. on the following business day.

1. Hospital-based Nursing Facilities. Hospital-based nursing facilities must file cost reports no later than 90 days after the close of the hospital's fiscal year.

2. Appointment of a Resident Protector Receiver. If a receiver is appointed pursuant to M.G.L. c. 111, § 72N, the provider must file cost reports for the current reporting period or portion thereof within 60 days of the receiver's appointment.

(b) Extension of Filing Date. The Center may grant a request for an extension of the filing due date for a maximum of 30 calendar days. In order to receive an extension, the provider must

1. submit the request itself, and not by agent or other representative;

2. demonstrate exceptional circumstances that prevent the provider from meeting the deadline; and

3. file the request with the Center no later than 30 calendar days before the due date.

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(c) Administrative Bulletin. The Center may modify the filing deadlines by issuing an administrative bulletin 30 days prior to any proposed change.

(5) Incomplete Submissions. If the cost reports are incomplete, the Center will notify the provider in writing within 120 days of receipt. The Center will specify the additional information that the provider must submit to complete the cost reports. The provider must file the required information within 25 days of the date of notification or by April 1st of the year the cost reports are filed, whichever is later. If the Center fails to notify the provider within the 120-day period, the cost reports will be considered complete and will be deemed to be filed on the date of receipt.

(6) Audits. The Center and the MassHealth agency may conduct desk audits or field audits to ensure accuracy and consistency in reporting. Providers must submit additional data and documentation relating to the cost report, the operations of the provider and any related party as requested during a desk or field audit even if the Center has accepted the provider's cost reports.

(7) Penalties. If a provider does not file the required cost reports by the due date, EOHHS may reduce the provider's rates for current services by 5% on the day following the date the submission is due and 5% for each month of noncompliance thereafter. The reduction accrues cumulatively such that the rate reduction equals 5% for the first month late, 10% for the second month late, and so on. The rate will be restored effective on the first of the month following the date the cost report is filed.

206.09: Special Provisions

(1) Rate Filings. EOHHS will file certified rates of payment for nursing facilities with the Secretary of the Commonwealth.

(2) Appeals. A provider may file an appeal at the Division of Administrative Law Appeals of any rate established pursuant to 101 CMR 206.00 within 30 calendar days after EOHHS files the rate with Secretary of the Commonwealth. EOHHS may amend a rate or request additional information from the provider even if the provider has filed a pending appeal.

(3) Administrative Bulletins. EOHHS and the Center may issue administrative bulletins to clarify provisions of 101 CMR 206.00 or to specify data collection requirements. Such bulletins will be deemed to be incorporated in the provisions of 101 CMR 206.00. EOHHS and the Center will file the bulletins with the Secretary of the Commonwealth, distribute copies to providers, and make the bulletins accessible to the public at EOHHS's and the Center's offices during regular business hours.

(4) Severability. The provisions of 101 CMR 206.00 are severable. If any provision of 101 CMR 206.00 or the application of any provision of 101 CMR 206.00 is held invalid or unconstitutional, such provision will not be construed to affect the validity or constitutionality of any other provision of 101 CMR 206.00 or the application of any other provision.

206.10: COVID-19 Payment Provisions

(1) COVID-19 Dedicated Nursing Facility Rate. Each COVID-19 nursing facility will receive a *per diem* rate of $600 per day per member who is also a COVID-19 resident. Such *per diem* rate will be payment in full for services rendered to COVID-19 residents and COVID-19 nursing facilities will not be paid any other *per diem* rates or add-ons established under 101 CMR 206.00. The terms used in 101 CMR 206.10 have the same meanings as those terms in 101 CMR 206.10(2)(a).

(2) COVID-19 Dedicated Nursing Facility Supplemental Payment.

(a) COVID-19 Dedicated Nursing Facility Definitions. For the purposes of 101 CMR 206.10(1) and (2), the following terms have the following meanings:

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Baseline Facility Revenue (BFR). The COVID-19 nursing facility's annualized fourth quarter 2019 net patient services revenue, or another quarter determined by EOHHS if the fourth quarter of 2019 does not accurately represent the facility's baseline revenue. Net patient services revenue includes non-nursing facility resident care services. Baseline facility revenue does not include investment or interest income.

COVID-19 Nursing Facility. A nursing facility designated as such by the MassHealth agency and that agrees to operate as such and provide nursing facility by services to COVID-19 residents through a special amendment to its provider contract.

COVID-19 Nursing Facility Beds. The total number of beds in the COVID-19 nursing facility, as stated in the special amendment to its provider contract.

COVID-19 Resident. An individual who is admitted to a COVID-19 nursing facility to receive nursing facility services and who is being treated in a contained area due to COVID-19 exposure, diagnosis, or recovery, whether or not the services rendered are specific to treating COVID-19 symptoms or specialized COVID-19 related needs.

Profit. Net patient service revenue for the COVID-19 nursing facility minus allowable operating expenses and costs, as such operating expenses and costs are determined reasonable and allowable by the MassHealth agency in accordance with guidance issued by EOHHS *via* administrative bulletin or other written issuance.

Transition Day. The earlier of:

(a) the last allowable day to be designated as such in the special conditions amendment to the COVID-19 nursing facility's provider contract;

(b) the day after the last COVID-19 resident is transferred or discharged from the facility; or

(c) the day testing or a clinical assessment based on the most recent Department of Public Health guidance demonstrates that no residents have an active diagnosis of COVID-19.

(b) Weekly Supplemental Payments. Each eligible COVID-19 nursing facility will receive weekly supplemental payments in the following manner, for dates of service through the COVID-19 nursing facility's transition day:

1. COVID-19 nursing facilities that transferred residents out of the nursing facility in order to operate a COVID-19 nursing facility will receive weekly supplemental payments, to be calculated as follows:

a. Multiply the total number of weekly patient days by $600;

b. Subtract the product calculated in 101 CMR 206.10(2)(b)1.a. from 115% of the COVID-19 nursing facility's baseline facility revenue; and

c. The weekly supplemental payment is the greater of $0 or the figure calculated in 101 CMR 206.10(2)(b)1.b.

2. COVID-19 nursing facilities that were vacant prior to operating as a COVID-19 nursing facility will receive weekly supplemental payments, to be calculated as follows:

a. Multiply the total number of weekly patient days by $600;

b. Multiply the total number of COVID-19 nursing facility beds in the COVID-19 nursing facility for each day of the week by $600;

c. Subtract the product calculated in 101 CMR 206.10(2)(b)2.a. from the product calculated in 101 CMR 206.10(2)(b)2.b.; and

d. The weekly supplemental payment is the greater of $0 or the figure calculated in 101 CMR 206.10(2)(b)2.a.

3. The first and last weekly supplemental payments to be paid under 101 CMR 206.06(16)(b)2. may be calculated on a prorated basis.

(c) Monthly Supplemental Payments. Each eligible COVID-19 nursing facility will receive monthly supplemental payments in the following manner:

1. COVID-19 nursing facilities that transferred residents out of the nursing facility in order to operate a COVID-19 nursing facility will receive one monthly supplemental payment for the first full month beginning on or after the transition day, to be calculated as follows:

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a. Multiply the COVID-19 nursing facility's total number of patient days in the month by the average *per diem* rates for all nursing facilities, as established and in effect on October 1, 2019;

b. Subtract the product calculated in 101 CMR 206.10(2)(c)1.a. from the COVID-19 nursing facility's monthly baseline facility revenue;

c. This monthly supplemental payment is be the greater of $0 or the figure calculated in 101 CMR 206.10(2)(c)1.b.

2. COVID-19 nursing facilities that transferred residents out of the nursing facility in order to operate a COVID-19 nursing facility may receive monthly supplemental payments for the first eight full months beginning on or after the transition day, which is equal to 1% of the COVID-19 nursing facility's baseline facility revenue for each 10% increase, rounded to the nearest 10%, in average monthly occupancy over the previous month.

3. COVID-19 nursing facilities that were vacant prior to operating as a COVID-19 nursing facility will receive a monthly supplemental payment for the first two full months beginning on or after the transition day, which is equal to $300 per COVID-19 nursing facility bed in the COVID-19 nursing facility per day of the month.

(d) Quarterly Supplemental Payments.

1. COVID-19 nursing facilities, other than those ineligible for supplemental payments under the terms of their special conditions amendment to their provider contract, will receive a quarterly supplemental payment with respect to any quarter beginning after March 31, 2020, but before the transition day for which the COVID-19 nursing facility's quarterly profit margin was less than 5%. This quarterly supplemental payment is equal to the difference between such quarter's revenue and the revenue that would result in a 5% quarterly profit margin. Costs incurred to establish the COVID-19 nursing facility from March 27, 2020 to March 31, 2020 are included when calculating the first such quarterly supplemental payment.

2. COVID-19 nursing facilities that transferred residents out of the nursing facility in order to operate a COVID-19 nursing facility may receive quarterly supplemental payments with respect to any of the following three quarters beginning on or after the transition day and for which its quarterly profits were negative. These quarterly supplemental payments equal the amount by which such profits were negative. For the purposes of calculating this supplemental payment, the supplemental payment described in 101 CMR 206.06(10)(2)(c)2. will not be included for the definition of revenue.

3. COVID-19 nursing facilities that were vacant prior to operating as a COVID-19 nursing facility may receive quarterly supplemental payments with respect to any of the following two quarters beginning on or after the transition day and for which its quarterly profits were negative. These quarterly supplemental payments are equal to the amount by which such profits were negative.

4. If the transition day falls in the middle of a quarter, the calculation of that quarterly supplemental payment is determined by applying the provisions of 101 CMR 206.10(2)(d)1. and, as applicable, 101 CMR 206.10(2)(d)2. or 101 CMR 206.10(2)(d)3. on a prorated basis proportionally to the number of days in the quarter on or before and after the transition day.

(e) No Supplemental Payments for Closed Facilities. If a COVID-19 nursing facility closes, no supplemental payments will be paid to it after the closure date.

(f) Allowable Costs. Where costs and profits are factors in calculating the supplemental payments in 101 CMR 206.10(2), the MassHealth agency has discretion to determine reasonable costs and operating expenses.

(3) COVID-19 Isolation Space Supplemental Payment.

(a) Isolation Space Definitions. For the purposes of 101 CMR 206.10(3), the following terms have the following meanings:

Isolation Spaces. Wings, units, or floors within a qualifying nursing facility and designated by such qualifying nursing facility as an isolation space for ensuring COVID-19 positive, negative, and of unknown status are meaningfully separated to prevent the spread of COVID-19.

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Qualifying Nursing Facility. A nursing facility that submitted an application on or after October 1, 2020, to operate an isolation space within the facility and was determined by EOHHS to meet the criteria necessary to operate such isolation space and capable of providing nursing facility services to COVID-19 positive residents while ensuring all necessary precautions are taken to prevent nursing facility residents without a positive diagnosis from being exposed.

(b) In order to become a Qualifying Nursing Facility eligible to operate an isolation space, a facility must:

1. Submit an application on or after October 1, 2020, in the format determined by EOHHS through administrative bulletin or other written issuance, and receive EOHHS approval of such application, regardless of whether the facility had operated or been approved to operate an isolation space at any point prior to October 1, 2020;
2. Meet the minimum quality indicators required by EOHHS, which may include, but are not limited to, a minimum overall or infection control rating through the Centers for Medicare and Medicaid Services Nursing Home Compare 5-Star Quality Rating Tool or a minimum DPH Nursing Facility Survey Performance Tool score;
3. Accept all eligible patients seeking admission who have a confirmed or probable case of COVID-19, unless the nursing facility is clinically unable to provide appropriate services to such person;
4. Meet any minimum bed thresholds that EOHHS may require for isolation spaces;
5. Alert area hospitals that it is operating an isolation space and be responsive to hospital requests for discharge planning and available to accept new admissions, at least daily;
6. Meet all other infection control, cohorting, and COVID-19 requirements, including any related reporting requirements, issued by DPH or EOHHS through administrative bulletin or other written issuance; and
7. Be in compliance with all criteria established under 101 CMR 206.10(3)(b) or any administrative bulletin or other written issuances regarding isolation spaces.

(c) Any facility that becomes a qualifying nursing facility for the purpose of operating an isolation space will be disqualified and cease to be eligible for the payment described in 101 CMR CMR 206.10(3)(d) as of the date of disqualification if:

1. It ceases to meet any of the criterial listed in 101 CMR 206.10(3)(b), including by denying admission to an eligible patient seeking admission who has confirmed or probable case of COVID-19, in violation of 101 CMR 206.10(3)(b)3.; or
2. It is found to have low staffing or low levels of personal protective equipment, or demonstrates infection control or serious quality deficiencies.

(d) Calculation of Supplemental Payment. Qualifying nursing facilities that operate isolation spaces are eligible for a monthly supplemental payment to be calculated as follows:

1. Divide the nursing facility's total number of Massachusetts Medicaid Days, as reported on their Quarterly User Fee Assessment Forms for the period of October 1, 2018, through September 30, 2019, by 365;
2. Multiply the quotient calculated in 101 CMR 206.10(3)(d)1. by the number of days that the nursing facility operated an isolation space in the previous month;
3. Multiply the product calculated in 101 CMR 206.10(3)(d)2. by $30 for dates of service from October 1, 2020 through December 31, 2020;
4. Multiply the product calculated in 101 CMR 206.10(3)(d)2. by $50 for dates of service beginning January 1, 2021;
5. The product calculated in 101 CMR 206.10(3)(d)3. will equal the nursing facility's monthly supplemental payment for the months of October, November, and December of 2020.
6. The product calculated in 101 CMR 206.10(3)(d)4. will equal the nursing facility's monthly supplemental payment for the months beginning January of 2021 through the last month during which a nursing facility is deemed to operate an isolation space for one or more days.

(e) Days on Which Nursing Facility is Deemed to Operate Isolation Space. A nursing facility will be eligible for payment under 101 CMR 206.10(3)(d) for dates of service beginning on date that EOHHS approves the facility to operate the isolation space and ending on the earlier of

1. the date the facility voluntarily stops operating the isolation space, after providing no less than ten calendar days' notice to EOHHS;

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206.10: continued

2. the date the facility is found to be out of compliance with the requirements of 101 CMR 206.10(3) or any applicable administrative bulletins or written issuance; or

3. the date determined by EOHHS, and announced *via* administrative bulletin or other written issuance as the final day that qualifying nursing facilities may operate isolation spaces, provided that EOHHS shall provide not less than 20 calendar days' notice prior to such date.

(f) Disbursement of Supplemental Payment. The supplemental payments calculated under 101 CMR 206.10(3)(d) will be disbursed on a monthly basis, within 60 calendar days of the end of the month in which the nursing facility operated an isolation space.

(4) COVID-19 Staff Testing Supplemental Payment.

(a) Completed Qualifying COVID-19 Staff Tests. Effective October 1, 2020 EOHHS will pay nursing facilities, in accordance with 101 CMR 206.10(4)(b), for COVID-19 testing administered on staff that meet all of the following criteria:

1. Staff tests that were paid for directly by the nursing facility, which does not include tests that were completed or facilitated by the staff member on their own time or at their own cost;

2. Staff tests that were conducted as bi-weekly, weekly, or other periodic surveillance testing as part of an adaptive surveillance testing system developed by DPH and applicable to MassHealth nursing facility providers in accordance with an administrative bulletin or other written issuance, provided that in the event that such adaptive surveillance testing system is no longer in effect or no longer applicable to MassHealth nursing facility providers, staff tests will not be qualifying COVID-19 staff tests for the purposes of payment under 101 CMR 2016.10(4)(b);

3. Not more than one test per individual staff member per testing period;

4. Staff tests that include the collection of specimens sufficient for diagnostic testing, the processing of a COVID-19 diagnostic test by an FDA approved method, and the furnishing of results to all appropriate parties in accordance with DPH and Centers for Disease Control and Prevention guidance;

5. Staff tests that are able to detect an active SARS-CoV-2 virus infection, with a polymerase chain reaction (PCR) of greater than 95% sensitivity and greater than 90% specificity, within 48 hours of conducting the test, or such other testing method or standard as specified by EOHHS *via* administrative bulletin or other written issuance;

6. Staff tests that were reported to EOHHS, in the manner requested by EOHHS, as tests administered on the nursing facility's staff; and

7. Staff tests for which results were reported by the nursing facility as either positive, negative, or inconclusive; provided that if EOHHS determines that the rate of inconclusive test results is unreasonably high, EOHHS may exclude those inconclusive results from the number of completed qualifying COVID-19 staff tests.

(b) Calculation of Supplemental Payments.

1. Effective October 1, 2020 the staff surveillance testing supplemental payments for each eligible nursing facility will be equal to the number of completed qualifying COVID-19 staff tests administered each month in accordance with 101 CMR 206.10(4) multiplied by $80.

2. Effective January 1, 2021 the staff surveillance testing supplemental payments for each eligible nursing facility will be equal to the number of completed qualifying COVID-19 staff tests administered each month in accordance with 101 CMR 206.10(4) multiplied by the lesser of

i. the average market rate for COVID-19 testing in long-term care facilities and residential congregate care providers and settings in the Commonwealth as determined by EOHHS, which shall be calculated by EOHHS each calendar quarter based on the previous calendar quarter; or

ii. $80.

3. Payments for staff surveillance testing shall be paid in accordance with 101 CMR 206.10(4), provided that no federal funds were used specifically for the same staff surveillance testing and that any federal funds available or provided to the facility that were permitted to be used for staff surveillance testing were fully expended or earmarked on other permitted expenditures. EOHHS may require facilities to report federal funding received by the facility and may require facilities to supply supporting documentation or otherwise verify any such federal funding received.

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206.10: continued

(c) Disbursement of Supplemental Payments. The supplemental payments will be paid on a monthly basis within 60 days after each month, with each monthly supplemental payment based on the applicable months' number of completed qualifying COVID-19 staff tests.

(d) Additional Guidance. EOHHS may, *via* administrative bulletin or other written issuance, establish additional rules governing the staff surveillance test payments under 101 CMR 206.10(5) including, but not limited to, further information on the relevant staff that must be tested, the frequency of testing and the infection thresholds that may affect the frequency of testing and required testing periods, reporting requirements, or qualifying COVID-19 diagnostic tests.

(5) Supplemental Support Payments for Nursing Facilities during the COVID-19 Public Health Emergency.

(a) Effective October 1, 2020 a nursing facility may be eligible for supplemental payments to maintain continued access to care for MassHealth members and offset the additional costs associated with the COVID-19 public health emergency, including heightened screening processes for staff and other individuals entering the facility, staff and equipment shortages, and extra precautions to protect its at-risk populations.

(b) EOHHS will provide such supplemental payments to eligible facilities only if all of the following conditions are met at once:

1. The statewide COVID-19 incidence rate per 100,000 persons increases by 50% or more week-over-week for three consecutive weeks;
2. At least 20% of nursing facilities report a staffing shortage; and
3. The state reaches a threshold of 100 new cases per 100,000 residents.

(c) EOHHS will provide the first such supplemental payment within 30 days after the conditions in 101 CMR 206.10(5)(b) are first met and will continue making supplemental payments on a monthly basis, provided that all of the conditions in 101 CMR 206.10(5)(b) continue to be met at the start of each month.

(d) EOHHS will calculate the payment for each nursing facility as follows:

1. Divide the number of Massachusetts Medicaid Days, as reported by each nursing facility providers on their Quarterly User Fee Assessment Form for the period of October 1, 2018 through September 30, 2019, by the total number of Massachusetts Medicaid Days, including Fee-for-Service and Managed Care bed days, across all nursing facility providers, as reported by all nursing facility providers on the Quarterly User Fee Assessment Form for the same period;
2. Multiply the quotient calculated in 101 CMR 206.10(5)(d)(1) by 10% of the average monthly MassHealth Fee-for-Service payments made to all nursing facility providers from October 1, 2018 through September 30, 2019.

(e) All eligible nursing facility providers will automatically receive these payments and such payments will be distributed within 60 days of the end of the calendar month in which a nursing facility became eligible for the payment.

(6) Disallowance of COVID-19-Related Payments.

(a) A nursing facility will not be eligible for any further supplemental payment under 101 CMR 206.10(3):

1. if it fails to meet the COVID-19 testing and reporting requirements established *via* administrative bulletin or other written issuance in accordance with 101 CMR 206.10(4); or
2. until it submits the report and attestation required under 101 CMR 206.14.

(b) A nursing facility will not be eligible for any further supplemental payments under 101 CMR 206.10(4) or 101 CMR 206.10(5):

1. if it fails to meet the COVID-19 testing and reporting requirements under 101 CMR 206.10 for three or more testing periods within a 60-day period; or
2. until it submits the report and attestation required under 101 CMR 206.14.

(7) Additional Guidance. EOHHS may, *via* administrative bulletin or other written issuance, establish additional rules governing various aspects of the COVID-19 Payment Provisions established under 101 CMR 206.10 including, but not limited to, reporting and compliance requirements, and penalties for noncompliance, or may rely on existing rules already issued in this manner.

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206.11: Rates for Severe Mental and Neurological Disorder Services.

(1) Qualifying Nursing Facility. Effective August 1, 2020 qualifying nursing facilities will be able to receive a member-based *per diem* rate for residents with severe mental or neurological disorders who are receiving specialized services for such disorders. In order to qualify for this member-based *per diem* rate, a nursing facility must

(a) as of August 1, 2020, operate exclusively to provide nursing facility services, including the specialized services described in 101 CMR 206.11(b), to residents with mental or neurological disorders, including residents with acquired brain injuries;

(b) provide the following specialized rehabilitation services for its residents:

1. an individualized therapeutic skill development plan for each member;
2. individual counseling;
3. group counseling (therapeutic and life skills groups), with group sessions offered multiple times each week to ensure access based on member needs and preferences;
4. sensory modulation and cognitive rehabilitation;
5. neuropsychological testing, evaluation, and intervention;
6. alcohol and substance abuse counseling and prevention;
7. all mental health services as indicated by each resident's PASSR Level II evaluation;
8. vocational programming; and
9. community re-integration.

(c) Maintain a program staff of specially trained professionals, including but not limited to, a neuropsychiatrist, a neuropsychologist, licensed mental health counselors, vocational specialists, life skills counselors, certified brain injury specialists, substance abuse counselors, and therapeutic technicians. All such staff must be trained in behavior modification and de-escalation techniques.

(2) *Per Diem* Rate for Approved Admitted Members. Qualifying nursing facilities may receive a flat member-based *per diem* rate of $461 for members with a mental or neurological disorder that severely affects the member's behavior who are admitted on or after August 1, 2020, provided that the qualifying nursing facility receives approval from MassHealth prior to the member's admission that the member requires specialized services described in 101 CMR 206.11(1) and is therefore eligible for this enhanced rate. The specialized services program is designed to transition the member back to community-based care or less-restrictive placement, and such rate applies only during the time that the member has been approved by MassHealth for the enhanced rate. Qualifying nursing facilities receiving this *per diem* rate are not eligible for any other per diem rates or payments established under 101 CMR 206.00 with respect to such approved members, except as provided in 101 CMR 206.11(3) or, if applicable, 101 CMR 206.10. Qualifying facilities may also admit members without seeking approval from the MassHealth agency. In such circumstances qualifying nursing facilities will receive the standard nursing facility rate established under 101 CMR 206.00 with respect to those members.

(3) High-cost Member Additional Rate. Qualifying nursing facilities may receive an additional member-based rate of $150 in addition to the *per diem* rate set by 101 CMR 206.11(2) for any member approved for admittance to the nursing facility for whom reasonable and allowable direct care costs associated with providing for such member's clinical care needs is more than 100% greater than the facility's average direct care costs per resident, provided that the facility

(a) certifies that the direct care costs associated with providing services to such member meets the requirements of this section;

(b) submits a summary of expected direct care costs associated with providing services to such member demonstrating that the requirements of this section have been met; and

(c) receives approval from the MassHealth agency for the additional rate, to be applied prospectively from the date of approval, with respect to such member. The MassHealth agency reserves the right to request additional documentation in support of the expected direct care costs prior to granting approval for this additional rate.

206.12: Direct Care Cost Quotient

(1) Beginning October 1, 2020 nursing facilities must have a Direct Care Cost Quotient (DCC-Q), as described in 101 CMR 206.12(2), of at least 75% during the rate year, running from October 1st through September 30th of each year. Beginning October 1, 2021 and each rate year thereafter, a nursing facility rate may be subject to a downward adjustment if the facility fails to be at or above the 75% DCC-Q in the previous rate year.

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206.12: continued

(2) The DCC-Q will be calculated by dividing certain direct care workforce expenses, such as nursing, dietary, restorative therapy, or social worker staff expenses, by the facility's total revenue, excluding the revenue for non-nursing facility lines of business and subtracting the User Fee Assessments, certain prescription drug expenses, and certain other ancillary costs related to services provided to Medicare residents, to be identified *via* administrative bulletin or other written issuance.

(a) A multiplier may be applied to one or more direct care workforce position types as an incentive. A multiplier must be calculated by multiplying the cost associated with a given direct care workforce position type in the numerator by 1.5 or more, but not to exceed 3.

(b) The workforce position types eligible for any multiplier described in 101 CMR 206.12(2) and the magnitude of such multiplier in calculating the DCC-Q may be established by EOHHS *via* administrative bulletin or other written issuance.

(3) All nursing facilities, including facilities in 101 CMR 206.12(5), will be required to submit an interim compliance report in early 2021 and a final compliance report by July 30, 2021. The interim report will used to inform nursing facilities if they are on track to meet the 75% DCC-Q threshold set forth in 101 CMR 206.12(1). The final report will be used for determining whether the facility met that threshold.

(4) The downward adjustment to the rate will be applied in the following rate year to facilities that failed to meet the 75% DCC-Q threshold. Such downward adjustment will be calculated as follows:

(a) For every 1% below the 75% DCC-Q threshold, a 0.5% downward adjustment will be applied to the facility's nursing and operating standard payments.

(b) The maximum downward adjustment calculated in 101 CMR 206.12(3)(a) may be no more than 5% of the facility's nursing and operating standard payments. EOHHS may apply the maximum downward adjustment of 5% in the following rate year for facilities that fail to submit the final report by the due date established in 101 CMR 206.12(3).

(5) Nursing facilities that will have less than 5,000 Massachusetts Medicaid Days in SFY 2021, as reported on their Quarterly User Fee Assessment Forms for the period of July 1, 2020 through June 30, 2021, will be exempt from the downward adjustment set forth in 101 CMR 206.12(4).

(6) EOHHS may issue an administrative bulletin or other written issuance to clarify provisions of 101 CMR 206.12, and to provide further detail on the types of staffing and direct care expenditures that qualify towards the DCC-Q and the data reporting requirements.

206.13: Average Staffing Hours Incentive

(1) Effective October 5, 2020 each nursing facility will be required to submit information on its staffing levels, including information demonstrating the facility's average hours per patient day to EOHHS on at least a bi-weekly basis, in the manner and format requested by EOHHS, via administrative bulletin or other written issuance.

(2) Beginning January 1, 2021 a nursing facility that fails to meet an average of at least 3.58 hours per patient day, in accordance with 101 CMR 206.13(1), will be subject to a downward adjustment equal to 2% of the facility's standard rate for that calendar quarter. The dollar amount resulting from this adjustment will be considered an overpayment pursuant to 130 CMR 450.235: *Overpayments*.

(3) To determine a facility's average hours per patient day in each calendar quarter, EOHHS will divide the facility's total number of productive hours worked by nursing staff, including registered nurses, licensed practical nurses and nurses' aides, in the calendar quarter by the facility's total number of patient days in that calendar quarter.

(4) EOHHS may issue administrative bulletins or other written issuance to further clarify these provisions and to provide additional guidance regarding what qualifies as productive hours, what staff types are included in nursing staff, and the reporting requirements.

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206.14: Density Reduction in Nursing Facilities

Nursing facilities must submit to EOHHS in the manner requested by EOHHS, *via* administrative bulletin or other written issuance, information regarding their number of licensed beds by room and number of occupied beds by room, and attesting that the facility will implement measures, including the measures identified by EOHHS, *via* administrative bulletin or other written issuance, to reduce room density to or maintain room density at no more than two occupied beds per room. Failure to submit such reporting and attestation in accordance with 101 CMR 206.14, and in accordance with any administrative bulletin or written issuance issued by EOHHS with respect to room density in nursing facilities, will render the nursing facility ineligible for certain payments, as described in 101 CMR 206.10(6).

REGULATORY AUTHORITY

101 CMR 206.00: M.G.L. c. 118E.

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Docket # 328

THE COMMONWEALTH OF MASSACHUSETTS
William Francis Galvin
Secretary of the Commonwealth

Regulation Filing *To be completed by filing agency*

CHAPTER NUMBER: **205 CMR 133.00**

CHAPTER TITLE: **Voluntary Self-exclusion**

AGENCY: **Massachusetts Gaming Commission**

SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*

This regulation governs the Gaming Commission's voluntary self-exclusion program

REGULATORY AUTHORITY: **M.G.L. c. 23K, § 45(f)**

AGENCY CONTACT: **Carrie Torrisi** PHONE: **617-533-9702**

ADDRESS: **101 Federal Street, 12th Floor, Boston, Massachusetts 02110**

Compliance with M.G.L. c. 30A

EMERGENCY ADOPTION - *if this regulation is adopted as an emergency, state the nature of the emergency.*

PRIOR NOTIFICATION AND/OR APPROVAL - *If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.*

LGAC: 10.22.20
Boston Herald: 11.9.20

PUBLIC REVIEW - *M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period, including a small business impact statement, be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.*

Date of public hearing or comment period: **12/17/2020**

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FISCAL EFFECT - *Estimate the fiscal effect of the public and private sectors.*

For the first and second year: _____

For the first five years: _____

No fiscal effect: **No fiscal effect anticipated by this regulation.**

SMALL BUSINESS IMPACT - *M.G.L. c. 30A section 5 requires each agency to file an amended small business impact statement with the Secretary of the Commonwealth prior to the adoption of a proposed regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.*

Date amended small business impact statement was filed: **12/17/2020**

CODE OF MASSACHUSETTS REGULATIONS INDEX - *List key subjects that are relevant to this regulation:*
Gaming, Responsible Gaming, Voluntary Self-Exclusion

PROMULGATION - *State the action taken by this regulation and its effect on existing provisions of the Code of Massachusetts Regulations (CMR) or repeal, replace or amend. List by CMR number:*

Amendments to 205 CMR 133.02, 133.03 & 133.05.

ATTESTATION - *The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency.* ATTEST:

SIGNATURE: SIGNATURE ON FILE DATE: **Dec 24 2020**

Publication - *To be completed by the Regulations Division*

MASSACHUSETTS REGISTER NUMBER: **1434** DATE: **01/08/2021**

EFFECTIVE DATE: **01/08/2021**

CODE OF MASSACHUSETTS REGULATIONS

Remove these pages:	*Insert these pages:*
4.11, 4.12	**4.11, 4.12**
431 - 434	**431 - 434**

A TRUE COPY ATTEST
WILLIAM FRANCIS GALVIN
SECRETARY OF THE COMMONWEALTH
DATE 12/24/2020 CLERK MG

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205 CMR 133.00: VOLUNTARY SELF-EXCLUSION

Section

133.01: Scope and Purpose
133.02: Placement on the Self-exclusion List
133.03: Contents of the Application
133.04: Duration of Exclusion and Reinstatement from the List
133.05: Maintenance and Custody of the List
133.06: Responsibilities of the Gaming Licensee
133.07: Sanctions against a Gaming Licensee
133.08: Collection of Debts

133.01: Scope and Purpose

In accordance with M.G.L. c. 23K, § 45(f), 205 CMR 133.00 shall govern the procedures and protocols relative to the list of self-excluded persons from entering the gaming area of a gaming establishment or any area in which pari-mutuel or simulcasting wagers are placed. The voluntary self-exclusion list shall consist of the names and information relative to those individuals who have complied with the requirement of 205 CMR 133.00 and have been placed on the list by the commission. Placement of one's name on the voluntary self-exclusion list is intended to offer individuals one means to help address problem gambling behavior or deter an individual with family, religious, or other personal concerns from entering the gaming area of a gaming establishment or any area in which pari-mutuel or simulcasting wagers are placed.

For purposes of 205 CMR 133.00, the term 'problem gambler' shall mean an individual who believes their gambling behavior is currently, or may in the future without intervention, cause problems in their life or on the lives of their family, friends, and/or co-workers.

133.02: Placement on the Self-exclusion List

(1) An individual whose name is placed on the voluntary self-exclusion list shall be prohibited from entering the gaming area of a gaming establishment or any area in which pari-mutuel or simulcasting wagers are placed for the duration of the exclusion period, and shall not collect any winnings or recover any losses resulting from any gaming activity at a gaming establishment. Provided, however, that an employee of a gaming licensee or vendor who is licensed or registered as a key gaming employee, gaming employee, or gaming service employee in accordance with 205 CMR 134.00: *Licensing and Registration of Employees, Vendors, Junket Enterprises and Representatives, and Labor Organizations* and who is on the voluntary self-exclusion list may be in the gaming area of a gaming establishment or an area in which pari-mutuel or simulcasting wagers are placed solely for purposes of performing their job functions.

(2) An individual may request to have their name placed on the voluntary self-exclusion list by completing the application and procedure outlined in 205 CMR 133.02. Applications shall be submitted in a format approved by the commission and shall be available on the commission's website and at designated locations on and off the premises of the gaming establishments as determined by the commission.

(3) An application for placement on the voluntary self-exclusion list may only be accepted, and an intake performed, by an available designated agent. An individual may only become a designated agent by successfully completing a course of training approved and administered by the commission or its designee. The course of training shall include, at a minimum, instruction on completion of the application, instruction on maintaining confidentiality of personal protected information, information relative to problem gambling and resources, and an understanding of 205 CMR 133.00. A designated agent is any individual authorized by the commission for the purpose of administering the voluntary self-exclusion program including, but not limited to, a GameSense advisor; a health or mental health professional; or an employee of a gaming licensee, the commission, or other government entity. The commission may refuse to offer training to any individual whose service as a designated agent it determines would be contrary to the aims of 205 CMR 133.00.

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133.02: continued

(4) Upon submission of an application, a designated agent shall review with the applicant the contents and statements contained in the application, as provided by 205 CMR 133.03. If the application is complete, the designated agent shall sign the application indicating that the review has been performed and the application has been accepted.

(5) A designated agent may not sign an application if (a) any required information is not provided or (b) they are of the belief that the applicant is not capable of understanding the responsibilities and consequences of being placed on the self-exclusion list.

(6) The designated agent shall forward the signed application for voluntary self-exclusion to the commission within 48 hours of completion in a manner directed by the commission.

(7) Upon receipt of an application, the commission, or its designee, shall review it for completeness. If the application meets all requirements of 205 CMR 133.02 the application shall be approved and the individual's name shall be added to the voluntary self-exclusion list. If the application is incomplete, the commission, or its designee, may deny the application and make efforts to contact the applicant advising them of such.

(8) If the gaming licensee utilizes an internal management system to track individuals on the self-exclusion list, they shall update that system at least every 72 hours with names of individuals being added or removed from the self-exclusion list.

(9) The commission, or its designee, shall add to the list of voluntarily self-excluded persons the name of any individual provided from a gaming jurisdiction outside of Massachusetts, with which the commission has entered into an interstate compact, upon a determination that the individual voluntarily requested that their name be added to the list of the referring jurisdiction and that they were notified, either directly or by operation of law, that their name may be placed on similar lists in other jurisdictions.

(10) If the applicant has elected the services identified in 205 CMR 133.03(8), the commission, or its designee shall contact the designated coordinating organization for the provision of requested services.

133.03: Contents of the Application

The application for voluntary self-exclusion shall require provision of, at a minimum, the following content:

(1) Name, home address, email address or telephone number, date of birth, and last four digits of social security number of the applicant;

(2) A passport style photo of the applicant without headwear, unless worn daily for religious purposes and provided that the applicant's facial features are not obscured;

(3) A statement from the applicant that one or more of the following apply:
(a) they identify as a problem gambler as defined in 205 CMR 133.01;
(b) they feel that their gambling behavior is currently causing problems in their life or may, without intervention, cause problems in their life; or
(c) there is some other reason why they wish to add their name to the list.

(4) Election of the duration of the exclusion in accordance with 205 CMR 133.04;

(5) An acknowledgement by the applicant that the individual will not enter the gaming area of a gaming establishment or any area in which pari-mutuel or simulcasting wagers are placed for the duration of the exclusion period (except as provided by 205 CMR 133.02(1)) and that it is their sole responsibility to refrain from doing so;

(6) An acknowledgment by the applicant that the individual shall not collect any winnings or recover any losses resulting from any gaming activity at a gaming establishment for the duration of the exclusion period;

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133.03: continued

(7) An acknowledgment by the applicant that he or she will forfeit all rewards or points earned through a player reward card program;

(8) An offer by the commission or the designated agent completing the self-exclusion application to assist the applicant to access information about gambling disorders, self-guided help, peer-support, or counseling services with a clinician approved by the Massachusetts Department of Public Health or otherwise licensed or certified through a process or program approved by the Commission;

(9) An acknowledgment of understanding by the applicant that by placing their name on the voluntary self-exclusion list the prohibitions identified in 205 CMR 133.02(1) apply to all gaming establishments licensed by the commission in Massachusetts, any affiliates of the gaming licensee, whether within Massachusetts or another jurisdiction, and that the commission may share the list with other domestic or international gaming jurisdictions resulting in placement on those lists and may share such portion of the list with designated agents as may be necessary for the purpose of administering the voluntary self-exclusion program;

(10) An acknowledgment by the applicant that he or she is submitting the application freely, knowingly, and voluntarily;

(11) A statement that the individual is not under the influence of a substance or suffering from a health or mental health condition that would impair their ability to make an informed decision;

(12) An acknowledgment by the applicant that if they violate their agreement to refrain from entering a gaming area of a gaming establishment or any area in which pari-mutuel or simulcasting wagers are placed during the exclusion period, the applicant shall notify the commission of such violation within 24 hours of their presence within the gaming area of the gaming establishment or any area in which pari-mutuel or simulcasting wagers are placed; and releasing the Commonwealth of Massachusetts, the commission, the licensee, and all affiliated employees from any claims associated with their breach of the agreement; and

(13) An acknowledgment by the applicant that once their name is placed on the self-exclusion list they may be refused entry and/or ejected from the gaming area of a gaming establishment by the gaming licensee, an agent of the commission, or law enforcement personnel

133.04: Duration of Exclusion and Removal from the List

(1) As part of the request for voluntary self-exclusion, the individual must select the duration for which they wish to be voluntarily excluded. An individual may select any of the following time periods as a minimum length of exclusion:

(a) One year;
(b) Three years;
(c) Five years; or
(d) Lifetime (An individual may only select the lifetime duration if their name has previously appeared on the voluntary self-exclusion list for at least six months.)

(2) An individual on the Voluntary Self-exclusion list may not apply to decrease the duration of exclusion. An individual who is on the list may submit a request to increase the minimum length of exclusion.

(3) Upon expiration of the selected duration of exclusion, individuals may request that their name be removed from the list or petition for exclusion for a new duration. Individuals shall remain on the list after the expiration of the selected duration of exclusion until such time as they submit a petition for removal in accordance with 205 CMR 133.04(4) and it is approved by the commission or its designee.

(4) At any time after the expiration of the selected duration of exclusion, an individual may request that their name be removed from the Voluntary Self-exclusion list by submitting a petition for removal to a designated agent. The petition shall include confirmation from a designated agent that the individual completed a reinstatement session in accordance with 205 CMR 133.04(5). Any petition for removal received by a designated agent prior to the expiration of the duration of the selected exclusion period shall be denied.

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133.04: continued

The commission shall approve a completed petition for removal. An individual who has selected a lifetime duration in accordance with 205 CMR 133.04(1)(e) may not submit a petition for removal of their name from the list. An incomplete application, including one that fails to demonstrate completion of a reinstatement session in accordance with 205 CMR 133.04(5), shall be denied until such time as the application is completed.

(5) To be eligible for removal from the Voluntary Self-exclusion list, the petitioner shall participate in a reinstatement session with a designated agent. The reinstatement session shall include a review of the risks and responsibilities of gambling, budget setting and a review of problem gambling resources should the petitioner wish to seek them. Upon completion of the reinstatement session, the designated agent shall sign the individual's petition for removal from the list attesting to the fact that the reinstatement session was conducted.

(6) Upon approval of a petition for removal from the Voluntary Self-exclusion list, a written notice of removal from the list shall be forwarded by the commission, or its designee, to each gaming licensee. The petitioner shall be deemed to be removed from the Voluntary Self-exclusion list immediately upon completion of the reinstatement session, at which point the petitioner shall be given a receipt verifying said completion and confirming their removal from the Voluntary Self-exclusion list. A petitioner may be asked to present said confirmation of Voluntary Self-exclusion list removal receipt while gaming for seven days following their reinstatement. Failure to do so may result in administrative difficulties in confirming Voluntary Self-exclusion status during that time-period.

(7) If a petitioner does not meet the eligibility requirements for removal from the list provided in 205 CMR 133.04(4), the petition shall be denied. The petitioner shall be notified of the denial by email or first class mail to the email address or home address provided by the petitioner in the petition. In the event of a denial of a petition, the individual shall remain on the Voluntary Self-exclusion list until such time as the eligibility requirements have been satisfied.

(8) An individual whose name has been removed from the Voluntary Self-exclusion list may reapply for placement on the list at any time by submitting an application in accordance with 205 CMR 133.02.

(9) An individual whose name was added to the Voluntary Self-exclusion list in Massachusetts in accordance with 205 CMR 133.02(9) shall be removed from the list notwithstanding 205 CMR 133.04(4) through (6) upon receipt of written notice from the referring jurisdiction that the individual's name has been removed from that jurisdiction's list.

133.05 Maintenance and Custody of the List

(1) The commission shall maintain an up-to-date database of the Voluntary Self-exclusion list. Gaming licensees shall be afforded access to the Voluntary Self-exclusion list. The Voluntary Self-exclusion list may only be accessed by individuals authorized by the commission for the purpose of administering the voluntary self-exclusion program. This shall include positions identified in accordance with the gaming licensee's approved system of internal controls in accordance with 205 CMR 133.00. All information contained in approved applications for voluntary exclusion may be disclosed to a gaming licensee.

(2) The list of Voluntary Self-exclusion is exempt from disclosure under M.G.L. c. 66 and shall not be publicly disclosed by a gaming licensee. However, a gaming licensee may share the list with its affiliates in other jurisdictions for the purpose of assisting in the proper administration of responsible gaming programs operated by affiliated gaming establishments. Additionally, a gaming licensee shall include the names and contact information of individuals on the Voluntary Self-exclusion list in its aggregated no marketing list to be shared with junket enterprises and junket representatives in accordance with 205 CMR 134.06(5)(b) for the purpose of effectuating the intent of the Voluntary Self-exclusion program. Such disclosure shall not be a violation of M.G.L. c. 23K, § 45.

(3) The commission may disclose de-identified information from the Self-exclusion list to one or more research entities selected by the commission for the purpose of evaluating the effectiveness and ensuring the proper administration of the Self-exclusion process.

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Docket # 329

THE COMMONWEALTH OF MASSACHUSETTS
William Francis Galvin
Secretary of the Commonwealth

Regulation Filing *To be completed by filing agency*

CHAPTER NUMBER: **205 CMR 146.00**

CHAPTER TITLE: **Gaming Equipment**

AGENCY: **Massachusetts Gaming Commission**

SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*

This regulation governs the characteristics of the physical table used for the game of blackjack.

REGULATORY AUTHORITY: **M.G.L. c.23K, §§ 2, 4(37) & 5**

AGENCY CONTACT: **Carrie Torrisi** PHONE: **617-533-9702**

ADDRESS: **101 Federal Street, 12th Floor, Boston, Massachusetts 02110**

Compliance with M.G.L. c. 30A

EMERGENCY ADOPTION - *if this regulation is adopted as an emergency, state the nature of the emergency.*

PRIOR NOTIFICATION AND/OR APPROVAL - *If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.*

LGAC: 10.13.20
Boston Herald: 11.9.20

PUBLIC REVIEW - *M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period, including a small business impact statement, be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.*

Date of public hearing or comment period: **12/17/2020**

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FISCAL EFFECT - *Estimate the fiscal effect of the public and private sectors.*

For the first and second year: _____

For the first five years: _____

No fiscal effect: **No fiscal effect anticipated by this regulation.**

SMALL BUSINESS IMPACT - *M.G.L. c. 30A section 5 requires each agency to file an amended small business impact statement with the Secretary of the Commonwealth prior to the adoption of a proposed regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.*

Date amended small business impact statement was filed: **12/17/2020**

CODE OF MASSACHUSETTS REGULATIONS INDEX - *List key subjects that are relevant to this regulation:*
Gaming, Gaming Equipment

PROMULGATION - *State the action taken by this regulation and its effect on existing provisions of the Code of Massachusetts Regulations (CMR) or repeal, replace or amend. List by CMR number:*

This is an amendment to 205 CMR 146.13.

ATTESTATION - *The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency.* ATTEST:

SIGNATURE: SIGNATURE ON FILE DATE: **Dec 24 2020**

Publication - *To be completed by the Regulations Division*

MASSACHUSETTS REGISTER NUMBER: **1434** DATE: **01/08/2021**

EFFECTIVE DATE: **01/08/2021**

CODE OF MASSACHUSETTS REGULATIONS

Remove these pages:	*Insert these pages:*
520.7 - 520.10	**520.7 - 520.10**

A TRUE COPY ATTEST
WILLIAM FRANCIS GALVIN
SECRETARY OF THE COMMONWEALTH
DATE 12/24/2020 CLERK MG

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146.11: Roulette Balls

Balls used in gaming at roulette shall be made completely of a non-metallic material and not be less than $^{12}/_{16}$ of an inch nor more than $^{14}/_{16}$ of an inch in diameter, unless otherwise approved by the Bureau.

146.12: Roulette; Inspection Procedures; Security Procedures

(1) Prior to opening a roulette table for gaming activity, a casino supervisor or member of the security department shall:

(a) Inspect the roulette table and roulette wheel for any magnet or contrivance that would affect the fair operation of such wheel;

(b) Inspect the roulette wheel to assure that it is level and rotating freely and evenly;

(c) Inspect the roulette wheel to assure that all parts are secure and free from movement;

(d) Inspect the roulette ball by passing it over a magnet or compass to assure its non-magnetic quality; and

(e) Confirm that the layout and signage comply with 205 CMR 146.10(3), if a double zero roulette wheel is being used as a single zero roulette wheel.

(2) If a gaming licensee uses a roulette wheel which has external movable parts, any adjustments to the movable parts shall be made by a gaming establishment supervisor or a member of the gaming establishment maintenance department, in the presence of a security department member. Adjustments to the movable parts of a roulette wheel that is located on the gaming floor shall only be made when the roulette table is not open to the public or if the roulette wheel is moved to a secure location outside the gaming establishment as approved by the Bureau.

(3) All adjustments shall be completed prior to the inspections required pursuant to 205 CMR 146.12(1).

(4) The gaming licensee may replace any of the movable parts at any time; provided, however, if any one or more of the movable parts are external then an inspection must be completed in accordance with 205 CMR 146.12(1) and notification of what was replaced provided to the Bureau, prior to reopening the roulette wheel and table for gaming activity.

(5) A log of adjustments shall be maintained which shall include, at a minimum, the date, the roulette table number, whether an adjustment or replacement was completed and the signature of the person making the adjustment or replacement.

(6) When a roulette table is not open for gaming activity, the roulette wheel shall be secured by placing a cover over the entire wheel and securely locking such cover to the roulette table.

146.13: Blackjack Table; Card Reader Device; Physical Characteristics; Inspections

(1) Blackjack shall be played at a table having on one side places for the players and on the opposite side a place for the dealer. A true-to-scale rendering and a color photograph of the layout(s) shall be submitted to the Bureau prior to utilizing the layout design.

(2) The layout for a blackjack table shall contain, at a minimum:

(a) The name or trade name of the gaming licensee offering the game; and

(b) Specific areas designated for the placement of wagers, which betting areas shall not exceed seven in number, with the exception of the 6 to 5 blackjack variation, which shall contain no more than six betting areas.

(3) The following inscriptions shall appear on the blackjack layout:

(a) Blackjack pays 3 to 2 or 6 to 5;

(b) The draw rules of one of the following options:

1. Dealer must draw to 16 and stand on all 17s;
2. Dealer must hit on soft 17s; or

(c) Insurance pays 2 to 1.

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146.13: continued

(4) If a gaming licensee offers blackjack rule variations, the blackjack layout shall have imprinted on it the appropriate rules or payout odds observed for the particular version of blackjack being offered, which may include:

(a) Blackjack pays 1 to 1;
(b) Dealer must draw to 16 and stand on all 17s or Dealer must hit on soft 17s;
(c) Dealer's hole card dealt face up; or
(d) Other similar language approved by the Assistant Director of the IEB.

(5) Each blackjack table shall have a drop box and a tip box attached to it with the location of said boxes on the same side of the gaming table, but on opposite sides of the dealer, or an area approved by the Assistant Director of the IEB.

(6) If a gaming licensee offers one of the permissible additional wagers pursuant to the authorized Rules of the Game of blackjack, the blackjack layout shall have designated areas for the placement of the additional wager and shall have the payout odds for the additional wager imprinted on the layout or a separate sign located at the table containing the payout odds for the additional wager.

(7) A blackjack table may have attached to it an approved card reader device which permits the dealer to read their hole card in order to determine if the dealer has a blackjack in accordance with the authorized Rules of the Game of blackjack. If a blackjack table has an approved card reader device attached to it, the floorperson assigned to the table shall inspect the card reader device at the beginning of each gaming day to insure that there has been no tampering with the device and that it is in proper working order. A card reader device may not be used on a blackjack table offering a progressive blackjack wager pursuant to the authorized Rules of the Game of blackjack.

(8) Notwithstanding the requirements of 205 CMR 146.13(2), if a gaming licensee offers multiple action blackjack in accordance with the authorized Rules of the Game of blackjack, the blackjack layout shall contain, at a minimum:

(a) Three separate designated betting areas for each player position at the table with each separate betting area being numbered one through three; provided, however, that the number of player positions at each table shall not exceed six;
(b) A separate designated area on the layout for each player position for the placement of insurance wagers;
(c) A separate designated area on the layout for each player position for the placement of double down wagers;
(d) A separate designated area on the layout for each player position for the placement of split pair wagers; and
(e) Three separate areas designated for the placement of the dealer's original face up card with each separate area being numbered one through three.

(9) In order to collect the cards at the conclusion of a round of play as required by the authorized Rules of the Game of blackjack and at such other times as provided in 205 CMR 146.49, each blackjack table shall have a discard rack securely attached to the top of the dealer's side of the table. The height of each discard rack shall equal the height of the cards, stacked one on top of the other, contained in the total number of decks that are to be used to play the game at that table; provided, however, that a taller discard rack may be used if such rack has a distinct and clearly visible mark on its side to show the exact height for a stack of cards equal to the total number of cards contained in the number of decks to be used to play the game at that table. Whenever a double shoe is used at a blackjack table, the same number of decks shall be used in each side of the double shoe, and the height and marking requirements for that table's discard rack shall be determined from the number of decks used in one side of the shoe.

(10) If a gaming licensee offers a progressive blackjack wager pursuant to the authorized Rules of the Game of blackjack, the blackjack layout shall have designated areas for the placement of the progressive blackjack wager and shall contain the following equipment:

(a) A separate acceptor device for the placement of a progressive wager. Each acceptor device shall have a light which shall illuminate upon placement and acceptance of a gaming chip;

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(b) A method to ensure that only one progressive blackjack wager is made per spot, per round of play;
(c) A device or method to indicate that a progressive blackjack wager has been won;
(d) A sign describing the winning wagers and the payouts to be awarded on winning progressive blackjack wagers at a location near or on the table;
(e) A table controller panel which shall be equipped with a "lock-out" button which, once activated by the dealer, will prevent any player's gaming chip from being recognized in the acceptor device; and
(f) A mechanical, electrical or electronic table inventory return device which shall permit all gaming chips deposited into the acceptor devices to be collected and immediately returned to a designated area within the table inventory container prior to the dealing of a hand. The table inventory return device shall be designed and constructed to contain any feature the Bureau may require to maintain the security and integrity of the game. The procedures for the operation of all functions of the table inventory return device shall be submitted to the Bureau.

(11) If a gaming licensee offers a blackjack bonus wager pursuant to the authorized Rules of the Game of blackjack, the blackjack layout shall have designated areas for the placement of the blackjack bonus wager, and shall contain the following equipment:
(a) A table controller located in an area of the table or the pit which area shall be secured by dual locking mechanisms, which are unique from one another. One locking mechanism shall be maintained and controlled by a gaming establishment security supervisor, and the second locking mechanism shall be maintained and controlled by a table games supervisor;
1. One table controller shall control no more than four blackjack tables. Procedures for the operation, security and control of the table controller shall be submitted to the Bureau prior to implementation;
2. Whenever it is required that a table controller or any device connected thereto which may affect the operation of the blackjack bonus system be accessed or opened, certain information shall be recorded on a form entitled "Controller Access Authorization Log", which shall include, at a minimum, the date, time, purpose of accessing or opening the controller or device, and the signature of the authorized employee accessing or opening the machine or device. The Controller Access Authorization Log shall be maintained in the same secured location as the table controller, and shall have recorded thereon a sequential number and the manufacturer's serial number or the asset number of the controller;
(b) A blackjack bonus button, which shall be located at the table by the dealer, and used by each player with a winning blackjack bonus wager to generate a bonus amount to be won by that player. The blackjack bonus button shall be attached to the table in a manner that will enable the dealer to place the blackjack bonus button directly in front of each winning player;
(c) A blackjack bonus display, which shall be located at the table and shall display the amount of the winning blackjack bonus on both sides of the device, so that the amount is visible to all players, the dealer and supervisory personnel; and
(d) A sign containing the amount of the blackjack bonus wager, as well as the minimum and maximum possible blackjack bonus amounts to be awarded, pursuant to 205 CMR 147.03: *Notice and Patron Access*.

(12) If a gaming licensee offers a streak wager pursuant to the authorized Rules of the Game of blackjack, the blackjack table shall also contain:
(a) A layout which shall include, at a minimum:
1. Four additional separate designated betting areas for each of the player positions at the table, which areas shall be numbered "2" through "5"; and
2. The inscriptions "Two consecutive wins pays 3 to 1", "Three consecutive wins pays 7 to 1", "Four consecutive wins pays 17 to 1", and "Five consecutive wins pays 37 to 1"; and
(b) The following equipment:
1. Marker buttons ("lammers") with the gaming licensee's name or logo, to indicate how many consecutive blackjack hands a patron has won or another device or method approved by the Bureau; and
2. A sign containing the permissible amount of the streak wager, posted pursuant to 205 CMR 147.03: *Notice and Patron Access*.

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(13) If a gaming licensee offers a Match-the-dealer wager pursuant to the authorized Rules of the Game of blackjack, the blackjack table shall contain:

(a) A layout which shall include, at a minimum, an additional designated betting area bearing the inscription "Match-the-dealer" at each of the player positions at the table; and

(b) A layout inscription or sign posted at the blackjack table indicating the payout odds for the Match-the-dealer wager.

(14) If a gaming licensee offers the 20-point bonus wager pursuant to the authorized Rules of the Game of blackjack, the layout otherwise required by 205 CMR 146.13 shall also include, at a minimum, an additional designated betting area for the 20-point bonus wager at each of the player positions at the table. The blackjack table shall also contain a sign setting forth the payout odds for the 20-point bonus wager.

(15) If a gaming licensee offers the option set forth in the authorized Rules of the Game of blackjack that requires the dealer to draw additional cards on a soft 17, the blackjack layout shall have imprinted on it, at a minimum, the following inscription instead of the inscription set forth in 205 CMR 146.13(3)(b): "Dealer must draw to 16 and soft 17 and stand on hard 17's and all 18's."

(16) If a gaming licensee offers the optional bonus wager pursuant to the authorized Rules of the Game of blackjack, the layout otherwise required by 205 CMR 146.13 shall include, at a minimum, an additional designated betting area for such wager at each of the player positions at the table. In addition, payout odds for the optional bonus wager shall be inscribed on the layout or posted on a sign at each such blackjack table.

(17) If a gaming licensee requires a hand fee, the approved layout otherwise required by 205 CMR 146.13 shall include, at a minimum, an additional designated area at each player position for the placement of the hand fee.

146.14: Three-card Poker Table; Physical Characteristics

(1) Three-card poker shall be played at a table having player positions for no more than nine players on one side of the table and a place for the dealer on the opposite side.

(2) A true-to-scale rendering and color photograph of the layout(s) shall be submitted to the Bureau prior to utilizing the layout design. The layout for a three-card poker table shall contain, at a minimum:

(a) The name or trade name of the gaming licensee offering the game;

(b) A separate designated betting area at each player position for the placement of “ante” wagers;

(c) A separate designated betting area located immediately in front of each ante wager betting area for the placement of “play” wagers;

(d) A separate designated betting area located immediately behind each ante wager betting area for the placement of “pair plus” wagers;

(e) If the gaming licensee offers the six card bonus wager pursuant to the authorized Rules of the Game of Three Card Poker, a separate designated betting area at each player position for the placement of a six card bonus wager; and

(f) Inscriptions that advise patrons, in accordance with the authorized Rules of the Game of Three Card Poker, of the payout odds for ante and play wagers, pair plus wagers, six card bonus wagers and ante bonuses and that “Dealer Plays with Queen High or Better.”

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Docket # 330

THE COMMONWEALTH OF MASSACHUSETTS
William Francis Galvin
Secretary of the Commonwealth

Regulation Filing *To be completed by filing agency*

CHAPTER NUMBER: **205 CMR 153.00**

CHAPTER TITLE: **Community Mitigation Fund**

AGENCY: **Massachusetts Gaming Commission**

SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*

This regulation governs the Community Mitigation Fund administered by the Gaming Commission.

REGULATORY AUTHORITY: **M.G.L. c. 23K, § 61**

AGENCY CONTACT: **Carrie Torrisi** PHONE: **617-533-9702**

ADDRESS: **101 Federal Street, 12th Floor, Boston, Massachusetts 02110**

Compliance with M.G.L. c. 30A

EMERGENCY ADOPTION - *if this regulation is adopted as an emergency, state the nature of the emergency.*

PRIOR NOTIFICATION AND/OR APPROVAL - *If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.*

LGAC: 10.22.20
Boston Herald: 11.9.20

PUBLIC REVIEW - *M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period, including a small business impact statement, be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.*

Date of public hearing or comment period: **12/17/2020**

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The official version is the printed copy which is available from the State Bookstore at http://www.sec.state.ma.us/spr/sprcat/catidx.htm.

FISCAL EFFECT - *Estimate the fiscal effect of the public and private sectors.*

For the first and second year: _____

For the first five years: _____

No fiscal effect: **No fiscal effect anticipated by this regulation.**

SMALL BUSINESS IMPACT - *M.G.L. c. 30A section 5 requires each agency to file an amended small business impact statement with the Secretary of the Commonwealth prior to the adoption of a proposed regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.*

Date amended small business impact statement was filed: **12/17/2020**

CODE OF MASSACHUSETTS REGULATIONS INDEX - *List key subjects that are relevant to this regulation:*
Gaming, Community Mitigation

PROMULGATION - *State the action taken by this regulation and its effect on existing provisions of the Code of Massachusetts Regulations (CMR) or repeal, replace or amend. List by CMR number:*

This is a new regulation and does not repeal, replace, or amend any other regulation.

ATTESTATION - *The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency.* ATTEST:

SIGNATURE: SIGNATURE ON FILE DATE: **Dec 24 2020**

Publication - *To be completed by the Regulations Division*

MASSACHUSETTS REGISTER NUMBER: **1434** DATE: **01/08/2021**

EFFECTIVE DATE: **01/08/2021**

CODE OF MASSACHUSETTS REGULATIONS

Remove these pages:	*Insert these pages:*
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A TRUE COPY ATTEST
WILLIAM FRANCIS GALVIN
SECRETARY OF THE COMMONWEALTH
DATE 12/24/2020 CLERK MG

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205 CMR 153.00: COMMUNITY MITIGATION FUND

Section

153.01: Scope and Purpose
153.02: Guidelines for Distribution of Funds
153.03: Emergency Procedure
153.04: Commission Review and Execution of Grant
153.05: Expenses Related to Administration of the Community Mitigation Fund

153.01: Scope and Purpose

(1) 205 CMR 153.00 shall govern the manner in which the Commission exercises its authority established pursuant to M.G.L. 23K, § 61 to administer the Community Mitigation Fund and expend funds to assist the host and surrounding communities, or any other communities or entities identified in M.G.L. 23K, § 61, in offsetting costs related to the construction and operation of the gaming establishments.

153.02: Guidelines for Distribution of Funds

(1) For purposes of administration of the Fund in accordance with M.G.L. c. 23K, § 61, the Commission, with recommendation from the Gaming Policy Advisory Committee and its subcommittees established pursuant to M.G.L. c. 23K, § 68, shall review and approve guidelines annually for the administration and distribution of monies in the Fund. Such guidelines shall include, at a minimum:

(a) The types of grants that will be available;
(b) Who may apply;
(c) What types of projects may be funded, including any limitations;
(d) The form, process, and timeline for application and review, including the application deadline;
(e) The availability and allocation of funding;
(f) The process and criteria for Commission review;
(g) A timeframe within which funds must be expended before reverting back to the Fund;
(h) The use of surplus funds; and
(i) A procedure providing for waiver or variance from a provision of the guidelines.

153.03: Emergency Procedure

(1) In accordance with M.G.L. c. 23K, § 61, parties seeking appropriations from the Fund must submit written requests before February 1st of each year. For purposes of 205 CMR 153.03, each year shall run from February 1st through January 31st.

(2) The Commission may accept a request for an emergency appropriation from the Fund at any time. An emergency shall be defined as a serious and unexpected situation requiring immediate action to avoid significant harm to the community or to prevent threats to the health, welfare or safety of individuals or serious damage to property. For purposes of 205 CMR 153.03, an emergency shall include, but not be limited to, situations related to infrastructure, technology, and/or public safety, that were not known or could not have been known at the time requests for allocations from the Fund were due.

(3) The Commission shall establish a procedure for the request and allocation of funds on an emergency basis, which shall be outlined in the guidelines. Emergency appropriations from the Fund for applications received on or after February 1st shall be funded from the next Community Mitigation Fund fiscal year allocation.

153.04: Commission Review and Execution of Grant

(1) The Commission shall review all requests for appropriations from the Fund and shall make a determination as to whether to award funds and the amount of that award.

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153.04: continued

(2) Following an award from the Commission, the successful requestor shall execute a grant instrument with the Commission outlining the scope and terms of the award. The grant instrument shall include, at a minimum:

(a) A detailed scope of the grant;
(b) The person responsible for managing the grant on the applicant's behalf;
(c) A timeline, breakdown, and requirements to be met for disbursement of the funds;
(d) Reporting requirements;
(e) Requirement that the funds be returned to the Commission in the event of noncompliance with the terms of the grant;
(f) Indemnification provisions for the Commission and its staff; and
(g) Any other provisions deemed appropriate by the Commission and its staff.

153.05: Expenses Related to Administration of the Community Mitigation Fund

(1) The Commission is the trustee of the Community Mitigation Fund in accordance with M.G.L. c. 23K, § 4(38).

(2) The Commission finds that administration of the Fund by its staff including, but not limited to, development of guidelines for approval by the Commission pursuant to 205 CMR 153.02 and oversight of the grant program, is directly related to and essential to assisting the host and surrounding communities and any other communities or entities identified in M.G.L. 23K, § 61 in receiving funds and offsetting costs related to the construction and operation of the gaming establishments. Accordingly, reasonable administrative costs incurred by the Commission on behalf of and in furtherance of the administration of the Fund may be assessed to the Fund.

(3) The administrative costs shall not exceed 10% of the funds available in the Community Mitigation Fund for the fiscal year. The precise assessment to the Fund shall be set annually by the Commission at a public meeting as part of its budgetary process.

(4) Reasonable administrative costs which may be assessed to the Fund may include, but not be limited to, Commission staff salaries (in full or on a *pro-rata* basis), technology, software, and office supplies, provided that any such costs shall be directly related to administration of the Fund.

REGULATORY AUTHORITY

205 CMR 153.00: M.G.L. c. 23K, § 61.

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Docket # 6

THE COMMONWEALTH OF MASSACHUSETTS
William Francis Galvin
Secretary of the Commonwealth

Regulation Filing *To be completed by filing agency*

CHAPTER NUMBER: **935 CMR 500.000**

CHAPTER TITLE: **Adult Use of Marijuana**

AGENCY: **Cannabis Control Commission**

SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*

These final regulations revise the legal and regulatory framework governing the adult use of marijuana program, which is implemented by the Commission.

REGULATORY AUTHORITY: **St. 2016, c. 334, as amended by St. 2017, c. 55; M.G.L. c. 94G; and M.G.L. c. 94I.**

AGENCY CONTACT: **Christine Baily, General Counsel** PHONE: **617-620-1181**

ADDRESS: **2 Washington Square Union Station, 2nd Floor, Worcester, MA 01604**

Compliance with M.G.L. c. 30A

EMERGENCY ADOPTION - *if this regulation is adopted as an emergency, state the nature of the emergency.*

PRIOR NOTIFICATION AND/OR APPROVAL - *If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.*

On June 19, 2020, notification was sent to the Department of Housing and Community Development and to the Massachusetts Municipal Association. After the filing of the draft regulations, notification was also sent to interested stakeholders.

PUBLIC REVIEW - *M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period, including a small business impact statement, be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.*

Date of public hearing or comment period: **Comment period 7/24/20-8/14/20; Hearing 8/3/20**

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The official version is the printed copy which is available from the State Bookstore at http://www.sec.state.ma.us/spr/sprcat/catidx.htm.

FISCAL EFFECT - *Estimate the fiscal effect of the public and private sectors.*

For the first and second year: **The net fiscal impact is $483K in the first year. Second year effect to be determined.**

For the first five years: **The Commission will continue to seek operational efficiencies to minimize the impact on revenue collections.**

No fiscal effect:

SMALL BUSINESS IMPACT - *M.G.L. c. 30A section 5 requires each agency to file an amended small business impact statement with the Secretary of the Commonwealth prior to the adoption of a proposed regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.*

Date amended small business impact statement was filed: **December 18, 2020**

CODE OF MASSACHUSETTS REGULATIONS INDEX - *List key subjects that are relevant to this regulation:*

Cannabis Control Commission
Adult Use of Marijuana
Marijuana Establishments

PROMULGATION - *State the action taken by this regulation and its effect on existing provisions of the Code of Massachusetts Regulations (CMR) or repeal, replace or amend. List by CMR number:*

Chapter 935 CMR 500.000: Adult Use of Marijuana, effective January 8, 2021.

ATTESTATION - *The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency.* ATTEST:

SIGNATURE: SIGNATURE ON FILE DATE: **Dec 21 2020**

Publication - *To be completed by the Regulations Division*

MASSACHUSETTS REGISTER NUMBER: **1434** DATE: **01/08/2021**

EFFECTIVE DATE: **01/08/2021**

CODE OF MASSACHUSETTS REGULATIONS

Remove these pages:	*Insert these pages:*
1 - 2.2	**1 - 2.2**
101 - 212	**101 - 250**

A TRUE COPY ATTEST
WILLIAM FRANCIS GALVIN
SECRETARY OF THE COMMONWEALTH
DATE 12/21/2020 CLERK mrs

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NON-TEXT PAGE

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935 CMR 500.000: ADULT USE OF MARIJUANA

Section

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500.003: Colocated Marijuana Operations (CMOs)
500.005: Fees
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500.415: Void Marijuana Establishment License
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500.500: Hearings and Appeals of Actions on Licenses
500.800: Suitability Standard for Licensure and Registration
500.801: Suitability Standard for Licensure
500.802: Suitability Standard for Registration as a Marijuana Establishment Agent
500.803: Suitability Standard for Registration as a Laboratory Agent
500.820: Confidentiality
500.830: Petitions for the Adoption, Amendment or Repeal of Regulations
500.840: Non-conflict with Other Laws
500.850: Waivers
500.860: Notice
500.900: Severability

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500.001: Purpose

The purpose of 935 CMR 500.000 is to implement St. 2017, c. 55, An Act to Ensure Safe Access to Marijuana, and M.G.L. c. 94G.

500.002: Definitions

For the purposes of 935 CMR 500.000, the following terms shall have the following meanings:

Administrative Hold means a hold requiring temporary isolation of Marijuana or Marijuana Products by a Licensee or Registrant pending further investigation.

Adult-use Cannabis or Marijuana means Marijuana that is cultivated, Processed, Transferred, tested or sold to adults 21 years of age or older pursuant to M.G.L. c. 94G.

Adult-use Cannabis or Marijuana Products means Marijuana Products that are Processed, Manufactured, Transferred, tested or sold to adults 21 years of age or older pursuant to M.G.L. c. 94G.

Advanced Core Curriculum means the advanced training curriculum taught by a Responsible Vendor Trainer that may be taken by Marijuana Establishment Agents after completing the Basic Core Curriculum under 935 CMR 500.105(2)(b).

Advertising means a form of marketing communication that employs a sponsored, non-personal message to sell or promote a Marijuana Establishment's Brand Name, Marijuana Establishment Branded Good, service, product or idea.

Affixed means the attachment of a label or other packaging material so that it is not easily removed or lost.

Agent Registration Card means an identification card currently and validly issued by the Commission to a Marijuana Establishment, MTC or Laboratory Agent. The Agent Registration Card allows access into Commission supported databases. The card facilitates verification of an individual Registrant's status including, but not limited to, identification by the Commission and Law Enforcement Authorities of those individuals exempt from Massachusetts criminal and civil penalties under M.G.L. c. 94G and 94I, and 935 CMR 500.000 and 501.000.

Area of Disproportionate Impact means a geographic area identified by the Commission for the purposes identified in M.G.L. c. 94G, 4(a½)(iv), 935 CMR 500.040 and 500.101, and which has had historically high rates of arrest, conviction, and incarceration related to Marijuana crimes.

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

Assignment for the Benefit of Creditors means a contractual agreement with a third-party by which the Licensee assigns all of its assets and liabilities to such third-party in order to satisfy the Licensee's obligations to its creditors by liquidating the assets.

Basic Core Curriculum means the foundational training curriculum required of all Marijuana Establishment Agents taught by a Responsible Vendor Trainer under 935 CMR 500.105(2)(b).

Beverage means a liquid intended for drinking.

Bona Fide Healthcare Provider Patient Relationship means a relationship between a Certifying Healthcare Provider, acting in the usual course of their professional practice, and a Patient in which the healthcare provider 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.

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500.002: continued

Brand Name means a brand name (alone or in conjunction with any other word), registered trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other identifiable marker associated with a Marijuana Establishment.

Brand Name Sponsorship means the payment by a Marijuana Establishment in exchange for use of a Brand Name:

(1) to sponsor an athletic, musical, artistic, or other social or cultural event; or

(2) to identify, advertise, or promote such event, or an entrant, or participant of such an event.

Cannabinoid means any of several compounds produced by Marijuana plants that have medical and psychotropic effects.

Cannabinoid Profile means the amounts, expressed as the dry-weight percentages, of delta-nine-tetrahydrocannabinol, cannabidiol, tetrahydrocannabinolic acid and cannabidiolic acid in a Marijuana Product. Amounts of other Cannabinoids may be required by the Commission.

Cannabis means Marijuana as defined herein.

Canopy means an area to be calculated in square feet and measured using clearly identifiable boundaries of all areas(s) that will contain Flowering and/or Vegetative plants larger than eight inches tall and eight inches wide at any point in time, including all of the space(s) within the boundaries. Canopy may be noncontiguous, but each unique area included in the total Canopy calculations shall be separated by an identifiable boundary which includes, but is not limited to: interior walls, shelves, Greenhouse walls, hoop house walls, garden benches, hedge rows, fencing, garden beds, or garden plots. If Flowering and/or Vegetative plants larger than eight inches tall and eight inches wide are being cultivated using a shelving system, the surface area of each level shall be included in the total Canopy calculation.

Card Holder means a Registered Qualifying Patient, Personal Caregiver, Marijuana Establishment Agent, Medical Marijuana Treatment Center (MTC) Agent, or Laboratory Agent who holds a valid Patient or Agent Registration Card.

Caregiver means a Personal Caregiver or Institutional Caregiver.

Caregiving Institution means a hospice program, long-term care facility, or hospital duly registered currently and validly by the Commission, providing care to a Registered Qualifying Patient on the premises of the facility or through a hospice program.

Cease and Desist Order means an order to stop or restrict operations including, but not limited to, cultivation, product manufacturing, Transfer, sale, delivery, or testing, of Marijuana, Marijuana Products or Marijuana-infused Products (MIPs) by a Licensee or Registrant to protect the public health, safety or welfare.

Ceases to Operate means a Marijuana Establishment, Medical Marijuana Treatment Center (MTC) or Independent Testing Laboratory that closes and does not transact business for a period greater than 60 days with no substantial action taken to reopen. The Commission may determine that an establishment has Ceased to Operate based on its actual or apparent termination of operations.

Certificate of Licensure means the certificate issued by the Commission that confirms that an MTC or Independent Testing Laboratory has met all applicable requirements pursuant to M.G.L. c. 94I, and 935 CMR 501.000, and is currently and validly licensed by the Commission. An MTC or Independent Testing Laboratory may be eligible for a provisional or final Certificate of Licensure.

Certificate of Registration means a certificate currently and validly issued by the Commission, that confirms an individual or entity has met all applicable requirements pursuant to M.G.L. c. 94I, and 935 CMR 501.000 and is registered by the Commission.

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Certifying Certified Nurse Practitioner (CNP) means a Massachusetts licensed certified nurse practitioner licensed pursuant to 244 CMR 4.00: *Advanced Practice Registered Nursing*, who certifies that in their professional opinion, the potential benefits of the medical use of Marijuana would likely outweigh the health risks for a Qualifying Patient

Certifying Healthcare Provider means a Certifying CNP, a Certifying Physician or a Certifying Physician Assistant.

Certifying Physician means a Massachusetts licensed physician (Medical Doctor or Doctor of Osteopathy) who certifies that in their professional opinion, the potential benefits of the medical use of Marijuana would likely outweigh the health risks for a Qualifying Patient.

Certifying Physician Assistant means a Massachusetts physician assistant licensed pursuant to 263 CMR 3.00: *Licensure of Individual Physician Assistants,* who certifies that in their professional opinion, the potential benefits of the medical use of Marijuana would likely outweigh the health risks for a Qualifying Patient.

Clinical Visit means an in-person or telehealth visit during which a Certifying Healthcare Provider establishes a *Bona Fide* Healthcare Provider Patient Relationship and conducts a full assessment of the Patient's medical history and current medical condition, including the Debilitating Medical Condition, and explains the potential benefits and risks of Marijuana use. A Clinical Visit for an initial Certificate of Registration shall be performed in-person.

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

Close Associate means a Person who holds a relevant managerial, operational or financial interest in the business of an applicant or Licensee and, by virtue of that interest or power, is able to exercise a significant influence over the corporate governance of a Marijuana Establishment, an MTC or Independent Testing Laboratory licensed under 935 CMR 500.000. A Close Associate is deemed to be a Person or Entity Having Direct or Indirect Control.

Colocated Marijuana Operations (CMO) means an MTC operating under a License pursuant to 935 CMR 501.000: *Medical Use of Marijuana* and a Marijuana Establishment operating under at least one License pursuant to 935 CMR 500.000 on the same Premises. Colocated Marijuana Operations pertain to cultivation, product manufacturing, and retail licenses, but not any other adult-use License.

Commission means the Massachusetts Cannabis Control Commission as established by M.G.L. c. 10, § 76, or its representatives. The Commission has authority to implement the state Marijuana laws which include, but are not limited to, St. 2016, c. 334, The Regulation and Taxation of Marijuana Act, as amended by St. 2017, c. 55, An Act to Ensure Safe Access to Marijuana; M.G.L. 10, § 76, M.G.L. c. 94G; M.G.L. c. 94I; 935 CMR 500.000 and 935 CMR 501.000: *Medical Use of Marijuana*.

Commission Delegee(s) means other state or local officials or agencies working in cooperation with the Commission by agreement, to carry out the Commission's responsibilities and to ensure compliance with the adult-use and medical-use, laws, and any other applicable federal or state laws.

Confidential Application Materials means any electronic or written document, communication or other record pertaining to an application for licensure or registration that is required to be confidential or protected from disclosure by law which includes, but is not limited to, personally identifiable information concerning an applicant, Registrant, or Licensee; background check information or Criminal Offender Record Information (CORI) as defined by 803 CMR 2.02: *Definitions, or Criminal History Record Information (CHRI)* as defined by 803 CMR 7.02: *Definitions*; and information that implicates security concerns.

Confidential Database means the Commission database that holds data concerning:

(a) Qualifying Patients issued a Registration Card for medical use of Marijuana;
(b) Healthcare professionals registered to issue Written Certifications;

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(c) MTCs;
(d) Quantity of medical-use Marijuana dispensed to a Card Holder; and
(e) Any other pertinent information.

Confidential Information means information that is legally required to be kept confidential, or that is protected from disclosure by a legally recognized privilege. This includes, but is not limited to, M.G.L. c. 4, § 7, cl. 26 and M.G.L. c. 94I, §§ 2(e) and 3.

Confidential Investigatory Materials means any electronic or written document, communication or other record pertaining to an investigation, which concerns:
(a) A possible violation of a statute, regulation, rule, practice or procedure, or professional or industry standard, administered or enforced by the Commission;
(b) An ongoing investigation that could alert subjects to the activities of an investigation;
(c) Any details in witness statements, which if released create a grave risk of directly or indirectly identifying a private citizen who volunteers as a witness;
(d) Investigative techniques the disclosure of which would prejudice the Commission's future investigative efforts or pose a risk to the public health, safety or welfare; or
(e) The background of any person the disclosure of which would constitute an unwarranted invasion of personal privacy.

Confidential Records means any electronic or written record required to be kept confidential or protected from disclosure by law, which includes, but is not limited to, Confidential Application Materials, Confidential Social Equity Application Materials, Confidential Investigatory Materials, and Protected Patient Records (as defined in 935 CMR 501.002: *Protected Patient Records*).

Confidential Social Equity Application Materials means any electronic or written document, communication or other record pertaining to an application for the Social Equity Program that is required to be confidential or protected from disclosure by law which includes, but is not limited to, CORI as defined by 803 CMR 2.02: *Definitions*, or CHRI as defined in 803 CMR 7.02: *Definitions*.

Consumer means a person who is 21 years of age or older.

Court Appointee shall mean a person or entity appointed by a court of competent jurisdiction to exercise court oversight with respect to the property, assets, management, or operations of a Licensee or Person or Entity Having Direct or Indirect Control over a Licensee including, without limitation, a receiver, custodian, guardian, trustee, and executor or administrator of estate. This could include a person or entity preapproved or recommended by the Commission or its delegee appointed by the court.

Court Supervised Proceeding shall mean a proceeding where a court of competent jurisdiction supervises the property, assets, management, or operations of a Licensee or Person or Entity Having Direct or Indirect Control over a Licensee through a Court Appointee.

Craft Marijuana Cooperative means a Marijuana Cultivator comprised of residents of the Commonwealth and organized as a limited liability company, limited liability partnership, or cooperative corporation under the laws of the Commonwealth. A cooperative is licensed to cultivate, obtain, Manufacture, Process, package, brand and Transfer Marijuana or Marijuana Products to Marijuana Establishments, but not to Consumers. Criminal Offender Record Information (CORI) shall have the same meaning as defined by 803 CMR 2.02: *Definitions*.

Criminal Offender Record Information (CORI) shall have the same meaning as defined by 803 CMR 2.02: *Definitions*.

Cultivation Batch means a collection of Cannabis or Marijuana plants from the same seed or plant stock that are cultivated and harvested together, and receive an identical Propagation and cultivation treatment including, but not limited to: growing media, ambient conditions, watering and light regimes and agricultural or hydroponic inputs. Clones that come from the same plant are one batch. The Licensee shall assign and record a unique, sequential alphanumeric identifier to each Cultivation Batch for the purposes of production tracking, product labeling and product recalls.

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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 healthcare provider.

Delivery Agreement means a contract between a licensed Marijuana Establishment and a Delivery Licensee or Marijuana Establishment with a Delivery Endorsement to deliver Marijuana or Marijuana Products from the Marijuana Establishment directly to Consumers and as permitted, Marijuana Couriers to Patients and Caregivers, under the provisions of a Delivery License.

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

Delivery Items means Finished Marijuana Products, Marijuana Accessories, and Marijuana Establishment Branded Goods.

Delivery License means either a Marijuana Courier License or a Marijuana Delivery Operator License.

Delivery Licensee means either a Marijuana Courier or a Marijuana Delivery Operator authorized to deliver Marijuana and Marijuana Products directly to Consumers and as permitted, Marijuana Couriers to Patients and Caregivers.

Department of Agricultural Resources (MDAR) means the Massachusetts Department of Agricultural Resources, unless otherwise specified. MDAR has jurisdiction over Hemp and Pesticides.

Department of Criminal Justice Information Services (DCJIS) means the Massachusetts Department of Criminal Justice Information Services, unless otherwise specified. DCJIS shall have the same meaning as defined in 803 CMR 2.02: *Definitions*.

Department of Public Health (DPH) means the Massachusetts Department of Public Health, unless otherwise specified. DPH is the agency that administered the Medical Use of Marijuana Program prior to 2019.

Department of Revenue (DOR) means the Massachusetts Department of Revenue, unless otherwise specified.

Department of Unemployment Assistance (DUA) means the Massachusetts Department of Unemployment Assistance, unless otherwise specified.

Duress Alarm means a silent security alarm signal generated by the entry of a designated code into an Arming Station that signals an alarm user is under duress and turns off the system.

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

1. Majority-equity-ownership Criteria:
   a. A majority (more than 50%) of ownership belongs to people who have lived for five of the preceding ten years in an Area of Disproportionate Impact, as determined by the Commission.

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b. A majority (more than 50%) of ownership has held one or more previous positions where the primary population served were disproportionately impacted, or where primary responsibilities included economic education, resource provision or empowerment to disproportionately impacted individuals or communities.

c. A majority (more than 50%) of the ownership is made up of individuals from Black, African American, Hispanic or Latino descent.

2. Additional Criteria:

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

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

c. Other significant articulable demonstration of past experience in or business practices that promote economic empowerment in Areas of Disproportionate Impact. This applicant has priority for the purposes of the review of its license application.

Edibles means a Marijuana Product that is to be consumed by humans by eating or drinking. These products, when created or sold by a Marijuana Establishment or an MTC, shall not be considered a food or a drug as defined in M.G.L. c. 94, § 1.

Electronic Certification means a document signed or executed electronically by a Certifying Healthcare Provider, stating that in the healthcare professional'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* Healthcare Provider-patient Relationship and shall specify the Qualifying Patient's Debilitating Medical Condition. Electronic Certifications, on submission by a Certifying Healthcare Provider to the Commission, shall automatically generate a temporary registration.

Enclosed Area means an indoor or outdoor area equipped with locks or other security devices, which is accessible only to Consumers, Marijuana Establishment Agents, Registered Qualifying Patients, or Caregivers.

Equity Holder means a person or entity that holds, or may hold as a result of one or more of the following including, without limitation, vesting, conversion, exercising an option, a right of first refusal, or any agreement that would trigger an automatic transfer of or conversion to equity, any amount of equity in a Marijuana Establishment or an MTC.

Executive means members of the board of directors, executive officers, executive director, manager, or their equivalent, of a Marijuana Establishment, MTC, or Independent Testing Laboratory.

Executive Office of Energy and Environmental Affairs (EOEEA) means the Massachusetts Executive Office of Energy and Environmental Affairs, unless otherwise specified.

Existing Licensee Transporter means an entity that is otherwise licensed by the Commission and also licensed to purchase, obtain, and possess Marijuana or Marijuana Products solely for the purpose of transporting, temporary storage, sale and distribution on behalf of other Marijuana Establishments or MTCs to other establishments, but not to Consumers.

Expedited Applicant means an applicant for a Marijuana Microbusiness, Marijuana Craft Cooperative, Independent Testing Laboratory, or Outdoor Marijuana Cultivator license; a Social Equity Participant; a minority, woman, and/or veteran-owned business; eligible for expedited review prior to other General Applicants.

Fingerprint-based Background Check Trust Fund means a fund established under M.G.L. c. 29, § 2HHH, in which fees for fingerprint background checks are deposited.

Finished Marijuana means Usable Marijuana, Cannabis resin or Cannabis concentrate.

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Finished Marijuana Product means a Marijuana Product that is completely manufactured and ready for retail sale and shall include Finished Marijuana that has been separated into individual packages or containers for sale.

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

Food and Drug Administration (FDA) means the United States Food and Drug Administration.

General Applicant means an applicant that has not been certified as an Economic Empowerment Priority Applicant or an MTC Priority Applicant; and is not eligible to be an Expedited Applicant.

Greenhouse means a structure or thermally isolated Enclosed Area of a building that maintains a specialized sunlit environment used for and essential to the cultivation, protection or maintenance of plants.

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

Healthcare Clinician or Provider means a Certifying Physician, Certifying Certified Nurse Practitioner or Certifying Physician Assistant qualified under 935 CMR 501.000: *Medical Use of Marijuana*, to issue Written Certifications for the medical use of Marijuana.

Hemp means the plant of the genus Cannabis or any part of the plant, whether growing or not, with a delta-9-tetrahydrocannabinol concentration that does not exceed 0.3% on a dry weight basis of any part of the plant of the genus Cannabis, or per volume or weight of Marijuana Product, or the combined percent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus Cannabis, regardless of moisture content. MDAR has jurisdiction over Hemp.

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

Horticultural Lighting Equipment (HLE) means any lighting equipment (*e.g.,* fixtures, bulbs, ballasts, controls, *etc.*) that uses energy for the cultivation of plants, at any stage of growth (*e.g.*, germination, cloning/Mother Plants, Propagation, Vegetation, Flowering, and harvest).

Horticulture Lighting Square Footage (HLSF) means an area to be calculated in square feet and measured using clearly identifiable boundaries of all areas(s) that will contain plants at any point in time, at any stage of growth, including all of the space(s) within the boundaries. HLSF may be noncontiguous, but each unique area included in the total HLSF calculations shall be separated by an identifiable boundary which includes, but is not limited to: interior walls, shelves, Greenhouse walls, hoop house walls, garden benches, hedge rows, fencing, garden beds, or garden plots. If plants are being cultivated using a shelving system, the surface area of each level shall be included in the total HLSF calculation.

Host Community means a municipality in which a Marijuana Establishment or Independent Testing Laboratory is located or in which an applicant has proposed locating an establishment.

Immature Plant means a rooted plant in the Vegetation stage of development that is no taller than eight inches, no wider than eight inches, and is in a growing/cultivating container.

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

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

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Independent Testing Laboratory means a laboratory that is licensed or registered by the Commission and is:

(a) Currently and validly licensed under 935 CMR 500.101, or formerly and validly registered by the Commission;

(b) Accredited to ISO 17025: 2017 or the International Organization for Standardization 17025 by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Accrediting Cooperation mutual recognition arrangement or that is otherwise approved by the Commission;

(c) Independent financially from any MTC Marijuana Establishment or Licensee; and

(d) To test Marijuana and Marijuana Products, including MIPs, in compliance with M.G.L. c. 94C, § 34; M.G.L c. 94G, § 15; 935 CMR 500.000; and 935 CMR 501.000: *Medical Use of Marijuana*; and Commission protocol(s).

Individual Order means a delineated amount of Finished Marijuana Products to be delivered by a Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement to an individual Consumer and as permitted, a Marijuana Courier to a Patient or Caregiver, and not to exceed the individual possession amount limits as determined by statute.

Inducement means money or any other thing of substantial value intended to persuade or influence a person or entity to take an action or refrain from taking an action.

Informed Consent means the consent obtained by a Research Licensee from potential participants in a research project that explains to potential participants the risks and potential benefits of a study, and the rights and responsibilities of the parties involved.

Informed Consent Form means the document provided to potential participants in a research project that explains to potential participants the risks and potential benefits of a study, and the rights and responsibilities of the parties involved.

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

Institutional Review Board means a specifically constituted administrative body established or designated by a Marijuana Research Facility Licensee to review and oversee the design and methods of a research project and, where human or animal subject are a component of the research, to protect the rights and welfare of persons recruited to participate in research.

Known Allergen means milk, egg, fish, crustacean shellfish, tree nuts, wheat, peanuts, and soybeans, or such other allergen identified by the U.S. Food and Drug Administration (FDA).

Laboratory Agent means an employee of an Independent Testing Laboratory registered in accordance with 935 CMR 500.029, who transports, possesses or tests Cannabis or Marijuana in compliance with 935 CMR 500.000.

Law Enforcement Authorities means local law enforcement including, but not limited to, the local police and fire departments within the municipality where the Licensee is sited, unless otherwise indicated.

License means the certificate issued by the Commission that confirms that a Marijuana Establishment or an Independent Testing Laboratory has met all applicable requirements pursuant to St. 2016, c. 334, as amended by St. 2017, c. 55, M.G.L. c. 94G, and 935 CMR 500.000. A Marijuana Establishment or Independent Testing Laboratory may hold a provisional or final License.

Licensee means a person or entity on the application and licensed by the Commission to operate a Marijuana Establishment or Independent Testing Laboratory under St. 2016, c. 334, as amended by St. 2017, c. 55, M.G.L. c. 94G, and 935 CMR 500.000. Any person or entity that solely provides initial capital to establish or operate the establishment and to whom, in return for the initial capital, requires only repayment of the loan and does not have any ownership or direct or indirect authority to control the Marijuana Establishment or Independent Testing Laboratory, will not be a Licensee.

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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.

Lighting Power Density (HLP) means a measure of total watts of Horticultural Lighting Equipment per total Horticulture Lighting Square Footage, (HLE / HLSF = HLPD) expressed as number of watts per square foot.

Limitation on Sales means a limitation on the sales of Marijuana or Marijuana Products by a Marijuana Establishment Licensee or Registrant arising from the regulations and until substantial compliance by a Licensee or Registrant with a law, regulation, guidance or other requirement for licensure or registration.

Limited Access Area means an indoor or outdoor area on the Premises of a Marijuana Establishment where Marijuana or Marijuana Products, or their byproducts are cultivated, stored, weighed, packaged, Processed, or disposed, under the control of a Marijuana Establishment, with access limited to only those Marijuana Establishment or Laboratory Agents designated by the Establishment after receipt of a Final License.

Local Authorities means local municipal authorities, unless otherwise indicated.

Manufacture means to compound, blend, extract, infuse or otherwise make or prepare a Marijuana Product.

Marijuana (or Cannabis) means all parts of any plant of the *genus* Cannabis, not excepted in 935 CMR 500.002(a) through (c) and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; Clones of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin, including tetrahydrocannabinol as defined in M.G.L. c. 94G, § 1; provided that Cannabis shall not include:

(a) 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, fiber, oil, or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination;

(b) Hemp; or

(c) The weight of any other ingredient combined with Cannabis or Marijuana to prepare topical or oral administrations, food, drink or other products.

Marijuana Accessories (or Cannabis Accessories) means equipment, products, devices or materials of any kind that are intended or designed for use in planting, Propagating, cultivating, growing, harvesting, Manufacturing, compounding, converting, producing, Processing, preparing, testing, analyzing, packaging, Repackaging, storing, containing, ingesting, inhaling or otherwise introducing Cannabis or Marijuana into the human body.

Marijuana Courier means an entity licensed to deliver Finished Marijuana Products, Marijuana Accessories and Branded Goods directly to Consumers from a Marijuana Retailer, or directly to Registered Qualifying Patients or Caregivers from an MTC, but is not authorized to sell Marijuana or Marijuana Products directly to Consumers, Registered Qualifying Patients or Caregivers and is not authorized to Wholesale, Warehouse, Process, Repackage, or White Label. A Marijuana Courier is an additional license type under M.G.L. c. 94G, § 4(b)(1) that allows for limited delivery of Marijuana or Marijuana Products to Consumers; and shall not be considered to be a Marijuana Retailer under 935 CMR 500.002 or 500.050 and shall be subject to 935 CMR 500.050(1)(b).

Marijuana Cultivator means an entity licensed to cultivate, Process and package Marijuana, and to Transfer Marijuana to other Marijuana Establishments, but not to Consumers. A Craft Marijuana Cooperative is a type of Marijuana Cultivator.

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Marijuana Delivery Operator or Delivery Operator means an entity licensed to purchase at Wholesale and Warehouse Finished Marijuana Products acquired from a Marijuana Cultivator, Marijuana Product Manufacturer, Microbusiness or Craft Marijuana Cooperative, and White Label, sell and deliver Finished Marijuana Products, Marijuana Accessories and Marijuana Branded Goods directly to Consumers, but is not authorized to Repackage Marijuana or Marijuana Products or operate a storefront under this license. A Delivery Operator is an additional license type under M.G.L. c. 94G, § 4(b)(1) that allows for limited delivery of Marijuana or Marijuana Products to Consumers; and shall not be considered to be a Marijuana Retailer under 935 CMR 500.002 or 500.050 and shall be subject to 935 CMR 500.050(1)(b).

Marijuana Establishment means a Marijuana Cultivator (Indoor or Outdoor), Craft Marijuana Cooperative, Marijuana Product Manufacturer, Marijuana Microbusiness, Independent Testing Laboratory, Marijuana Retailer, Marijuana Transporter, Delivery Licensee, Marijuana Research Facility Licensee (as defined in 935 CMR 500.002): Marijuana Research Facility Licensee Social Consumption Establishment (as defined in 935 CMR 500.002): Social Consumption Establishment or any other type of licensed Marijuana-related business, except a Medical Marijuana Treatment Center (MTC).

Marijuana Establishment Agent means any Owner, employee, Executive, or volunteer of a Marijuana Establishment, who shall be 21 years of age or older. Employee includes a consultant or contractor who provides on-site services to a Marijuana Establishment related to the cultivation, harvesting, preparation, packaging, storage, testing, or dispensing of Marijuana.

Marijuana Establishment Branded Good means a merchandise item offered for sale by a Marijuana Establishment, and identifiable as being of a particular Marijuana Establishment, distinct from those of other entities, by having the Marijuana Establishment's Brand Name. A Marijuana Establishment Branded Good does not include Marijuana, Marijuana Products, or Marijuana Accessories. It may include apparel, water bottles or other similar non-edible merchandise.

Marijuana Establishment Entrance means the entrance or entrances that provides ingress and egress to Consumers, Registered Qualifying Patients and Caregivers to the Marijuana Establishment.

Marijuana-infused Product (MIP) means a Marijuana Product infused with Marijuana that is intended for use or consumption including, but not limited to, Edibles, ointments, aerosols, oils, and Tinctures. A Marijuana-infused Product (MIP), when created or sold by a Marijuana Establishment or an MTC, shall not be considered a food or a drug as defined in M.G.L. c. 94, § 1. MIPs are a type of Marijuana Product.

Marijuana Products (or Cannabis Products) means Marijuana and its products, unless otherwise indicated. Marijuana Products includes products that have been Manufactured and contain Cannabis, Marijuana, or an extract from Cannabis or Marijuana, including concentrated forms of Marijuana and products composed of Marijuana and other ingredients that are intended for use or consumption, including Edibles, Beverages, topical products, ointments, oils and Tinctures. Marijuana Products include Marijuana-infused Products (MIPs) defined in 935 CMR 500.002.

Marijuana Product Manufacturer means an entity licensed to obtain, Manufacture, Process and package Marijuana or Marijuana Products and to Transfer these products to other Marijuana Establishments, but not to Consumers.

Marijuana Regulation Fund means the fund established under M.G.L. c. 94G, § 14, in which fees, fines, and other monies collected by the Commission are deposited, except for fees collected by the Commission on behalf of other state agencies.

Marijuana Research Facility means the Premises at which a Marijuana Research Facility Licensee is approved to conduct research.

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Marijuana Research Facility Licensee or Research Licensee means an academic institution, nonprofit corporation or domestic corporation or entity authorized to do business in the Commonwealth, including a licensed Marijuana Establishment or MTC, that is licensed to conduct research.

Marijuana Retailer means an entity licensed to purchase, Repackage, White Label, and transport Marijuana or Marijuana Product from Marijuana Establishments and to Transfer or otherwise Transfer this product to Marijuana Establishments and to sell to Consumers. Unless licensed, retailers are prohibited from offering Marijuana or Marijuana Products for the purposes of on-site social consumption on the Premises of a Marijuana Establishment.

Marijuana Transporter means an entity, not otherwise licensed by the Commission, that is licensed to possess Marijuana Products solely for the purpose of transporting, temporary storage, sale and distribution to Marijuana Establishments or MTCs, but not to Consumers. Marijuana Transporters may be an Existing Licensee Transporter or Third-party Transporter.

Marijuana Vaporizer Device means a product containing concentrated marijuana oil that is converted into inhalable marijuana aerosolized vapors

Massachusetts Resident means a person whose primary Residence is in Massachusetts.

Medical Marijuana Treatment Center (MTC), (formerly known as a Registered Marijuana Dispensary (RMD), means an entity licensed under 935 CMR 501.101: *Aplication Requirements* that acquires, cultivates, possesses, Processes (including development of related products such as Edibles, MIPs, Tinctures, aerosols, oils, or ointments), Repackages, transports, sells, distributes, delivers, dispenses, or administers Marijuana, products containing Marijuana, related supplies, or educational materials to Registered Qualifying Patients or their Personal Caregivers for medical use. Unless otherwise specified, MTC refers to the site(s) of dispensing, cultivation, and preparation of Marijuana for medical use.

Medical-use Marijuana (or Medical-use Cannabis) means Marijuana that is cultivated, Processed, Transferred, tested or sold in compliance with M.G.L. c. 94I, and 935 CMR 501.000: *Medical Use of Marijuana*.

Medical-use Marijuana or Marijuana Products means Marijuana Products that are Manufactured, Transferred, tested or sold in compliance with M.G.L. c. 94I, and 935 CMR 501.00.

Member means a member of a nonprofit entity incorporated pursuant to M.G.L. c. 180.

Microbusiness means an entity that can be either a Tier 1 Marijuana Cultivator or Marijuana Product Manufacturer or both, in compliance with the operating procedures for each License and, if in receipt of a Delivery Endorsement issued by the Commission, may deliver Marijuana or Marijuana Products produced at the licensed location directly to Consumers in compliance with established regulatory requirements for retail sale as it relates to delivery. A Microbusiness that is a Marijuana Product Manufacturer may purchase no more than 2,000 pounds of Marijuana per year from other Marijuana Establishments for the purpose of Marijuana Product manufacturing by the Licensee.

Mother Plant means a marijuana plant that is grown or maintained for the purpose of generating Clones, and that will not be used to produce plant material for sale to another Marijuana Establishment or Medical Marijuana Treatment Center.

MTC Agent means any Owner, employee, Executive, or volunteer of an MTC, who shall be 21 years of age or older. Employee includes a consultant or contractor who provides on-site services to an MTC related to the cultivation, harvesting, preparation, packaging, storage, testing, or dispensing of Marijuana or Marijuana Products for medical purposes.

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500.002: continued

MTC Priority Applicant means a Medical Marijuana Treatment Center (MTC) (previously, Registered Marijuana Dispensary (RMD)) certified by the Commission as an MTC Priority Applicant in 2018 upon demonstrating that it had at least a provisional Certification of Registration prior to April 1, 2018. This applicant has priority for the purposes of the review of its license application.

Mycotoxin means a secondary metabolite of a microfungus that is capable of causing death or illness in humans and other animals. For purposes of 935 CMR 500.000, and 501.000: *Medical Use of Marijuana*, Mycotoxin shall include aflatoxin B1, aflatoxin B2, aflatoxin G1, aflatoxin G2, and ochratoxin A.

Order to Show Cause means an order issued by the Commission or Commission Delegee on a determination that there are grounds to suspend or revoke a License or registration.

Other Jurisdiction means the United States, another state, or foreign jurisdiction, or a military, territorial or Native American tribal authority.

Outdoor Cultivation means the cultivation of mature Cannabis without the use of artificial lighting in the Canopy area at any point in time. Artificial lighting is permissible only to maintain Immature or Vegetative Mother Plants.

Owner means any Equity Holder that possesses 10% equity or more in a Marijuana Establishment, MTC or Independent Testing Laboratory.

Panic Alarm means an audible security alarm signal generated by the manual activation of a device that signals a life threatening or emergency situation and calls for a law enforcement response.

Paraphernalia means "drug paraphernalia" as defined in M.G.L. c. 94C, § 1.

Patient Registration Card means a temporary or an annual Registration Card currently and validly issued by the Commission to a Registered Qualifying Patient. The Patient Registration Card facilitates verification of an individual Registrant's status including, but not limited to, identification by the Commission and Law Enforcement Authorities, of those individuals who are exempt from Massachusetts criminal and civil penalties under M.G.L. c. 94I, and 935 CMR 501.000: *Medical Use of Marijuana* through Commission-supported databases. A Temporary Patient Registration issued to a Qualifying Patient shall be deemed a Registration Card.

Person means an individual or entity under the laws of the Commonwealth.

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

Personal Caregiver Registration Card means a temporary or an annual Registration Card currently and validly issued by the Commission to a Personal Caregiver. The Registration Card allows access into Commission supported databases. The Registration Card facilitates verification of an individual Registrant's status including, but not limited to, identification by the Commission and Law Enforcement Authorities of those individuals who are exempt from Massachusetts criminal and civil penalties under M.G.L. c. 94I, and 935 CMR 501.000: *Medical Use of Marijuana.* A temporary registration issued to a Personal Caregiver shall be deemed a Registration Card.

Person or Entity Having Direct Control means any person or entity having direct control over the operations of a Marijuana Establishment, which satisfies one or more of the following criteria:

(a) An Owner that possesses a financial interest in the form of equity of 10% or greater in a Marijuana Establishment;

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500.002: continued

(b) A Person or Entity that possesses a voting interest of 10% or greater in a Marijuana Establishment or a right to veto significant events;
(c) A Close Associate;
(d) A Person or Entity that has the right to control or authority, through contract or otherwise including, but not limited to:
1. To make decisions regarding operations and strategic planning, capital allocations, acquisitions and divestments;
2. To appoint more than 50% of the directors or their equivalent;
3. To appoint or remove Corporate-level officers or their equivalent;
4. To make major marketing, production, and financial decisions;
5. To execute significant (in aggregate of $10,000 or greater) or exclusive contracts; or
6. To earn 10% or more of the profits or collect more than 10% of the dividends.
(e) A Court Appointee or assignee pursuant to an agreement for a general assignment or Assignment for the Benefit of Creditors; or
(f) A Third-party Technology Platform Provider that possesses any financial interest in a Delivery Licensee including, but not limited to, a Delivery Agreement or other agreement for services.

Person or Entity Having Indirect Control means any person or entity having indirect control over operations of a Marijuana Establishment. It specifically includes any Person or Entity Having Direct Control over an indirect holding or parent company of the applicant, and the chief executive officer and executive director of those companies, or any person or entity in a position indirectly to control the decision-making of a Marijuana Establishment.

Pesticide means a substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant; provided that Pesticide shall not include any article that is a "new animal drug" within the meaning of § 201(v) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. § 321(v)), or that has been determined by the Secretary of the United States Department of Health and Human Services not to be a new animal drug by a regulation establishing conditions of use for the article, or that is an animal feed within the meaning of § 201(w) of such act (21 U.S.C. § 321(w)).

Preapproved Court Appointee means a person or entity preapproved by the Commission pursuant to 935 CMR 500.104(3)(c) to serve as a Court Appointee over a Licensee or its delegee which may be recommended to a court of competent jurisdiction.

Pre-certification Application means an application reviewed by the Commission for pre-certification prior to provisional licensure. The Pre-certification Application may be available in a form and manner determined by the Commission.

Pre-verification means the process of a Marijuana Establishment examining the identification presented by and individual Consumer to confirm that the identification is valid and matches the individual presenting it and collecting the information required by 935 CMR 500.000 prior to that Consumer being able to receive deliveries of Marijuana or Marijuana Products to the Consumer's Residence. A Marijuana Establishment may not acquire or record personal information about Consumers other than information typically required in a retail transaction.

Premises means any indoor or outdoor location over which a Marijuana Establishment or Independent Testing Laboratory or its agents may lawfully exert substantial supervision or control over entry or access to the property or the conduct of persons.

Priority Applicant means an MTC Priority Applicant (formerly a Registered Marijuana Dispensary or RMD Priority Applicant) or an Economic Empowerment Priority Applicant.

Process or Processing means to harvest, dry, cure, trim and separate parts of the Cannabis or Marijuana plant by manual or mechanical means, except it shall not include Manufacture as defined in 935 CMR 500.002.

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Product Database means a Commission-operated technology platform displaying information about Marijuana Products produced by licensed Marijuana Product Manufacturers and sold by a licensed Marijuana Retailer or Delivery Operator pursuant to 935 CMR 500.000 or an MTC pursuant to 935 CMR 501.000: *Medical Use of Marijuana*.

Production Area means a Limited Access Area within the Marijuana Establishment where Cannabis or Marijuana is handled or produced in preparation for sale.

Production Batch means a batch of finished plant material, Cannabis resin, Cannabis concentrate, or Marijuana-infused Product made at the same time, using the same methods, equipment and ingredients. The Licensee shall assign and record a unique, sequential alphanumeric identifier to each Production Batch for the purposes of production tracking, product labeling and product recalls. All Production Batches shall be traceable to one or more Cannabis or Marijuana Cultivation Batches.

Program Transfer means the transfer of the medical use of Marijuana program pursuant to St. 2017, c. 55, §§ 64 through 71, and 82, and M.G.L. c. 94I.

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

Protected Patient Records means any document, record or electronic or written communication related to their care provided by a medical-use Marijuana Licensee or establishment or by a Certifying Healthcare Provider that is required to be confidential or protected from disclosure by law.

Provisional Marijuana Establishment License means a License issued by the Commission confirming that a Marijuana Establishment has completed the application process and satisfied the qualifications for initial licensure.

Qualifying Patient means:

(i) a Massachusetts Resident or a non-Massachusetts Resident receiving end-of-life or palliative care or cancer treatment in Massachusetts as determined by a Certifying Healthcare Provider, who is 18 years of age or older who has been diagnosed by a Certifying Healthcare Provider as having a Debilitating Medical Condition; or

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

Quality Control Sample means a sample of Marijuana or Marijuana Product developed by a Marijuana Cultivator, a Marijuana Product Manufacturer, a Microbusiness, or a Craft Marijuana Cooperative that is provided internally to employees for purposes of ensuring product quality and making determinations about whether to sell the Marijuana or Marijuana Product.

Quarantine Order means an order to quarantine or otherwise restrict the sales or use of Marijuana, Marijuana Products, or MIPs by a Licensee or Registrant to protect the public health, safety, or welfare.

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

Registrant means the holder of a Registration Card currently and validly registered with the Commission.

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500.002: continued

Registration Card means an identification card currently and validly issued by the Commission, to a Registered Qualifying Patient, Personal Caregiver, Institutional Caregiver, Marijuana Establishment or Laboratory Agent. The Registration Card allows access into Commission supported databases. The Registration Card facilitates verification of an individual Registrant's status including, but not limited to, the identification by the Commission and Law Enforcement Authorities of those individuals who are exempt from Massachusetts criminal and civil penalties under St. 2016, c. 334, as amended by St. 2017, c. 55, M.G.L. c. 94I, and 935 CMR 501.00: *Medical Use of Marijuana*.

Removal of Product means an order issued against a Marijuana Establishment to remove and prohibit sales of categories of products, product types, specific product types or specific brands of products after notice and on a determination that the Marijuana or Marijuana Product poses a substantial risk to the public health, safety or welfare including, but not limited to, when the product is especially appealing to persons younger than 21 years old.

Repackage means to uniformly wrap or seal Marijuana that has already been wrapped or sealed, into a ready-made product for retail sale, without combining, infusing, or changing the chemical composition of the Marijuana.

Research Permit means a certificate indicating Commission approval to conduct a specified research project over a specified and finite period. To the extent that a Research Licensee is subject to other IRB, institutional, industry, or professional standards, they shall demonstrate compliance with those standards.

Residence means a house, condominium or apartment, and excludes, unless otherwise authorized by law, dormitories or other on-campus college or university housing; bed-and-breakfast establishments, hotels, motels or other commercial hospitality operations; and federal public housing identified at https://resources.hud.gov/, shelters or residential programs.

Residual Solvent means a volatile organic chemical used in the Manufacture of a Marijuana Product that is not completely removed by practical manufacturing techniques.

Responsible Vendor means a Marijuana Establishment that the Commission has determined to have completed the initial training requirements and has maintained its training requirement under 935 CMR 500.105(2).

Responsible Vendor Trainer means an independent business entity certified by the Commission to provide Responsible Vendor Training Program courses. No owner, manager, or employee of a Responsible Vendor Trainer may be a Person or Entity Having Direct or Indirect Control of a Marijuana Establishment.

Responsible Vendor Training (RVT) Program means a mandatory program that provides training courses taught by a Responsible Vendor Trainer for Marijuana Establishment Agents in order to satisfy the minimum training hours required under 935 CMR 500.105(2).

School Entrance means the entrance(s) that provide ingress and egress to students of the preexisting public or private or private school providing education in kindergarten or any grades 1 through 12 at the time of the newspaper publication of the proposed Marijuana Establishment's community outreach meeting under 935 CMR 500.101(1)(a)9.a..

SDO means the Supplier Diversity Office of the Massachusetts Operational Services Division (OSD).

Second Confirmatory Test means a second full panel of tests performed for reanalysis of a sample of Marijuana or Marijuana Products that failed an initial test for contaminants.

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Seed-to-sale Electronic Tracking System means a system designated by the Commission as the system of record (Seed-to-sale SOR) or a secondary electronic tracking system used by a Marijuana Establishment or an MTC or an Independent Testing Laboratory. This system shall capture everything that happens to an individual Marijuana plant, from seed and cultivation, through growth, harvest and Manufacture of Marijuana Products and MIPs, including transportation, if any, to final sale of finished products. Seed-to-sale Electronic Tracking System shall utilize a unique-plant identification and unique-batch identification. It will also be able to track agents' and Registrants' involvement with the Marijuana Product. Any secondary system used by the Marijuana Establishment or an MTC or an Independent Testing Laboratory shall integrate with the SOR in a form and manner determined by the Commission.

Seed-to-sale System of Record (Seed-to-sale SOR) means the electronic tracking system designated and required by the Commission to perform a process.

Shelf-stable means able to be safely stored at room temperature in a sealed container. Shelf-stable does not include "Time/Temperature Controlled for Safety Food" as it is defined under 105 CMR 590.001(A): *Adoption of 2013 Food Code*.

Small Business means, for the purposes of 935 CMR 500.005(1)(b), an applicant or Licensee that
(i) currently employs a combined total of 50 or fewer full-time equivalent employees in all locations or employees work less than a combined total of 2,600 hours per quarter; and
(ii) has gross revenues of $5 million or less, as reported to the Massachusetts Department of Revenue the year prior to the date of the Licensee's renewal application or as otherwise demonstrated in a form and manner determined by the Commission.

Social Consumption Establishment means an entity licensed to sell Marijuana or Marijuana Products and allow Consumers to consume Marijuana or Marijuana Products solely on its Premises.

Social Consumption Pilot Program means a limited number of Social Consumption Establishments, specifically Social Consumption Establishments, in certified municipalities.

Social Equity Program Participant means an individual who qualified to participate in the Social Equity Program and is designated as a program participant by the Commission.

Substantial Modification means a material change to a term of a contract that a reasonable person would understand alters the relationship between the parties. A Substantial Modification shall include, but is not limited to, shifting responsibility for the performance of a contract term or increasing or decreasing the amount of consideration being paid for performance of the contract above an amount that is *de minimis*.

Summary Suspension means the suspension of any License or registration issued under 935 CMR 500.000, and the cessation of all operations in order to protect the public health, safety and welfare.

Temporary Patient Registration means an interim registration document for patients and their Personal Caregivers generated automatically upon the Commission's receipt of a Certifying Healthcare Provider's Electronic Certification. The temporary registration document shall constitute a Registration Card for patients and their Personal Caregivers to access an MTC. Temporary registration shall expire 14 days after the Commission issues the Registration Card or on the issuance and receipt of an annual Registration Card, whichever occurs first.

Third-party Technology Platform Provider means an individual or entity that provides or hosts an internet-based application or group of applications developed for the facilitation of ordering and delivering Finished Marijuana Products, Marijuana Accessories and Branded Goods for sale or delivery by a Marijuana Retailer, Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement to a Consumer. A proprietary application developed by a Licensee exclusively for that Licensee's use shall not be considered to be a Third-party Technology Platform Provider. A Third-party Technology Platform Provider may not be an investor in a Delivery Licensee.

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Tincture means a Cannabis-infused alcohol or oils concentrate administered orally in small amounts using a dropper or measuring spoon. Tinctures are not considered an Edibles under 935 CMR 500.000 and are not subject to the dosing limitations applicable to Edibles.

Transfer means the sale of Marijuana or Marijuana Products from a Marijuana Establishment to a separate Marijuana Establishment, Independent Testing Laboratory or MTC (but not to Consumers) subject to entry of the transaction in the Commission's Seed-to-sale SOR.

United States (US) means the United States of America.

Unreasonably Impracticable means that the measures necessary to comply with the regulations, ordinances or bylaws adopted pursuant to St. 2016, c. 334, as amended by St. 2017, c. 55, M.G.L. c. 94G, M.G.L. c. 94I, 935 CMR 500.000, or 501.000: *Medical Use of Marijuana* subject Licensees to unreasonable risk or require such a high investment of risk, money, time or any other resource or asset that a reasonably prudent businessperson would not operate a Marijuana Establishment.

Usable Marijuana means the fresh or dried leaves and flowers of the female Marijuana plant and any mixture or preparation thereof, including Marijuana, Marijuana Products or MIPs, but does not include the seedlings, seeds, stalks, roots of the plant, or Marijuana rendered unusable in accordance with 935 CMR 500.105(12)c).

Vault means a secured, limited access storage room within a Marijuana Establishment that is outfitted with adequate security features for the purposes of storing Marijuana or Marijuana Products or cash. A vault must be adequately sized to store inventory that is not being actively handled for purposes of dispensing, packaging, processing or transportation.

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

Vegetative Plant means a plant in a stage of Vegetation.

Vendor Sample means a sample of Marijuana or Marijuana Product developed by a Marijuana Cultivator or a Marijuana Product Manufacturer licensed under the provisions of 935 CMR 500.000 that is provided to a Marijuana Product Manufacturer, a Marijuana Retailer or a Delivery Operator to promote product awareness.

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.

Veteran means a person who served in the active military, naval air, or space service of the United States and who was discharged or released under conditions other than dishonorable.

Visitor means an individual, other than a Marijuana Establishment Agent or Laboratory Agent, authorized by the Marijuana Establishment or Independent Testing Laboratory to be on the Premises of an Establishment for a purpose related to its operations and consistent with the objectives of St. 2016, c. 334, as amended by St. 2017, c. 55, M.G.L. c. 94G, and 935 CMR 500.000; provided, however, that no such individual shall be younger than 21 years old.

Visitor Identification Badge means a badge issued by an MTC, Marijuana Establishment or the Commission to be used at all times while on the Premises of a Marijuana Establishment or an MTC or Independent Testing Laboratory. These identification badges shall be issued in a form and manner determined by the Commission.

Waiver of Consent means the document signed by potential participants or the legal guardians of potential participants that waives one or more elements of consent.

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500.002: continued

Warehouse means an indoor structure or a portion of the structure on the licensee's Premises used by a Marijuana Establishment for the onsite storage of Marijuana and Marijuana Products in compliance with the regulatory requirements of 935 CMR 500.000, including the requirements for security, storage and disposal. For Delivery Operators, the location of the Warehouse shall be the Licensee's principle place of business in the host community.

Warehousing means the on-site storage of Marijuana and Marijuana Products that have been purchased at wholesale for eventual resale.

White Labeling means to affix a product label that includes the branding, including the name and logo, of a specific Marijuana Establishment Licensee to a Finished Marijuana Product that was previously produced and packaged by a licensed Product Manufacturer, Cultivator, Microbusiness or Craft Marijuana Cooperative for sale to Consumers. Vaporizer Devices shall not be white labeled. White labeled products shall be required to comply with 935 CMR 500.105(5), and (6), 935 CMR 500.130(6) and 935 CMR 500.146(7).

Wholesale means the Transfer of Marijuana or Marijuana Product between Marijuana Establishments.

Wholesale Agreement means a contract between Marijuana Establishments defining the terms of Transfer of Marijuana or Marijuana Products between the Marijuana Establishments.

Written Certification means a form submitted to the Commission by a Massachusetts licensed Certifying Healthcare Provider 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.

14-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 14 calendar days for the Patient's personal medical use, which is 2.5 ounces, subject to 935 CMR 501.010(9), unless otherwise determined by a Certifying Healthcare Provider.

60-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 935 CMR 501.010(9), unless otherwise determined by a Certifying Healthcare Provider.

500.003: Colocated Marijuana Operations (CMOs)

An adult-use Marijuana Cultivator, Product Manufacturer or Retailer also be licensed as an MTC as defined in to 935 CMR 501.002. No other adult-use license type qualifies to be a CMO. Unless otherwise specified, a CMO shall comply with the requirements of each of the adult-use and medical-use license located on the Premises of the CMO.

500.005: Fees

(1) Marijuana Establishment Application and License Fees.
  (a) Each applicant for licensure as a Marijuana Establishment shall pay to the Commission a nonrefundable application fee, annual license fee, and to the Seed-to-sale SOR provider, a monthly Seed-to-sale licensing fee. These fees do not include the costs associated with the Seed-to-sale licensing system, which includes a monthly program fee and fees for plant and package tags. These fees do not include the costs associated with criminal background checks as required under 935 CMR 500.030 or 935 CMR 500.101(1)(b)
  (b) Waiver of Fees.
    1. Application fees are waived for
      a. Microbusinesses;

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b. Businesses controlled by and with majority ownership comprised of Social Equity Program Participants and/or Economic Empowerment Priority Applicants; and

c. Massachusetts Minority Business Enterprises (MBE), Women Business Enterprises (WBE), or Veteran Business Enterprises (VBE) with valid certification from the SDO and which are also considered to be Small Businesses as defined by the Commission.

This does not include the costs associated with background checks.

2. For Annual License Fees, a 50% reduction in the fee associated with an application for:

a. Businesses controlled by and with majority ownership comprised of Social Equity Program Participants and/or Economic Empowerment Priority Applicants; and

b. Massachusetts Minority Business Enterprises (MBE), Women Business Enterprises (WBE), and Veteran Business Enterprises (VBE) with valid certification from the SDO and which are also considered to be Small Businesses as defined by the Commission.

3. For Annual Delivery Licensee Fees, a 100% reduction for businesses controlled by and with majority ownership comprised of Social Equity Program Participants and/or Economic Empowerment Priority Applicants for the initial license fee payment. Upon renewal, and each year thereafter, there shall be a 50% reduction in the annual license fee for Delivery Licensees pursuant to 935 CMR 500.005(1)(b)2.

4. Seed-to-sale SOR monthly program fees are waived for:

a. Craft Marijuana Cooperatives;

b. Microbusinesses;

c. Businesses controlled by and with majority ownership comprised of Economic Empowerment Priority Applicants and/or Social Equity Program Participants; and

d. Massachusetts Minority Business Enterprises (MBE), Women Business Enterprises (WBE), and Veteran Business Enterprises (VBE) with valid certification from the SDO and which are also considered to be Small Businesses as defined by the Commission.

This waiver does not include other costs associated with the Seed-to-sale licensing system, specifically the fees for plant and package tags.

5. All other applicants are responsible for the payment of fees in accordance with 935 CMR 500.005(a) and may not waive their obligation pursuant to 935 CMR 500.850, Waivers.

(c) Each applicant shall choose the tier at which it will be initially licensed.

(d) Application and Annual License Fee Schedule.

License Types	**Application Fees (Indoor/Outdoor)**	**Annual License Fee (Indoor/Outdoor)**
Marijuana Cultivator (Indoor or Outdoor)		
Tier 1: up to 5,000 square feet	$200 (I)/$100 (O)	$1,250 (I)/$625 (O)
Tier 2: 5,001 to 10,000 sq. ft.	$400 (I)/$200 (O)	$2,500 (I)/$1,250 (O)
Tier 3: 10,001 to 20,000 sq. ft.	$600 (I)/$300 (O)	$5,000 (I)/$2,500 (O)
Tier 4: 20,001 to 30,000 sq. ft.	$2,000 (I)/$1,500 (O)	$20,000 (I)/$10,000 (O)
Tier 5: 30,001 to 40,000 sq. ft.	$2,000 (I)/$1,500 (O)	$22,500 (I)/$11,250 (O)
Tier 6: 40,001 to 50,000 sq. ft.	$2,000 (I)/$1,500 (O)	$25,000 (I)/$12,500 (O)
Tier 7: 50,001 to 60,000 sq. ft.	$2,000 (I)/$1,500 (O)	$30,000 (I)/$15,000 (O)
Tier 8: 60,001 to 70,000 sq. ft.	$2,000 (I)/$1,500 (O)	$35,000 (I)/$17,500 (O)
Tier 9: 70,001 to 80,000 sq. ft.	$2,000 (I)/$1,500 (O)	$40,000 (I)/$20,000 (O)
Tier 10: 80,001 to 90,000 sq. ft.	$2,000 (I)/$1,500 (O)	$45,000 (I)/$22,500 (O)
Tier 11: 90,0001 to 100,000 sq. ft.	$2,000 (I)/$1,500 (O)	$50,000 (I)/$25,000 (O)
Craft Marijuana Cooperative	Total fees for its Canopy. If more than six locations, add $200 (I)/$100(O) per additional location.	Total fees for its Canopy. If more than six locations, add $1,250(I)/$625(O) per additional location.
Marijuana Product Manufacturing	$1,500	$10,000

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License Types	Application Fees (Indoor/Outdoor)	Annual License Fee (Indoor/Outdoor)
Marijuana Microbusiness	$1,000	50% of all applicable license fees
Independent Testing Laboratory	$1,500	$10,000
Marijuana Retailer (brick-and-mortar)	$1,500	$10,000
Social Consumption Establishment	$1,500	$10,000
Marijuana Transporter: Third-party Transporter	$1,500	$5,000
Marijuana Transporter: Existing Licensee Transporter	$1,000	$5,000
Marijuana Courier	$1,500	$5,000
Marijuana Delivery Operator	$1,500	$10,000
Marijuana Establishment with a Delivery Endorsement	$500	$5,000
Marijuana Research Facility	$300	$1,000
Marijuana Research Permit	$1,500	$1,000

(e) Other Fees (cost per License).

Change in Name Fee Change in Location Fee Change in Building Structure Fee Change in Ownership or Control Fee (involving at least one entity gaining ownership/control)	$1,000 50% of applicable License Fee $1,000 $5,000 per entity, per License
Change in Ownership or Control Fee (involving individuals, *e.g.*, change of Board Member)	$500 per person
Architectural Review Request Fee	$1,500
Packaging and Labeling Preapproval Application Fee	$50 per product

(2) Registration Card Holder Fees.
(a) An applicant for a Registration Card as a Marijuana Establishment Agent, a Laboratory Agent, or any other position designated as an agent by the Commission shall pay a nonrefundable application fee of $115 with any such application.
(b) An applicant for a renewal of a Registration Card as a Marijuana Establishment Agent, a Laboratory Agent, or any other position designated as an agent by the Commission shall pay a fee of $115.

(3) Fingerprint-based Criminal Background Checks Fees.
(a) All persons required to submit fingerprints shall pay a fee to be established by the Massachusetts Secretary of Administration and Finance, in consultation with Massachusetts Secretary of Public Safety and Security and the Commission, to offset the costs of operating and administering a Fingerprint-based criminal background-check system.
(b) The Commission may pay the fee on behalf of applicants or reimburse applicants for all or part of the fee on the grounds of financial hardship.
(c) Any fees collected from fingerprinting activity under 935 CMR 500.000 shall be deposited into the Fingerprint-based Background Check Trust Fund, established in M.G.L. c. 29, § 2HHH.

(4) For CMOs, an applicant or Licensee shall pay the applicable fees for each Marijuana Establishment set forth in 935 CMR 500.005 and MTC set forth in 935 CMR 501.005: *Fees*.

(5) Preapproved Court Appointees.
(a) Each applicant seeking to be Preapproved Court Appointee shall pay a nonrefundable application fee of $500 for any such application.

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(b) A Preapproved Court Appointee seeking to renew its designation shall pay a renewal fee of at least $400.

500.029: Registration and Conduct of Laboratory Agents

(1) The Commission shall issue a Laboratory Agent Registration Card to each applicant associated as an employee or volunteer with an Independent Testing Laboratory licensed pursuant to 935 CMR 500.050(7), or 501.029: *Registration of Independent Testing Laboratory Agents*, who is determined to be suitable for registration. All such individuals shall:

(a) Be 21 years of age or older;

(b) Have not been convicted of any felony drug offense in the Commonwealth or a like violation of the laws of an Other Jurisdiction;

(c) Have not been convicted of any offense involving the distribution of controlled substances to a minor or a like violation of the laws of an Other Jurisdiction; and

(d) Be determined to be suitable for registration consistent with the provisions of 935 CMR 500.800, 500.801 or 500.803.

(2) An application for registration of a Laboratory Agent submitted to the Commission by an Independent Testing Laboratory shall include:

(a) The full name, date of birth, and address of the individual;

(b) All aliases used previously or currently in use by the individual, including maiden name, if any;

(c) Written acknowledgment signed by the applicant of the limitations on his or her authorization to possess, test, Transfer, or Process Marijuana or Marijuana Products in the Commonwealth;

(d) A copy of the applicant's driver's license, government-issued identification card, liquor purchase identification card issued pursuant to M.G.L. c. 138, § 34B, or other verifiable identity document acceptable to the Commission;

(e) An attestation signed by the applicant that the applicant will not engage in the diversion of Marijuana and Marijuana Products;

(f) Authorization to obtain a full set of fingerprints, in accordance with M.G.L. c. 94G, § 21, submitted in a form and manner as determined by the Commission; and

(g) Background information including, as applicable:

1. A description and the relevant dates of any criminal action under the laws of the Commonwealth, or an Other Jurisdiction, whether for a felony or misdemeanor and which resulted in conviction, or guilty plea, or plea of *nolo contendere*, or admission of sufficient facts;

2. A description and the relevant dates of any civil or administrative action under the laws of the Commonwealth or an Other Jurisdiction, relating to any professional or occupational or fraudulent practices;

3. A description and relevant dates 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 Other Jurisdictions;

4. A description and relevant dates of any past discipline by, or a pending disciplinary action or unresolved complaint by, the Commonwealth, or a like action or complaint by an Other Jurisdiction, with regard to any professional license or registration held by the applicant;

(h) A nonrefundable application fee paid by the Independent Testing Laboratory with which the Independent Testing Laboratory Agent will be associated; and

(i) Any other information required by the Commission.

(3) An Independent Testing Laboratory Person Having Direct Control registered with the Massachusetts DCJIS pursuant to 803 CMR 2.04: *iCORI Registration* shall submit to the Commission a CORI report and any other background check information required by the Commission for each individual for whom the Independent Testing Laboratory seeks a Laboratory Agent registration, obtained within 30 calendar days prior to submission.

(4) The Commission shall conduct fingerprint-based checks of state and national criminal history databases, as authorized by M.G.L. c. 94G, §§ 15 and 21, and Public Law 92-544, to determine the suitability of Laboratory Agents. As part of these checks, fingerprints are used

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to check the national criminal history records of the Federal Bureau of Investigation (FBI). The Independent Testing Laboratory shall pay a nonrefundable fee in a form and manner determined by the Commission for the purpose of administering the fingerprint-based background check.

(5) An Independent Testing Laboratory shall notify the Commission no more than one business day after a Laboratory Agent ceases to be associated with the Independent Testing Laboratory. The Laboratory Agent's registration shall be immediately void when the agent is no longer associated with the Independent Testing Laboratory.

(6) A Registration Card shall be valid for one year from the date of issue, and may be renewed on an annual basis on a determination by the Commission that the applicant for renewal continues to be suitable for registration based on satisfaction of the requirements included in 935CMR 500.800 and 500.801 or 935 CMR 500.803.

(7) After obtaining a Registration Card for a Laboratory Agent, an Independent Testing Laboratory is responsible for notifying the Commission, in a form and manner determined by the Commission, as soon as possible, but in any event, within five business days of any changes to the information that the Independent Testing Laboratory was previously required to submit to the Commission or after discovery that a Registration Card has been lost or stolen.

(8) A Laboratory Agent shall always carry the Registration Card associated with the appropriate Independent Testing Laboratory while in possession of Marijuana Products, including at all times while at an Independent Testing Laboratory, or while transporting Marijuana or Marijuana Products.

(9) A Laboratory Agent affiliated with multiple Independent Testing Laboratories shall be registered as a Laboratory Agent by each Independent Testing Laboratory and shall be issued a Registration Card for each lab.

(10) Laboratory Agents are strictly prohibited from receiving direct or indirect financial compensation from any Marijuana Establishment for which the Laboratory Agent is conducting testing, other than reasonable contract fees paid for conducting the testing in the due course of work.

(11) Laboratory Agents may not be employed by other types of Marijuana Establishments while employed as a Laboratory Agent at one or more Independent Testing Laboratories.

500.030: Registration of Marijuana Establishment Agents

(1) A Marijuana Establishment shall apply for registration for all its employees, Owners, Executives and volunteers who are associated with that Marijuana Establishment. The Commission shall issue an Agent Registration Card to each individual determined to be suitable for registration. All such individuals shall:

(a) Be 21 years of age or older;

(b) Have not been convicted of an offense in the Commonwealth involving the distribution of controlled substances to minors, or a like violation of the laws of Other Jurisdictions; and

(c) Be determined suitable for registration consistent with the provisions of 935 CMR 500.800 through 935 CMR 500.802.

(2) An application for registration of a Marijuana Establishment Agent shall include:

(a) The full name, date of birth, and address of the individual;

(b) All aliases used previously or currently in use by the individual, including maiden name, if any;

(c) A copy of the applicant's driver's license, government-issued identification card, liquor purchase identification card issued pursuant to M.G.L. c. 138, § 34B, or other verifiable identity document acceptable to the Commission;

(d) An attestation that the individual will not engage in the diversion of Marijuana or Marijuana Products;

(e) Written acknowledgment by the applicant of any limitations on his or her authorization to cultivate, harvest, prepare, package, possess, transport, and dispense Marijuana in the Commonwealth;

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(f) Background information, including, as applicable:

1. A description and the relevant dates of any criminal action under the laws of the Commonwealth, or an Other Jurisdiction, whether for a felony or misdemeanor and which resulted in conviction, or guilty plea, or plea of *nolo contendere*, or admission of sufficient facts;

2. A description and the relevant dates of any civil or administrative action under the laws of the Commonwealth, or an Other Jurisdiction, relating to any professional or occupational or fraudulent practices;

3. A description and relevant dates 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;

4. A description and relevant dates of any past discipline by, or a pending disciplinary action or unresolved complaint by, the Commonwealth, or an Other Jurisdiction, with regard to any professional license or registration held by the applicant; and

(g) A nonrefundable application fee paid by the Marijuana Establishment with which the Marijuana Establishment Agent will be associated; and

(h) Any other information required by the Commission

(3) A Marijuana Establishment Executive registered with DCJIS pursuant to 803 CMR 2.04: *iCORI Registration*, shall submit to the Commission a CORI report and any other background check information required by the Commission for each individual for whom the Marijuana Establishment seeks a Marijuana Establishment Agent registration, obtained within 30 calendar days prior to submission.

(a) The CORI report obtained by the Marijuana Establishment shall provide information authorized under Required Access Level 2 pursuant to 803 CMR 2.05(3)(a)2.

(b) The Marijuana Establishment's collection, storage, dissemination and usage of any CORI report or background check information obtained for Marijuana Establishment Agent registrations shall comply with 803 CMR 2.00: *Criminal Offender Record Information (CORI)* and all other applicable state and local laws and regulations.

(4) A Marijuana Establishment shall notify the Commission no more than one business day after a Marijuana Establishment Agent ceases to be associated with the establishment. The registration shall be immediately void when the agent is no longer associated with the establishment.

(5) An Agent Registration Card shall be valid for one year from the date of issue and may be renewed thereafter on a tri-annual basis on a determination by the Commission that the applicant for renewal continues to be suitable for registration.

(6) After obtaining a Registration Card for a Marijuana Establishment Agent, a Marijuana Establishment is responsible for notifying the Commission, in a form and manner determined by the Commission, as soon as possible, but in any event, within five business days of any changes to the information that the establishment was previously required to submit to the Commission or after discovery that a Registration Card has been lost or stolen.

(7) A Marijuana Establishment Agent shall always carry a Registration Card associated with the appropriate Marijuana Establishment while in possession of Marijuana or Marijuana Products, including at all times while at the establishment or while transporting Marijuana or Marijuana Products.

(8) A Marijuana Establishment Agent affiliated with multiple Marijuana Establishments shall be registered as a Marijuana Establishment Agent by each Marijuana Establishment and shall be issued an Agent Registration Card for each establishment.

(9) An Agent working in a CMO may only perform tasks and duties permitted by the license under which they are registered and may only perform both medical- and adult-use tasks and duties if registered under both 935 CMR 500.000 and 501.000: *Medical Use of Marijuana*.

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500.031: Denial of a Marijuana Establishment Agent Registration Card

Each of the following, in and of itself, constitutes full and adequate grounds for denial of an agent Registration Card for a Marijuana Establishment Agent, including Laboratory Agents:

(1) Failure to provide the information required in 935 CMR 500.029 or 500.030.

(2) Provision of information on the application that is deceptive, misleading, false or fraudulent, or that tends to deceive or create a misleading impression, whether directly, or by omission or ambiguity, including lack of disclosure or insufficient disclosure;

(3) Failure to meet the requirements set forth in 935 CMR 500.029 or 500.030;

(4) Revocation or suspension of an agent Registration Card in the previous six months;

(5) Failure by the Marijuana Establishment to pay all applicable fees; or

(6) Other grounds, as the Commission may determine in the exercise of its discretion, that are directly related to the applicant's ability to serve as a Marijuana Establishment Agent, or that make the applicant unsuitable for registration; however, the Commission will provide notice to the applicant of the grounds prior to the denial of the agent Registration Card and a reasonable opportunity to correct these grounds.

(a) The Commission may delegate Registrants' suitability determinations to the Executive Director, who may appoint a Suitability Review Committee, in accordance with 935 CMR 500.800. Suitability determinations shall be based on credible and reliable information.

(b) The Executive Director may institute a suitability review based on a recommendation from Enforcement staff that background check information would result in or could support an adverse suitability determination. All suitability determinations will be made in accordance with the procedures set forth in 935 CMR 500.800.

500.032: Revocation of a Marijuana Establishment Agent Registration Card

(1) Each of the following, in and of itself, constitutes full and adequate grounds for revocation of an agent Registration Card issued to a Marijuana Establishment Agent, including Laboratory Agents:

(a) Submission of information in the application or renewal application that is deceptive, misleading, false or fraudulent, or that tends to deceive or create a misleading impression, whether directly, or by omission or ambiguity, including lack of disclosure or insufficient disclosure;

(b) Violation of the requirements of the state Marijuana laws, including 935 CMR 500.000.

(c) Fraudulent use of a Marijuana Establishment Agent Registration Card including, but not limited to, tampering, falsifying, altering, modifying, duplicating, or allowing another person to use, tamper, falsify, alter, modify, or duplicate an agent Registration Card;

(d) Selling, Transferring, distributing, or giving Marijuana to any unauthorized person;

(e) Failure to notify the Commission within five business days after becoming aware that the agent Registration Card has been lost, stolen, or destroyed;

(f) Failure to notify the Commission within five business days after a change in the registration information contained in the application or required by the Commission to have been submitted in connection with the application an agent Registration Card, including open investigations or pending actions as delineated in 935 CMR 500.802 as applicable, that may otherwise affect the status of the suitability for registration of the Marijuana Establishment Agent;

(g) Conviction, guilty plea, plea of *nolo contendere*, or admission to sufficient facts of a felony drug offense involving distribution to a minor in the Commonwealth, or a like violation of the laws of an Other Jurisdiction; or

(h) Conviction, guilty plea, plea of *nolo contendere* or admission to sufficient facts in the Commonwealth, or a like violation of the laws of another state, to an offense as delineated in 935 CMR 500.802 or 500.803 as a Laboratory Agent, as applicable, that may otherwise affect the status of the suitability for registration of the Marijuana Establishment Agent.

(2) In addition to the grounds in 935 CMR 501.032(1), a conviction of a felony drug offense in the Commonwealth, or a like violation of the laws of an Other Jurisdictions shall be adequate grounds for the revocation of a Marijuana Establishment Agent Registration Card.

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(3) Other grounds as the Commission may determine in the exercise of its discretion, that are directly related to the applicant's ability to serve as a Marijuana Establishment Agent, that make the Registrant unsuitable for registration. The Commission will provide notice to the Registrant of the grounds prior to the revocation of an agent Registration Card and a reasonable opportunity to correct these grounds.

(a) The Commission may delegate Registrants' suitability determinations to the Executive Director, who may appoint a Suitability Review Committee, in accordance with 935 CMR 500.800. Suitability determinations shall be based on credible and reliable information.

(b) The Executive Director may institute a suitability review based on a recommendation from Enforcement staff that background check information would result in or could support an adverse suitability determination. All suitability determinations will be made in accordance with the procedures set forth in 935 CMR 500.800.

500.033: Void Registration Cards

(1) An agent Registration Card issued to a Marijuana Establishment Agent, including a Laboratory Agent, shall be void when:

(a) The agent has ceased to be associated with the Marijuana Establishment or Independent Testing Laboratory that applied for and received the agent's Registration Card;

(b) The card has not been surrendered on the issuance of a new agent Registration Card based on new information; or

(c) The agent is deceased.

(2) A void agent Registration Card is inactive and invalid.

500.040: Leadership Rating Program for Marijuana Establishments and Marijuana-related Businesses

(1) Leadership Rating Categories. In a time and manner to be determined by the Commission, Licensees will be eligible to earn leadership ratings in the following categories:

(a) Social Justice Leader;

(b) Local Employment Leader;

(c) Energy and Environmental Leader; and

(d) Compliance Leader.

(2) Leadership Rating Application.

(a) Marijuana Establishments annually submit information, in a time and manner determined by the Commission, demonstrating their eligibility for the applicable leadership rating.

(b) All information submitted is subject to verification and audit by the Commission prior to the award of a leadership rating.

(c) Award of a leadership rating in one year does not entitle the applicant to a leadership rating for any other year.

(3) Leadership Rating Criteria.

(a) Social Justice Leader. In the year preceding the date of application for a leadership rating, a Licensee satisfies at least two of the following:

1. Upon the Legislature's establishment of a dedicated Social Equity or Technical Assistance Fund (Fund) or a similar fund, one percent of the Marijuana Establishment's gross revenue is donated to the Fund;

2. The Licensee has conducted 50 hours of educational seminars targeted to residents of Areas of Disproportionate Impact in one or more of the following: Marijuana cultivation, Marijuana Product manufacturing, Marijuana retailing, or Marijuana business training.

3. The Licensee can demonstrate that a majority of employees have a conviction or continuance without a finding for an offense under M.G.L. c. 94C or an equivalent conviction in Other Jurisdictions;

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4. 66% or more of the Licensees employees are people of color, women, Veterans, persons with disabilities, and LGBTQ+ people;
5. The Licensee has developed, and can demonstrate execution of, a Diversity Plan or Positive Impact Plan recognized as exemplary by the Commission in its discretion; or
6. The Licensee can demonstrate that in a year, at least one percent of its gross revenue or a minimum of 20 hours of each staff member's paid time is contributed to supporting persons from communities disproportionately harmed by marijuana prohibition or an Area of Disproportionate Impact as determined by the Commission.

A Social Justice Leader may use a logo or symbol created by the Commission to indicate its leadership status.

(b) Local Employment Leader. In the year preceding the date of application for a leadership rating:

1. 51% or more of the Licensee's employees have been a Massachusetts Resident for 12 months or more, as determined by the Commission;
2. 51% or more of the Licensee's Executives have been a Massachusetts Resident for 12 months or more, as determined by the Commission; and
3. 51% or more of ancillary business service expenditures purchased by the Licensee have been from businesses with its primary place of businesses within Massachusetts.

(c) Energy and Environmental Leader. In the year preceding the date of application for a leadership rating, the Licensee has met the energy and environmental goals in one or more subcategories in compliance with criteria published as *Appendix B* in the Energy & Environment Compiled Guidance:

1. Energy;
2. Recycling and Waste Disposal;
3. Transportation;
4. Delivery;
5. Water Usage; or
6. Soil Sampling.

(d) Compliance Leader. In the year preceding the date of application for a leadership rating:

1. All Licensee employees have completed all required trainings for their positions within 90 days of hire;
2. The Licensee has no unresolved written deficiency statements;
3. The Licensee has not been the subject of a Cease and Desist Order or a Quarantine Order;
4. The Licensee has not had its license suspended; and
5. The Licensee has met all timelines required by the Commission.

(e) Leadership ratings will be taken into consideration by the Commission in assessing fines pursuant to 935 CMR 500.360 through 500.450.

500.050: Marijuana Establishments

(1) General Requirements.

(a) A Marijuana Establishment is required to be registered to do business in the Commonwealth as a domestic business corporation or another domestic business entity in compliance with 935 CMR 500.000 and to maintain the corporation or entity in good standing with the Secretary of the Commonwealth, DOR, and DUA.

(b) Control Limitations.

1. No Person or Entity Having Direct or Indirect Control shall be granted, or hold, more than three licenses in a particular class, except as otherwise specified in 935 CMR 500.000.
2. An Independent Testing Laboratory or Standards Laboratory Licensee, or any associated Person or Entity Having Direct or Indirect Control, may not have a License in any other class.
3. To the extent that persons or entities seek to operate a testing facility in the Counties of Dukes County and Nantucket, 935 CMR 500.200.

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4. The Commission shall receive notice of any such interests as part of the application pursuant to 935 CMR 500.101.

5. Any Person or Entity Having Direct or Indirect Control, or Licensee, shall be limited to a total of 100,000 square feet of Canopy distributed across no more than three cultivation Licenses under 935 CMR 500.000 and three MTC Licenses. A Craft Marijuana Cooperative Licensee shall be limited to one license and a total of 100,000 square feet of Canopy.

6. Limitations on the Number and Control of Delivery Licenses.

a. No Third-party Technology Platform Provider shall be a Licensee, or a Person or Entity with Direct or Indirect Control of a Delivery Licensee.

b. A contract between a Delivery Licensee and a Third-party Technology Platform Provider shall be negotiated and entered into on an arm's length basis. A Delivery Licensee may not accept any investment in the Delivery Licensee by a Third-party Technology Platform Provider with which they have a contract.

c. No Person or Entity Having Direct or Indirect Control shall be granted or hold more than a combined total of two Delivery Operator and/or Marijuana Courier Licenses at any time.

d. No Delivery Licensee may share its profits of the sale of Marijuana or Marijuana Products with a Third-party Technology Platform Provider, or otherwise provide a percentage or portion of the sale of Marijuana or Marijuana Products to the Third-party Technology Platform Provider.

(c) License Classes are as follows:

1. Marijuana Cultivator (Indoor or Outdoor):
   a. Tier 1: up to 5,000 square feet of Canopy;
   b. Tier 2: 5,001 to 10,000 square feet of Canopy;
   c. Tier 3: 10,001 to 20,000 square feet of Canopy;
   d. Tier 4: 20,001 to 30,000 square feet of Canopy;
   e. Tier 5: 30,001 to 40,000 square feet of Canopy;
   f. Tier 6: 40,001 to 50,000 square feet of Canopy;
   g. Tier 7: 50,001 to 60,000 square feet of Canopy;
   h. Tier 8: 60,001 to 70,000 square feet of Canopy;
   i. Tier 9: 70,001 to 80,000 square feet of Canopy;
   j. Tier 10: 80,001 to 90,000 square feet of Canopy; or
   k. Tier 11: 90,001 to 100,000 square feet of Canopy.
2. Craft Marijuana Cooperative;
3. Marijuana Product Manufacturer;
4. Marijuana Microbusiness;
5. Independent Testing Laboratory and Standards Laboratory;
6. Marijuana Retailer;
7. Social Consumption Establishment:
8. Marijuana Transporter:
   a. Existing Licensee Transporter;
   b. Third-party Transporter;
9. Delivery Licensee;
   a. Marijuana Courier;
   b. Marijuana Delivery Operator; and
10. Marijuana Research Facility Licensee.

a. A Marijuana Establishment shall operate all activities authorized by the License only at the address(es) reported to the Commission for that license.

b. All Marijuana Establishment Agents of the Marijuana Establishment shall be registered with the Commission pursuant to 935 CMR 500.030.

(2) Marijuana Cultivator (Indoor or Outdoor).

(a) A Marijuana Cultivator may cultivate, Process and package Marijuana, to transport Marijuana to Marijuana Establishments and to Transfer Marijuana to other Marijuana Establishments, but not to Consumers.

(b) Marijuana Cultivators shall select a cultivation tier. Cultivation tiers are based on the square footage of Canopy:

1. Tier 1: up to 5,000;
2. Tier 2: 5,001 to 10,000;
3. Tier 3: 10,001 to 20,000;

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4. Tier 4: 20,001 to 30,000;
5. Tier 5: 30,001 to 40,000;
6. Tier 6: 40,001 to 50,000;
7. Tier 7: 50,001 to 60,000;
8. Tier 8: 60,001 to 70,000;
9. Tier 9: 70,001 to 80,000;
10. Tier 10: 80,001 to 90,000; or
11. Tier 11: 90,001 to 100,000.

(c) Tier Expansion. A Marijuana Cultivator may submit an application, in a time and manner determined by the Commission, to change the tier in which it is classified. A Marijuana Cultivator may change tiers to either expand or reduce production. If a Marijuana Cultivator is applying to expand production, it shall demonstrate that while cultivating at the top of its production tier, it has sold 85% of its product consistently over the six months preceding the application for expanded production for an indoor cultivator, or during the harvest season prior to the application for expanded production for an outdoor cultivator.

(d) Tier Relegation. In connection with the license renewal process for Marijuana Cultivators, the Commission will review the records of the Marijuana Cultivator during the six months prior to the application for renewal for an indoor cultivator or during the harvest season prior to the application for renewal for an outdoor cultivator. The Commission may reduce the Licensee's maximum Canopy to a lower tier if the Licensee sold less than 70% of what it produced during the six months prior to the application for renewal for an indoor cultivator or during the harvest season prior to the application for renewal for an outdoor cultivator.

(e) Tier Factors. When determining whether to allow expansion or relegate a Licensee to a different tier, the Commission may consider factors including, but not limited to:

1. Cultivation and production history, including whether the plants/inventory suffered a catastrophic event during the licensing period;
2. Transfer, sales, and excise tax payment history;
3. Existing inventory and inventory history;
4. Sales contracts; and
5. Any other factors relevant to ensuring responsible cultivation, production, and inventory management.

(3) Craft Marijuana Cooperative.

(a) A Craft Marijuana Cooperative may be organized as a limited liability company, limited liability partnership, or a cooperative corporation under the laws of the Commonwealth.

(b) The Members or shareholders of the cooperative shall be residents of the Commonwealth for the 12 months immediately preceding the filing of an application for a license.

(c) The Craft Marijuana Cooperative shall have:

1. One Member that has filed a Schedule F (Form 1040), Profit or Loss from Farming, within the five years prior to application for licensure; or
2. An agreement to lease land wholly owned by a person or entity that has filed a Schedule F (Form 1040), Profit or Loss from Farming, within the five years prior to application for licensure.

(d) Where the agreement to lease land in 935 CMR 500.050(3)(c)2. renders the individual or entity filing a Schedule F (Form 1040) a Person or Entity Having Direct or Indirect Control, the Craft Marijuana Cooperative shall report the individual or entity and submit the agreement, as required by 935 CMR 500.101(1)(a)(1).

(e) The Craft Marijuana Cooperative shall operate consistently with the Seven Cooperative Principles established by the International Cooperative Alliance in 1995.

(f) The cooperative license authorizes it to cultivate, obtain, Manufacture, Process, package, brand and Transfer Marijuana Products and to deliver Marijuana to Marijuana Establishments, but not to Consumers.

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(g) The Craft Marijuana Cooperative is limited to one license, under which it may cultivate Marijuana, subject to the limitations of 935 CMR 500.050. The cooperative's total locations are limited to cultivating 100,000 square feet of Canopy. A cooperative is not limited in the number of cultivation locations it may operate, provided that for each location over six locations, additional application and licensing fees shall apply pursuant to 935 CMR 500.005(1)(d). The cooperative may also conduct activities authorized for Marijuana Product Manufacturers at up to three locations.

(h) For the Seed-to-sale SOR, a cooperative that designates a system administrator will pay one licensing program fee on a monthly basis for Seed-to-sale tracking software.

(i) Members of a cooperative may not be a Person or Entity Having Direct or Indirect Control in any other Marijuana Establishment. Such restriction may not be construed to prohibit a Craft Marijuana Cooperative for applying for a Marijuana Retailer, Marijuana Existing Licensee Transporter, Marijuana Research or Social Consumption Establishment License.

(j) Tier Expansion. A Craft Marijuana Cooperative may submit an application, in a time and manner determined by the Commission, to change the tier in which it is classified. A cooperative may change tiers to either expand or reduce production. If a cooperative is applying to expand production, it shall demonstrate that while cultivating at the top of its production tier, it has sold 85% of its product consistently over the six months preceding the application for expanded production for an indoor cultivator, or during the harvest season prior to the application for expanded production for an outdoor cultivator.

(k) Tier Relegation. In connection with the license renewal process for Craft Marijuana Cooperatives, the Commission will review the records of the cooperative during the six months prior to the application for renewal for an indoor cultivator or during the harvest season prior to the application for renewal for an outdoor cultivator. The Commission may reduce the Licensee's maximum Canopy to a lower tier if the Licensee sold less than 70% of what it produced during the six months prior to the application for renewal for an indoor cultivator or during the harvest season prior to the application for renewal for an outdoor cultivator.

(l) Tier Factors. When determining whether to allow expansion or relegate a Licensee to a different tier, the Commission may consider factors including, but not limited to:

1. Cultivation and production history, including whether the plants/inventory suffered a catastrophic event during the licensing period;
2. Transfer, sales, and excise tax payment history;
3. Existing inventory and inventory history;
4. Sales contracts; and
5. Any other factors relevant to ensuring responsible cultivation, production, and inventory management.

(4) Marijuana Product Manufacturer. A Marijuana Product Manufacturer may obtain, Manufacture, Process and package Marijuana Products, to transport Marijuana Products to Marijuana Establishments and to Transfer Marijuana Products to other Marijuana Establishments, but not to Consumers.

(5) Marijuana Microbusiness.

(a) A Microbusiness is an entity that can be either a Tier 1 Marijuana Cultivator or Marijuana Product Manufacturer or both and, if in receipt of a Delivery Endorsement issued by the Commission, may deliver Marijuana or Marijuana Products produced at the licensed location directly to Consumers in compliance with established regulatory requirements for retail sale as it relates to delivery. A Microbusiness that is a Marijuana Product Manufacturer may purchase no more than 2,000 pounds of Marijuana or its dry-weight equivalent in raw concentrate per year from other Marijuana Establishments, but not any other Marijuana Products.

(b) A Microbusiness shall comply with all operational requirements imposed by 935 CMR 500.105 through 500.140 on Marijuana Cultivators and Marijuana Product Manufacturers, and Retailers, to the extent the Licensee engages in such activities.

(c) A Microbusiness Licensee may not be a Person or Entity Having Direct or Indirect Control for any other Marijuana Establishment, except a Social Consumption Establishment. A majority of the Microbusiness' Executives or Members shall have been residents of Massachusetts for no less than 12 months prior to application.

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(d) Application fees and license fees for Microbusinesses shall be set at 50% of the combined sum of the application fees and license fees for all the cultivation or manufacturing activities in which the Licensee engages.
(e) Delivery Endorsements shall be subject to the exclusivity provisions for Delivery Licensees established in 935 CMR 500.050(10)(b).

(6) Social Consumption Establishment Pilot Program.
(a) Under the Social Consumption Establishment Pilot Program, Social Consumption Establishments may apply for licensure.
(b) Municipal Participation for Social Consumption Pilot Program.
1. The Commission may select no more than 12 municipalities for participation in the pilot program.
2. The Commission shall establish criteria for selecting participating municipalities. The Commission may take into consideration factors including, but not limited to, the geographic location, socioeconomic characteristics, and population size of municipal applicants.
3. An interested municipality shall submit an application for participation in a form and manner determined by the Commission.
4. The application for participation shall be signed by the municipality's contracting authority.
5. The Commission shall make the Pre-certification Application identified in 935 CMR 500.101(2)(c) available for Social Consumption licenses upon the Commission's selection of least six municipalities for participation in the Social Consumption Pilot Program.
(c) Social Consumption Establishment licenses shall be limited on an exclusive basis to businesses controlled by and with majority ownership comprised of Economic Empowerment Priority Applicants or Social Equity Program Participants; Microbusinesses; and Craft Marijuana Cooperatives, for a period of 36 months from the date the first Social Consumption Establishment receives a notice to commence operations, provided, however, that the Commission may, by vote, decide to extend that period following a determination that the goal of the exclusivity period to promote and encourage full participation in the regulated Marijuana industry by people from communities that have previously been disproportionately harmed by Marijuana prohibition and enforcement of the law, by farmers, and by businesses of all sizes, has not been met.
1. The Commission shall develop criteria for evaluating whether the goals of the exclusivity period are met which shall include, but not be limited to:
a. Overall rates of participation in the regulated Marijuana industry by people from communities that have previously been disproportionately harmed by Marijuana prohibition and enforcement of the law, by farmers, and by businesses of all sizes;
b. Overall rates of participation in the regulated Marijuana industry by people of color;
c. Licenses granted to businesses with majority ownership comprised of Economic Empowerment Priority Applicants and Social Equity Program Participants; Microbusinesses; and Craft Marijuana Cooperatives;
d. Number of registered agents who are Social Equity Program Participants;
e. Number of Social Consumption Establishments in operation and business performance relative to other Marijuana Establishments;
f. Financial feasibility of continued participation in the regulated Marijuana industry by people from communities that have previously been disproportionately harmed by Marijuana prohibition and enforcement of the law, by farmers, and by businesses of all sizes if exclusivity period ends; and
g. Any other information the Commission determines relevant.
2. The Commission shall collect and report on data measuring the criteria throughout the exclusivity period. The Commission shall begin evaluating whether the goals of the exclusivity period have been met at least eight months before the end of the 36-month period to provide adequate time to consider whether an extension of the 36-month period is necessary prior to the conclusion of that time period.

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3. The licenses may be made available to any qualifying applicants after the 36-month period, unless the Commission affirmatively votes to extend the period of exclusivity by a period of 12 months after the first 36-month period. Any subsequent extension of the exclusivity period would require the Commission affirmatively to find that the goals and objectives of the exclusivity period as set forth in 935 CMR 500.050(10)(b)1. have not been met.

(d) No person or entity other than those disclosed in the application shall be a Person or Entity Having Direct or Indirect Control in a Social Consumption Establishment license.

(7) Independent Testing Laboratory.

(a) Prior to final licensure an Independent Testing Laboratory shall be:

1. Accredited to the most current International Organization for Standardization (ISO) 17025 by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement; or

2. Certified, registered, or accredited by an organization approved by the Commission.

(b) An Executive or Member of a Marijuana Establishment is prohibited from being a Person or Entity Having Direct or Indirect Control in an Independent Testing Laboratory providing testing services for any Marijuana Establishment, except as otherwise provided in 935 CMR 500.200

(c) No individual employee of a laboratory providing testing services for Marijuana Establishments may receive direct or indirect financial compensation from any Marijuana Establishment, except as otherwise provided in 935 CMR 500.200.

(d) Standards Laboratory. A laboratory meeting the requirements of the Independent Testing Laboratory may be licensed as a Standards Laboratory to ensure consistent and compliant testing by the Independent Testing Laboratories. An Independent Testing Laboratory may not serve as a Standards Laboratory.

1. On request by the Commission, a Standards Laboratory shall test samples of Marijuana Products in a time and manner to be determined by the Commission.

2. Testing shall be performed in a manner determined by the Commission so as not to reveal to the laboratory the source of the Marijuana Products.

3. The Standards Laboratory shall submit the results of testing to the Commission for review.

4. The Standards Laboratory shall retain the Marijuana Products tested pursuant to 935 CMR 500.050(7)(d)1., until directed to Transfer or dispose of them by the Commission. Any disposal shall take place in compliance with 935 CMR 500.105(12).

(8) Marijuana Retailer.

(a) General Requirements.

1. A Marijuana Retailer may purchase, transport, sell, Repackage, or otherwise Transfer Marijuana or Marijuana Products to Marijuana Establishments and sell to Consumers. A Marijuana Retailer can deliver Marijuana or Marijuana Products to Consumers in accordance with 935 CMR 500.000. A Marijuana Retailer may not allow on-site social consumption by Consumers on the Premises of the Marijuana Establishment.

2. A retailer shall operate all Marijuana-related activities solely at the address identified in the license.

3. No Person or Entity Having Direct or Indirect Control in a Marijuana Retailer license shall be granted or hold more than a combined total of three Marijuana Retailer Licenses and shall be subject to the limitations in 935 CMR 500.050(1)(b)6.

(b) A Marijuana Retailer shall provide a retail location accessible to Consumers 21 years of age or older, or, if colocated with an MTC, Registered Qualifying Patients with the Medical Use of Marijuana Program in possession of a Medical Registration Card.

(9) Marijuana Transporter.

(a) An entity may only transport Marijuana Products when such transportation is not already authorized under a Marijuana Establishment license if it is licensed as a Marijuana Transporter:

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1. Third-party Transporter. An entity formerly registered or currently licensed to do business in Massachusetts that does not hold another Marijuana Establishment license pursuant to 935 CMR 500.050 and is not formerly registered or currently licensed as an MTC pursuant to 935 CMR 501.000: *Medical Use of Marijuana*. A Third-party Transporter is permitted to transport Marijuana and Marijuana Products between Marijuana Establishments and between MTCs.

2. Existing Licensee Transporter. A Marijuana Establishment that wishes to contract with other Marijuana Establishments to transport their Marijuana Products to other Marijuana Establishments.

(b) All Marijuana Transporter, their agents and employees, who contract with a Marijuana Establishment to transport Marijuana Products shall comply with M.G.L. c. 94G, and 935 CMR 500.000.

(c) Marijuana Transporters will be allowed to Warehouse Marijuana Products in a form and manner determined by the Commission.

(10) Marijuana Courier.

(a) A Marijuana Courier may deliver Marijuana or Marijuana Products directly to Consumers from a Marijuana Retailer or to Patients or Caregivers from an MTC with which the Marijuana Courier has a Delivery Agreement. A Marijuana Courier may be an Owner of or have a controlling interest in a Cultivation, Product Manufacturing, Social Consumption Establishment, Research, Retail or Transportation license

(b) A Marijuana Courier shall be limited on an exclusive basis to businesses controlled by and with majority ownership comprised of Economic Empowerment Priority Applicants or Social Equity Program Participants for a period of 36 months from the date the first Delivery Operator Licensee receives a notice to commence operations; provided, however, that the Commission may vote to extend that period following a determination that the goal of the exclusivity period to promote and encourage full participation in the regulated Marijuana industry by people from communities that have previously been disproportionately harmed by Marijuana prohibition and enforcement of the law has not been met; and the Commission may vote to expand eligibility for Delivery Licenses during the exclusivity period pursuant to 935 CMR 500.050(10)(b)4.

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

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

b. Overall rates of participation in the regulated Marijuana industry by people of color;

c. Licenses granted to businesses with majority ownership comprised of Economic Empowerment Priority Applicants and Social Equity Program Participants;

d. Number of registered agents who are Social Equity Program Participants;

e. Number of Delivery Licensees in operation and business performance relative to other Marijuana Establishments;

f. Financial feasibility of continued participation in the regulated Marijuana industry by communities that have previously been disproportionately harmed by Marijuana prohibition and enforcement of the law if exclusivity period ends; and

g. Any other information the Commission determines relevant.

2. The Commission shall collect and report on data measuring the criteria throughout the exclusivity period. The Commission shall begin evaluating whether the goals of the exclusivity period have been met at least eight months before the end of the 36-month period to provide adequate time to consider whether an extension of the 36-month period is necessary prior to the conclusion of that time period.

3. The licenses shall generally be available to applicants after the 36-month period unless the Commissioners affirmatively votes to extend the period of exclusivity by a period of 12 months after the first 36-month period. Any subsequent extension of the exclusivity period would require the Commission affirmatively to find that the goals and objectives of the exclusivity period as set forth in 935 CMR 500.050(10)(b)1. have not been met.

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4. If data collected by the Commission demonstrates progress toward the goals and objectives of the exclusivity period as set forth in 935 CMR 500.050(10)(b)1. and that demand for Consumer delivery is likely to exceed the supply that could be provided by businesses that meet the exclusivity requirements during the exclusivity period, the Commission may vote during the exclusivity period to allow the following additional businesses to own Delivery Licenses:

a. Worker-owned cooperatives organized to operate consistently with the Seven Cooperative Principles established by the International Cooperative Alliance in 1995; or

b. Massachusetts Minority Business Enterprises (MBE), Women Business Enterprises (WBE), and Veteran Business Enterprises (VBE) with valid certification from the SDO.

c. No person or entity other than those disclosed in the application shall be a Person or Entity Having Direct or Indirect Control in a Delivery License.

d. No Person or Entity with Direct or Indirect Control shall possess, or be granted, more than two Delivery Licenses.

e. After January 8, 2021, any application or license classified as a Delivery-only license pursuant to previously adopted regulations shall be converted to a Delivery Courier application or license governed by 935 CMR 500.050(10).

(11) Marijuana Delivery Operator.

(a) A Delivery Operator may Wholesale and Warehouse Finished Marijuana Products acquired from a Marijuana Cultivator, Marijuana Product Manufacturer, Microbusiness or Craft Marijuana Cooperative and sell and deliver directly to Consumers. A Delivery Operator may be an Owner of or have a controlling interest in a Cultivation, Product Manufacturing, Social Consumption Establishment, Research, Transportation or Retail license, subject to the limitations stated in 935 CMR 500.050(11)(e).

(b) A Delivery Operator Licensee shall operate a Warehouse for the purpose of storing Finished Marijuana Products.

(c) Notwithstanding that a Delivery Operator is not considered to be a Marijuana Retailer as defined under 935 CMR 500.002 or authorized to engage in permitted activities under 935 CMR 500.050(8), but is authorized to sell Finished Marijuana Products directly to consumers, a Delivery Operator shall register as a vendor with the Department of Revenue and collect and remit marijuana retail taxes in accordance with 830 CMR 64N.1.1: *Marijuana Retail Taxes*.

(d) Delivery Operator Licenses shall be limited on an exclusive basis to businesses controlled by and with majority ownership comprised of Economic Empowerment Priority Applicants or Social Equity Program Participants for a period of 36 months from the date the first Delivery Operator Licensee receives a notice to commence operations; provided, however, that the Commission may vote to extend that period following a determination that the goal of the exclusivity period to promote and encourage full participation in the regulated Marijuana industry by people from communities that have previously been disproportionately harmed by Marijuana prohibition and enforcement of the law has not been met; and the Commission may vote to expand eligibility for Delivery Licenses during the exclusivity period pursuant to 935 CMR 500.050(11)(d)4.

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

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

b. Overall rates of participation in the regulated Marijuana industry by people of color;

c. Licenses granted to businesses with majority ownership comprised of Economic Empowerment Priority Applicants and Social Equity Program Participants;

d. Number of registered agents who are Social Equity Program Participants;

e. Number of Delivery Licensees in operation and business performance relative to other Marijuana Establishments;

f. Financial feasibility of continued participation in the regulated Marijuana industry by communities that have previously been disproportionately harmed by Marijuana prohibition and enforcement of the law if exclusivity period ends; and

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g. Any other information the Commission determines relevant.

2. The Commission shall collect and report on data measuring the criteria throughout the exclusivity period. The Commission shall begin evaluating whether the goals of the exclusivity period have been met at least eight months before the end of the 36-month period to provide adequate time to consider whether an extension of the 36-month period is necessary prior to the conclusion of that time period.

3. The licenses shall generally be available to applicants after the 36-month period unless the Commissioners affirmatively votes to extend the period of exclusivity by a period of 12 months after the first 36-month period. Any subsequent extension of the exclusivity period would require the Commission affirmatively to find that the goals and objectives of the exclusivity period as set forth in 935 CMR 500.050(11)(d)1. have not been met.

4. If data collected by the Commission demonstrates progress toward the goals and objectives of the exclusivity period as set forth in 935 CMR 500.050(11)(d)1. and that demand for consumer delivery is likely to exceed the supply that could be provided by businesses that meet the exclusivity requirements during the exclusivity period, the Commission may vote during the exclusivity period to allow the following additional businesses to own Delivery Licenses:

a. Worker-owned cooperatives organized to operate consistently with the Seven Cooperative Principles established by the International Cooperative Alliance in 1995; or

b. Massachusetts Minority Business Enterprises (MBE), Women Business Enterprises (WBE), and Veteran Business Enterprises (VBE) with valid certification from the SDO.

(e) No person or entity other than those disclosed in the application shall be a Person or Entity Having Direct or Indirect Control in a Delivery Operator License.

(f) No Person or Entity Having Direct or Indirect Control in a Delivery Operator License shall obtain, or be granted, more than a combined total of two Delivery Licenses, subject to the limitations in 935 CMR 050(1)(b): *Control Limitations*.

(g) Two years from the date the first Delivery Operator Licensee receives a notice to commence operations, the Commission or its designee shall commence an evaluation of the development of the Cannabis delivery market in the Commonwealth of Massachusetts, which may include assessing the competitiveness and concentration of the market, the repackaging and white labeling requirements, and any other matter as determined by the Commission. The Commission shall complete its evaluation within four months, unless the Commission determines that there is a reasonable basis for an extension. The Commission may take any action including, but not limited to, issuing regulations or guidance, it deems necessary to address issues with market development.

(12) Marijuana Research Facility Licensee.

(a) A Marijuana Research Facility Licensee may conduct research after receiving approval from the Commission. A license to operate a Marijuana Research Facility shall be separate from receipt of a Research Permit to conduct a specific research project at the Marijuana Research Facility.

(b) A Marijuana Research Facility Licensee may be an academic institution, nonprofit corporation or domestic corporation or entity authorized to do business in the Commonwealth, including a licensed Marijuana Establishment or MTC.

(c) Unless otherwise authorized by law, any Marijuana Research Facility Licensee that is not licensed pursuant to 935 CMR 500.050 or 935 CMR 501.050: *Medical Marijuana Treatment Centers (MTCs)* to engage in the cultivation, production or retail sale of Marijuana or Marijuana Products shall acquire all Marijuana or Marijuana Products used in research from a Marijuana Establishment or MTC licensed to engage in such activity except:

1. A Marijuana Research Facility Licensee may engage in cultivation or product manufacturing of Marijuana or Marijuana Products if the cultivation or product manufacturing process is the subject of its research; or

2. As otherwise determined by the Commission.

(d) A Marijuana Research Facility may be colocated with another Marijuana Establishment or MTC license provided that the Marijuana Research Facility and the colocated licensed Marijuana Establishment or MTC are:

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1. Commonly owned; and
2. Clearly physically separated.

(e) A Marijuana Research Facility Licensee may not Transfer Marijuana or Marijuana Products to another Marijuana Establishment, other than for testing, or sell to a Consumer, Registered Qualifying Patient or Caregiver Marijuana or Marijuana Products that has been acquired for a research project under its Marijuana Research Facility License.

500.100: Application for Licensing of Marijuana Establishments

500.101: Application Requirements

New Applicants. An applicant in any category of Marijuana Establishment shall file, in a form and manner specified by the Commission, an application for licensure as a Marijuana Establishment. The application shall consist of three sections: Application of Intent; Background Check; and Management and Operations Profile, except as otherwise provided. The applicant may complete any section of the application in any order. Once all sections of the application have been completed, the application may be submitted. Application materials, including attachments, may be subject to release pursuant to the Public Records Law, M.G.L. c. 66, § 10 and M.G.L. c. 4, § 7, cl. 26.

(a) Application of Intent. An applicant for licensure as a Marijuana Establishment shall submit the following as part of the Application of Intent:

1. Documentation that the Marijuana Establishment is an entity registered to do business in Massachusetts and a list of all Persons or Entities Having Direct or Indirect Control. In addition, the applicant shall submit any contractual, management, or other written document that explicitly or implicitly conveys direct or indirect control over the Marijuana Establishment to the listed person or entity pursuant to 935 CMR 500.050(1)(b);
2. A disclosure of an interest of each individual named in the application in any Marijuana Establishment application for licensure or Licensee in Massachusetts;
3. Documentation disclosing whether any individual named in the application have past or present business interests in Other Jurisdictions;
4. Documentation detailing the amounts and sources of capital resources available to the applicant from any individual or entity that will be contributing capital resources to the applicant for purposes of establishing or operating the identified Marijuana Establishment for each license applied for. If any person or entity contributing initial capital, either in cash or in kind, would be classified as a Person or Entity Having Direct or Indirect Control, in exchange for the initial capital, they shall also be listed pursuant to 935 CMR 500.101(1)(a)1. Information submitted shall be subject to review and verification by the Commission as a component of the application process. Required documentation shall include:
   a. The proper name of any individual or registered business name of any entity;
   b. The street address, provided, however that the address may not be a post office box;
   c. The primary telephone number;
   d. Electronic mail;
   e. The amount and source of capital provided or promised;
   f. A bank record dated within 60 days of the application submission date verifying the existence of capital;
   g. Certification that funds used to invest in or finance the Marijuana Establishment were lawfully earned or obtained; and
   h. Any contractual or written agreement pertaining to a loan of initial capital, if applicable.
5. Documentation of a bond or an escrow account in an amount set by 935 CMR 500.105(16);
6. Identification of the proposed address for the license;
7. Documentation of a property interest in the proposed address. The proposed Marijuana Establishment shall be identified in the documentation as the entity that has the property interest. Interest may be demonstrated by one of the following:
   a. Clear legal title to the proposed site;
   b. An option to purchase the proposed site;

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c. A legally enforceable agreement to give such title; or
d. Documentation evidencing permission to use the Premises.

8. Documentation in the form of a single-page certification signed by the contracting authorities for the municipality and applicant evidencing that the applicant for licensure and host municipality in which the address of the Marijuana Establishment is located have executed a Host Community agreement;

9. Documentation that the applicant has conducted a community outreach meeting consistent with the Commission's Guidance for License Applicants on Community Outreach within the six months prior to the application. Documentation shall include:

a. Copy of a notice of the time, place and subject matter of the meeting, including the proposed address of the Marijuana Establishment, that was published in a newspaper of general circulation in the city or town at least 14 calendar days prior to the meeting;

b. Copy of the meeting notice filed with the city or town clerk, the planning board, the contracting authority for the municipality and local cannabis licensing authority, if applicable;

c. Attestation that at least one meeting was held within the municipality where the establishment is proposed to be located;

d. Attestation that at least one meeting was held after normal business hours;

e. Attestation that notice of the time, place and subject matter of the meeting, including the proposed address of the Marijuana Establishment, was mailed at least seven calendar days prior to the community outreach meeting to abutters of the proposed address of the Marijuana Establishment, and residents within 300 feet of the property line of the petitioner as they appear on the most recent applicable tax list, notwithstanding that the land of any such Owner is located in another city or town;

f. Information presented at the community outreach meeting, which shall include, but not be limited to:

i. The type(s) of Marijuana Establishment to be located at the proposed address;

ii. Information adequate to demonstrate that the location will be maintained securely;

iii. Steps to be taken by the Marijuana Establishment to prevent diversion to minors;

iv. A plan by the Marijuana Establishment to positively impact the community;

v. Information adequate to demonstrate that the location will not constitute a nuisance as defined by law; and

vi. An attestation that community members were permitted to ask questions and receive answers from representatives of the Marijuana Establishment.

10. A description of plans to ensure that the Marijuana Establishment is or will be compliant with local codes, ordinances, and bylaws for the physical address of the Marijuana Establishment which shall include, but not be limited to, the identification of all local licensing requirements for the adult use of Marijuana;

11. A plan by the Marijuana Establishment to positively impact Areas of Disproportionate Impact, as defined by the Commission, for the purposes established in M.G.L. c. 94G, § 4(a½)(iv). The plan shall outline the goals, programs, and measurements the Marijuana Establishment will pursue once licensed;

12. The requisite nonrefundable application fee pursuant to 935 CMR 500.005; and

13. Any other information required by the Commission.

(b) Background Check. Prior to an application being considered complete, each applicant for licensure shall submit the following information:

1. The list of individuals and entities in 935 CMR 500.101(1)(a)1.;

2. Information for each individual identified in 935 CMR 500.101(1)(a)1. which shall include:

a. The individual's full legal name and any aliases;

b. The individual's address;

c. The individual's date of birth;

d. A photocopy of the individual's driver's license or other government-issued identification card;

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e. A CORI Acknowledgment Form, pursuant to 803 CMR 2.09: *Requirements for Requestors to Request CORI*, provided by the Commission, signed by the individual and notarized;

f. Authorization to obtain a full set of fingerprints, in accordance with M.G.L. c. 94G, § 21, and Public Law 92-544, submitted in a form and manner as determined by the Commission; and

g. Any other authorization or disclosure deemed necessary by the Commission, for the purposes of conducting a background check.

3. Relevant Background Check Information. All Persons and Entities Having Direct or Indirect Control, and those individuals and entities contributing 10% or more in the form of a loan, shall provide information detailing involvement in any of the following criminal, civil, or administrative matters:

a. A description and the relevant dates of any criminal action under the laws of the Commonwealth, or an Other Jurisdiction, whether for a felony or misdemeanor including, but not limited to, action against any health care facility or facility for providing Marijuana for medical- or adult-use purposes, in which those individuals either owned shares of stock or served as board member, Executive, officer, director or member, and which resulted in conviction, or guilty plea, or plea of *nolo contendere*, or admission of sufficient facts;

b. A description and the relevant dates of any civil action under the laws of the Commonwealth, or an Other Jurisdiction including, but not limited to, a complaint relating to any professional or occupational or fraudulent practices;

c. A description and relevant dates of any past or pending legal or disciplinary actions in the Commonwealth or any other state against an entity whom the applicant served as a Person or Entity Having Direct or Indirect Control, related to the cultivation, Processing, distribution, or sale of Marijuana for medical- or adult-use purposes;

d. A description and the relevant dates of any administrative action with regard to any professional license, registration, or certification, including any complaint, order, stipulated agreement or settlement, or disciplinary action, by the Commonwealth, or like action in an Other Jurisdiction including, but not limited to, any complaint or issuance of an order relating to the denial, suspension, or revocation of a license, registration, or certification;

e. A description and relevant dates of any administrative action, including any complaint, order or disciplinary action, by the Commonwealth, or a like action by an Other Jurisdiction with regard to any professional license, registration, or certification, held by any Person or Entity Having Direct or Indirect Control, if any;

f. A description and relevant dates of actions against a license to prescribe or distribute controlled substances or legend drugs held by any Person or Entity Having Direct or Indirect Control that is part of the applicant's application, if any; and

g. Any other information required by the Commission.

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

1. Detailed information regarding its business registration with the Commonwealth, including the legal name, a copy of the articles of organization and bylaws as well as the identification of any doing-business-as names;

2. A certificate of good standing, issued within the previous 90 days from submission of an application, from the Corporations Division of the Secretary of the Commonwealth;

3. A certificate of good standing or certificate of tax compliance issued within the previous 90 days from submission of an application, from the DOR;

4. A certificate of good standing, issued within the previous 90 days from submission of an application, from the DUA, if applicable. If not applicable, a written statement to this effect is required;

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

6. A description of the Marijuana Establishment's plan to obtain a liability insurance policy or otherwise meet the requirements of 935 CMR 500.105(10).

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7. A detailed summary of the business plan for the Marijuana Establishment;
8. A detailed summary of operating policies and procedures for the Marijuana Establishment which shall include, but not be limited to, provisions for:
   a. Security;
   b. Prevention of diversion;
   c. Storage of Marijuana;
   d. Transportation of Marijuana;
   e. Inventory procedures;
   f. Procedures for quality control and testing of product for potential contaminants;
   g. Personnel policies;
   h. Dispensing procedures;
   i. Recordkeeping procedures;
   j. Maintenance of financial records; and
   k. Diversity plans to promote equity among people of color, particularly Black, African American, Hispanic, Latinx, and Indigenous people, women, Veterans, persons with disabilities, and LGBTQ+ people, in the operation of the Marijuana Establishment. The plan shall outline the goals, programs, and measurements the Marijuana Establishment will pursue once licensed.
9. A detailed description of qualifications and intended training(s) for Marijuana Establishment Agents who will be employees;
10. The Management and Operation Profile submitted in accordance with 935 CMR 500.101(1)(c) shall demonstrate compliance with the operational requirements set forth in 935 CMR 500.105 through 500.140 as applicable;
11. Disclosure of the proposed hours of operation, and the names and contact information for individuals that will be the emergency contacts for the Marijuana Establishment; and
12. Any other information required by the Commission.

(2) Delivery and Social Consumption Application Process.

(a) Delivery and Social Consumption Establishment Applicants. An applicant shall file, in a form and manner specified by the Commission, an application for licensure. An application for licensure shall consist of two component parts: a Pre-certification Application and a Provisional License Application. After an applicant receives a Provisional License, the applicant shall comply with the requirements of 935 CMR 500.103.

(b) Pre-certification Application. The Pre-certification Application shall consist of three sections: Application of Intent, Background Check and Management, and Operations Profile.

1. The applicant may complete any section of the application in any order. Once all sections of the application have been completed, the application may be submitted.
2. The Commission may determine an applicant to be pre-certified upon finding the applicant has submitted responsive documentation demonstrating a propensity to successfully operate under a Delivery License or Social Consumption Establishment License.
3. On approval of the Pre-certification Application, the applicant shall be given a dated notice of such approval along with a copy of the Pre-certification Application to the extent permitted by law.
4. Application materials, including attachments, may be subject to release pursuant to the Public Records Law, M.G.L. c. 66, § 10 and c. 4, § 7, cl. 26.

(c) Application of Intent. An applicant for pre-certification under this section shall submit the following as part of the Application of Intent:

1. Documentation that the Marijuana Establishment is an entity registered to do business in Massachusetts and a list of all Persons or Entities Having Direct or Indirect Control;
2. A disclosure of an interest of each individual named in the application in any Marijuana Establishment for licensure in Massachusetts;
3. Documentation disclosing whether any individual named in the application have past or present business interests in Other Jurisdictions;
4. The requisite nonrefundable application fee pursuant to 935 CMR 500.005; and
5. Any other information required by the Commission.

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(d) Background Check. Each applicant for pre-certification shall submit the following information:

1. The list of individuals and entities in 935 CMR 500.101(1)(a)1;
2. Relevant Background Check Information. All Persons and Entities Having Direct or Indirect Control listed in the Pre-certification Application shall provide information detailing involvement in any of the following criminal, civil, or administrative matters:

a. A description and the relevant dates of any criminal action under the laws of the Commonwealth, or Other Jurisdictions, whether for a felony or misdemeanor including, but not limited to, action against any health care facility or facility for providing Marijuana for medical- or adult-use purposes, in which those individuals either owned shares of stock or served as board member, Executive, officer, director or member, and which resulted in conviction, or guilty plea, or plea of *nolo contendere*, or admission of sufficient facts;

b. A description and the relevant dates of any civil action under the laws of the Commonwealth, or Other Jurisdictions including, but not limited to, a complaint relating to any professional or occupational or fraudulent practices;

c. A description and relevant dates of any past or pending legal or disciplinary actions in the Commonwealth or any Other Jurisdiction against an entity whom the applicant served as a Person or Entity Having Direct or Indirect Control, related to the cultivation, Processing, distribution, or sale of Marijuana for medical- or adult-use purposes;

d. A description and the relevant dates of any administrative action including any complaint, order, stipulated agreement or settlement, or disciplinary action, by the Commonwealth, or like action in an Other Jurisdiction including, but not limited to:

i. The denial, suspension, or revocation, or other action with regard to of a professional or occupational license, registration, or certification or the surrender of a license;

ii. Administrative actions with regard to unfair labor practices, employment discrimination, or other prohibited labor practices; and

iii. Administrative actions with regard to financial fraud, securities regulation, or consumer protection.

e. A description and relevant dates of any administrative action, including any complaint, order or disciplinary action, by the Commonwealth, or a like action by Other Jurisdictions with regard to any professional license, registration, or certification, held by any Person or Entity Having Direct or Indirect Control, if any;

f. A description and relevant dates of actions against a license to prescribe or distribute controlled substances or legend drugs held by any Person or Entity Having Direct or Indirect Control that is part of the applicant's application, if any; and

g. Any other information required by the Commission.

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

1. A description of the Marijuana Establishment's plan to obtain a liability insurance policy or otherwise meet the requirements of 935 CMR 500.105(10)
2. A detailed summary of the business plan for the Marijuana Establishment;
3. A detailed summary of operating policies and procedures for the Marijuana Establishment which shall include, but not be limited to, provisions for:

a. Security, including specific plans for securing entrances and that all Finished Marijuana and Finished Marijuana Products are kept out of plain sight and not visible from a public place;

b. Prevention of diversion;

c. Where applicable to Delivery Licensees, procedures to ensure the safe delivery of Finished Marijuana Products to Consumers and as permitted, to Patients and Caregivers;

d. Storage of Marijuana including, but not limited to, disposal procedures for unsold and unconsumed Marijuana Products;

e. Transportation of Marijuana;

f. Inventory procedures, including procedures for reconciling undelivered Individual Orders at the close of the business day;

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g. Procedures for quality control and testing of product for potential contaminants;
h. Personnel policies;
i. Dispensing procedures, including the process for how Individual Orders will be filled;
j. Procedures to ensure that Consumers are not overserved or that individual order delivery limits are adhered to;
k. procedures to educate Consumers about risk of impairment and penalties for operating under the influence;
l. Recordkeeping procedures;
m. Maintenance of financial records;
n. Sanitary practices in compliance with 105 CMR 590.000: *State Sanitary Code Chapter X - Minimum Sanitation Standards for Food Establishments*; and
o. A detailed description of qualifications and intended training(s) for Marijuana Establishment Agents who will be employees;

4. The Management and Operation Profile submitted in accordance with 935 CMR 500.101(1)(c) shall demonstrate compliance with the operational requirements set forth by incorporation in 935 CMR 500.105 through 500.145 as applicable;
5. Disclosure of the proposed hours of operation, and the names and contact information for individuals that will be the emergency contacts for the Marijuana Establishment; and
6. Any other information required by the Commission.

(f) Provisional License Application. The provisional license application shall consist of the three sections of the application, the Application of Intent, Background Check, and Management and Operations Profile.

1. An applicant may submit a provisional license application within 24 months of the date of the applicant's pre-certification approval pursuant to 935 CMR 500.101(2)(c)(4).
2. If there has been a material change of circumstances after the submission of these sections as part of the Pre-certification Application, the applicant shall revise this information and attest in a form and manner determined by the Commission.
3. The applicant may submit any section of the application in any order. Once all sections of the application have been completed, the application may be submitted.
4. Once all sections of the application have been completed, the application may be submitted for review.
5. Once the Provisional License application has been submitted, it will be reviewed in the order it was received pursuant to 935 CMR 500.102(2).
6. The Pre-certification and Provisional License application combined will be reviewed in accordance with 935 CMR 500.102(1).
7. Application materials, including attachments, may be subject to release pursuant to the Public Records Law, M.G.L. c. 66, § 10 and c. 4, § 7, cl. 26.

(g) Application of Intent. An applicant for licensure under this section shall submit the following as part of the Application of Intent:

1. A list of all Persons or Entities Having Direct or Indirect Control currently associated with the proposed establishment. In addition, the applicant shall submit any contractual, management, or other written document that explicitly or implicitly conveys direct or indirect control over the Marijuana Establishment to the listed person or entity pursuant to 935 CMR 500.050(1)(b);
2. A disclosure of an interest of each individual named in the application in any Marijuana Establishment or MTC application for in Massachusetts;
3. Documentation disclosing whether any individual named in the application have past or present business interests in Other Jurisdictions;
4. Documentation of a bond or an escrow account in an amount set by 935 CMR 500.105(16): *Bond*;
5. Identification of the proposed address for the license;
6. Documentation of a property interest in the proposed address. The proposed Marijuana Establishment shall be identified in the documentation as the entity that has the property interest. Interest may be demonstrated by one of the following:
   a. Clear legal title to the proposed site;

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b. An option to purchase the proposed site
c. A legally enforceable agreement to give such title; or
d. Documentation from the Owner evidencing permission to use the Premises.

7. Disclosure and documentation detailing the amounts and sources of capital resources available to the applicant from any individual or entity that will be contributing capital resources to the applicant for purposes of establishing or operating the identified Marijuana Establishment for each license applied for. If any person or entity contributing initial capital, either in cash or in kind, would be classified as a Person or Entity Having Direct or Indirect Control, in exchange for the initial capital, they shall also be listed pursuant to 935 CMR 500.101(1)(a)1. Information submitted shall be subject to review and verification by the Commission as a component of the application process. Required documentation shall include:

a. The proper name of any individual or registered business name of any entity;
b. The street address; provided, however that the address may not be a post office box;
c. The primary telephone number;
d. Electronic mail;
e. The amount and source of capital provided or promised;
f. A bank record dated within 60 days of the application submission date verifying the existence of capital;
g. Certification that funds used to invest in or finance the Marijuana Establishment were lawfully earned or obtained; and
h. Any contractual or written agreement pertaining to a loan of initial capital, if applicable.

8. Documentation that the applicant has conducted a community outreach meeting consistent with the Commission's Guidance for License Applicants on Community Outreach within the six months prior to the application. Documentation shall include:

a. Copy of a notice of the time, place and subject matter of the meeting, including the proposed address of the Marijuana Establishment, that was published in a newspaper of general circulation in the city or town at least 14 calendar days prior to the meeting;
b. Copy of the meeting notice filed with the city or town clerk;

9. Attestation that notice of the time, place and subject matter of the meeting, including the proposed address of the Marijuana Establishment, was mailed at least seven calendar days prior to the community outreach meeting to abutters of the proposed address of the Marijuana Establishment, and residents within 300 feet of the property line of the petitioner as they appear on the most recent applicable tax list, notwithstanding that the land of any such Owner is located in another city or town;

a. Information presented at the community outreach meeting, which shall include, but not be limited to:
i. The type(s) of marijuana establishment to be located at the proposed address;
ii. Information adequate to demonstrate that the location will be maintained securely;
iii. Steps to be taken by the marijuana establishment to prevent diversion to minors;
iv. A plan by the marijuana establishment to positively impact the community;
v. Information adequate to demonstrate that the location will not constitute a nuisance as defined by law; and
vi. An attestation that community members were permitted to ask questions and receive answers from representatives of the marijuana establishment.
b. Documentation in the form of a single-page certification signed by the contracting authorities for the municipality and applicant evidencing that the applicant for licensure and host municipality in which the establishment is located executed a host community agreement. In addition to this requirement, the host community shall state that they have accepted the Social Consumption Establishment applicant's plans to:
i. Mitigate noise;
ii. Mitigate odor; and
iii. Comply with outdoor smoking laws, ordinances, or bylaws.

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c. A description of plans to ensure that the marijuana establishment is or will be compliant with local codes, ordinances, and bylaws for the physical address of the marijuana establishment, which shall include, but not be limited to, the identification of any local licensing requirements for social consumption of the adult use of marijuana;

d. A plan by the marijuana establishment to positively impact areas of disproportionate impact, as defined by the Commission, for the purposes established in M.G.L. c. 94G, § 4(a½)(iv). The plan shall outline the goals, programs, and measurements the marijuana establishment will pursue once licensed; and

e. Any other information required by the Commission.

(h) Background Check. Each applicant for licensure shall submit complete background check application information in compliance with the provisions of 935 CMR 500.101(2)(e);

1. Each applicant for licensure shall submit the list of individuals and entities in 935 CMR 500.101(1)(b)2. and 500.101(2)(d)1.

2. The applicant shall resubmit the information required under 935 CMR 500.101(1)(b) if there has been a material change of circumstances including, but not limited to, a change in the list of individuals and entities identified above.

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

1. Detailed information regarding its business registration with the Commonwealth, including the legal name, a copy of the articles of organization and bylaws as well as the identification of any doing-business-as names;

2. A certificate of good standing, issued within the previous 90 days from submission of an application, from the Corporations Division of the Secretary of the Commonwealth;

3. A certificate of good standing or certificate of tax compliance issued within the previous 90 days from submission of an application, from the DOR;

4. A certificate of good standing, issued within the previous 90 days from submission of an application, from the DUA, if applicable. If not applicable, a written statement to this effect is required;

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

6. A diversity plan to promote equity among people of color, particularly Black, African American, Hispanic, Latinx, and Indigenous people, women, Veterans, persons with disabilities, and LGBTQ+ people, in the operation of the Marijuana Establishment. The plan shall outline the goals, programs, and measurements the Marijuana Establishment will pursue once licensed.

(j) The Executive Director of the Commission may approve, provided the Executive Director gives the Commission timely notice of his decision:

1. Applications for Delivery Pre-Certification;

2. Applications and authorization to commence operations for Delivery Endorsements pursuant to 935 CMR 500.050(5) for licensed Marijuana Microbusinesses that have complied with Commission requirements pertaining to delivery operations.

(3) Additional Specific Requirements.

(a) Additional Requirements for Cultivators. In addition to the requirements for the Management and Operations Profile set forth in 935 CMR 500.101(1)(c), applicants for a license to operate Marijuana Establishment for cultivation shall also provide as part of the Management and Operation Profile packet an operational plan for the cultivation of Marijuana, including a detailed summary of the policies and procedures for cultivation, consistent with state and local law including, but not limited to, the Commission's Guidance on Integrated Pest Management.

(b) Additional Requirements for Craft Marijuana Cooperatives. In addition to the requirements for the Management and Operations Profile and the Application of Intent set forth in 935 CMR 500.101(1)(c) and (g), applicants for a license to operate a Marijuana Establishment as a Craft Marijuana Cooperative shall provide:

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1. As part of the Application of Intent:
   a. Evidence of residency within the Commonwealth for a period of 12 consecutive months prior to the date of application;
   b. Evidence of the cooperative's organization as a limited liability company or limited liability partnership, or a cooperative corporation under the laws of the Commonwealth;
   c. Evidence that one Member has filed a Schedule F (Form 1040), Profit or Loss from Farming, within the past five years; and
   d. Evidence that the cooperative is organized to operate consistently with the Seven Cooperative Principles established by the International Cooperative Alliance in 1995.
2. As part of the Management and Operations Profile:
   a. The plan required of Cultivators pursuant to 935 CMR 500.101(1)(d)1.; and
   b. The plan(s) and documentation required of Marijuana Product Manufacturers pursuant to 935 CMR 500.101(1)(d)3., as applicable.

(c) Additional Requirements for Marijuana Product Manufacturers. In addition to the requirements for the Management and Operations Profile set forth in 935 CMR 500.101(1)(c), applicants for a license to operate a Marijuana Establishment for Product Manufacturing shall also provide, as part of the Management and Operation Profile packet:

1. A description of the types, forms and shapes, colors, and flavors of Marijuana Products that the Marijuana Establishment intends to produce;
2. The methods of production;
3. A safety plan for the Manufacture and production of Marijuana Products including, but not limited to, sanitary practices in compliance with 105 CMR 590.000: *State Sanitary Code Chapter X - Minimum Sanitation Standards for Food Establishments*.
4. A sample of any unique identifying mark that will appear on any product produced by the applicant as a branding device; and
5. A detailed description of the Marijuana Establishment's proposed plan for obtaining Marijuana from a licensed Marijuana Establishment(s).

(d) Additional Requirements for Microbusinesses. In addition to the requirements for the Management and Operations Profile and the Application of Intent set forth in 935 CMR 500.101(1)(c) and (g), applicants for a license to operate a Marijuana Establishment as a Microbusiness shall also provide:

1. As part of the Application of Intent, evidence of residency within the Commonwealth for a period of 12 consecutive months prior to the date of application;
2. As part of the Management and Operations Profile, the same plans required of Marijuana Cultivators pursuant to 935 CMR 500.101(3)(a), Marijuana Product Manufacturers pursuant to 935 CMR 500.101(3)(c), and in the case of a Delivery Endorsement, Retailers pursuant to 935 CMR 500.101(3)(e) to the extent that these requirements implicate retail sales involving delivery.

(e) Additional Requirements for Retailers. In addition to the requirements for the Management and Operations Profile set forth in 935 CMR 500.101(1)(c), applicants for a license to operate a Marijuana Establishment for retail shall also provide, as part of the Management and Operation Profile packet, a detailed description of the Marijuana Establishment's proposed plan for obtaining Marijuana Products from a licensed Marijuana Establishment(s).

(f) Additional Requirements for Independent Testing Laboratories. In addition to the requirements for the Management and Operations Profile set forth in 935 CMR 500.101(1)(c), applicants for a license to operate an Independent Testing Laboratory may provide, as part of the Management and Operations Profile packet, documentation demonstrating accreditation that complies with 935 CMR 500.050(7)(a). If unable to demonstrate accreditation prior to provisional licensure, the applicant shall demonstrate accreditation prior to final licensure.

(g) Additional Requirements for Marijuana Courier Applicants. In addition to the requirements set forth in 935 CMR 500.101(2) applicants to operate under a Marijuana Courier license shall also provide the following:

1. As part of the Pre-certification application, a delivery plan that demonstrates compliance with 935 CMR 500.145.

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2. As part of the Provisional License application, information and documentation regarding any agreement, and the agreement if applicable, with a Marijuana Retailer or MTC and/or Third-party Technology Platform pursuant to 935 CMR 500.145(1)(g).

(h) Additional Requirements for Delivery Operator Applicants. In addition to the requirements set forth in 935 CMR 500.101(2), applicants to operate under a Delivery Operator License shall also provide the following:

1. As part of the Pre-certification application, a delivery plan that demonstrates compliance with 935 CMR 500.145 and 500.146.

2. As part of the Pre-certification application, a plan to obtain Marijuana and Marijuana Products.

3. As part of the Provisional License application, information and documentation regarding any agreements with Third-party Technology Platforms pursuant to 935 CMR 500.145(1)(g).

4. As part of the Provisional License application, a detailed plan for White Labeling, if applicable, which shall include:

a. An image of the logo and name to be used as part of the label;

b. An indication of whether the applicant intends the label to be Affixed by the Applicant or by Marijuana Establishments with which the Applicant intends to enter into Wholesale Agreements; and

5. Applicants for Delivery Operator Licenses shall comply with the requirements of 935 CMR 500.103(1)(h).

(i) Additional Requirements for Social Consumption Establishment Applicants. In addition to the requirements set forth in 935 CMR 500.101(2) applicants for a license to operate a Social Consumption Establishment shall also provide the following summaries of policies and procedures as part of their Pre-certification application:

1. Prevention of a Consumer from bringing Marijuana or Marijuana Products, Marijuana Accessories onto the Premises that have not been obtained from the Social Consumption Establishment, including policies for ensuring Marijuana Accessories brought on-site, if permitted, do not contain Marijuana or Marijuana Products not obtained from the Social Consumption Establishment;

2. Procedural and operational plans to ensure the Marijuana Establishment makes a diligent effort to assist Consumers who may be impaired in finding means of transportation and that explain how the plans are adequately tailored to the region in which the establishment is located;

3. If vaporization or other nonsmoking forms of consumption involving heat are permitted indoors, procedures and building plans or schematic to ensure that:

a. The area(s) in which consumption involving heat takes place are isolated from the other areas, separated by walls and a secure door, with access only from the Social Consumption Establishment;

b. Employees have access to a smoke-free, vapor-free area where they may monitor the consumption area from a smoke-free, vapor-free area;

c. A ventilation system directs air from the consumption area to the outside of the building through a filtration system sufficient to remove vapor, consistent with all applicable building codes and ordinances, and adequate to eliminate odor at the property line;

4. Procedures to ensure no sales occur within the consumption area;

5. Employees shall monitor the consumption from a smoke-free, vapor-free area including, but not limited to, an employee monitoring the exit of the Marijuana Establishment;

6. Procedures to ensure that smoking as defined by M.G.L. c. 270, § 22 is prohibited indoors.

(4) MTC Priority Applicants. An MTC Priority Applicant shall be granted priority review of its application for a Marijuana Establishment license that is colocated with and for the same type of licensed activity (Marijuana Cultivator, Product Manufacturer or Retailer) as the MTC (formerly, RMD) license which was the basis for its priority review status certified by the Commission.

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(a) The MTC license, for which priority review status was certified by the Commission, shall be active at the time the Marijuana Establishment application is submitted in order to receive priority review for that application.
(b) An MTC Priority Applicant shall be eligible for priority review of only its application for a Marijuana Establishment license that is:
1. Colocated with the MTC whose Certificate of Registration was the basis for its priority review status previously certified by the Commission in 2018; and
2. For the same type of licensed activity (Marijuana Cultivator, Product Manufacturer or Retailer) for which the MTC received a provisional Certificate of Registration or final Certificate of Registration that formed the basis of its priority review status certified by the Commission in 2018.

(5) Expedited Applicants. Following the review of applications submitted by priority applicants, applications submitted by Expedited Applicants shall be reviewed.
(a) The following applicants are eligible to be considered Expedited Applicants:
1. Social Equity Participants;
2. Marijuana Microbusiness applicants;
3. Marijuana Craft Marijuana Cooperative applicants;
4. Independent Testing Laboratory applicants;
5. Outdoor Marijuana Cultivator applicants; or
6. Minority, women, and veteran-owned businesses.
(b) Eligibility Criteria
1. Applicants for Marijuana Microbusinesses, Craft Marijuana Cooperatives, Independent Testing Laboratories, and Outdoor Marijuana Cultivators are only eligible for expedited review for those specific applications only and no other type of license application.
2. A Social Equity Participant shall possess 10% or more of equity in a proposed ME for the application to receive expedited review.
3. A minority, woman, and/or veteran-owned business shall:
a. Disclose this designation in their license application and either be certified as that specific type of business with the SDO or submit documentation in a time and manner determined by the Commission to demonstrate that they have signed up for the SDO's required business class.
b. Receive certification as minority, women, and/or veteran-owned business by the SDO prior to obtaining a final license.

(6) CMO License Requirements. Marijuana Establishment applicants seeking to operate as an MTC shall also comply with the application requirements in 935 CMR 501.000: *Medical Use of Marijuana*.

500.102: Action on Applications

(1) Action on Each Application. The Commission shall grant licenses with the goal of ensuring that the needs of the Commonwealth are met regarding access, quality, and community safety.
(a) License applications shall be evaluated based on the applicant's:
1. Demonstrated compliance with the laws and regulations of the Commonwealth;
2. Suitability for licensure based on the provisions of 935 CMR 500.101(1), 500.800 and 500.801; and
3. Evaluation of the thoroughness of the applicant's responses to the required criteria. The Commission shall consider each license application submitted by an applicant on a rolling basis.
(b) The Commission shall notify each applicant in writing that:
1. The application has been deemed complete;
2. The application has been deemed incomplete, and include the grounds for which it has been deemed incomplete; or
3. The Commission requires further information within a specified period of time before the packet is determined to be complete.

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(c) Failure of the applicant to adequately address all required items in its application in the time required under 935 CMR 500.102 will result in evaluation of the application as submitted. Nothing in 935 CMR 500.101 is intended to confer a property or other right or interest entitling an applicant to a meeting before an application may be denied.
(d) On determination that the application is complete, a copy of the completed application, to the extent permitted by law, will be forwarded to the municipality in which the Marijuana Establishment will be located. The Commission shall request that the municipality respond within 60 days of the date of the correspondence that the applicant's proposed Marijuana Establishment complies with municipal bylaws or ordinances.
(e) The applicant shall keep current all information required by 935 CMR 500.000, or otherwise required by the Commission. The applicant shall report any changes in or additions to the content of the information contained in the application to the Commission within five business days after such change or addition. If a material change occurs to an application deemed complete, the Commission may deem the application incomplete pending further review. If an application is initially deemed complete, and later deemed incomplete, a notice will be provided to the applicant. An incomplete application must be fully evaluated pursuant to 935 CMR 500.102(1)(a) prior to being deemed complete again and submitted to the Commission pursuant to M.G.L. c. 94G, § 5(a).

(2) Action on Completed Applications.
(a) Priority application review will be granted to existing MTC Priority Applicants and Economic Empowerment Priority Applicants.
(b) The Commission shall review applications from Priority Applicants on an alternating basis, beginning with the first-in-time-application received from either an MTC Priority Applicant or Economic Empowerment Priority Applicant as recorded by the Commission's electronic license application tracking system. Where no completed application is available for review by the Commission from either of the priority groups defined in 935 CMR 500.102(2)(a), the Commission shall review the next complete application from either group.
(c) The Commission shall grant or deny a provisional license not later than 90 days following notification to the applicant that all required packets are considered complete. Applicants shall be notified in writing that:
1. The applicant shall receive a provisional license which may be subject to further conditions as determined by the Commission; or
2. The applicant has been denied a license. Denial shall include a statement of the reasons for the denial.
(d) Failure of the applicant to complete the application process within the time specified by the Commission in the application instructions shall be grounds for denial of a license.

500.103: Licensure and Renewal

(1) Provisional License. On selection by the Commission, an applicant shall submit the required license fee and subsequently be issued a provisional license to develop a Marijuana Establishment, in the name of the entity. Such provisional license shall be subject to reasonable conditions specified by the Commission, if any.
(a) The Commission shall review architectural plans for the building or renovation of a Marijuana Establishment. Construction or renovation related to such plans may not begin until the Commission has granted approval. Submission of such plans shall occur in a manner and form established by the Commission including, but not limited to, a detailed floor plan of the Premises of the proposed Marijuana Establishment that identifies the square footage available and describes the functional areas of the Marijuana Establishment, including areas for any preparation of Marijuana Products, and, if applicable, such information for the single allowable off-Premises location in Massachusetts where Marijuana will be cultivated or Marijuana Products will be prepared; and a description of plans to ensure that the Marijuana Establishment will be compliant with requirements of the Americans with Disabilities Act (ADA) Accessibility Guidelines.

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(b) To demonstrate compliance with 935 CMR 500.120(11), a Marijuana Cultivator applicant shall also submit an energy compliance letter prepared by a Massachusetts Licensed Professional Engineer or Massachusetts Licensed Registered Architect with supporting documentation. For a Microbusiness or Craft Marijuana Cooperative with a cultivation location sized as Tier 1 or Tier 2, compliance with any of the requirements of 935 CMR 500.120(11) may be demonstrated through an energy compliance letter prepared by one or more of the following energy professionals:

1. A Certified Energy Auditor certified by the Association of Energy Engineers;
2. A Certified Energy Manager certified by the Association of Energy Engineers;
3. A Massachusetts Licensed Professional Engineer; or
4. A Massachusetts Licensed Registered Architect.

(c) A Marijuana Establishment shall construct its facilities in accordance with 935 CMR 500.000, conditions set forth by the Commission in its provisional license and architectural review, and any applicable state and local laws, regulations, permits or licenses.

(d) The Commission may conduct inspections of the facilities, as well as review all written materials required in accordance with 935 CMR 500.000.

(e) The applicable license fee shall be paid within 90 days from the date the applicant was approved for a provisional license by the Commission. Failure to pay the applicable license fee within the required time frame shall result in the license approval expiring. If this occurs, a new license application will need to be completed pursuant to 935 CMR 500.101.

(f) To the extent updates are required to the information provided for initial licensure, the Marijuana Cultivator shall submit an updated energy compliance letter prepared by a Massachusetts Licensed Professional Engineer or Massachusetts Licensed Registered Architect with supporting documentation, together with a renewal application submitted under 935 CMR 500.103(4).

(g) Prior to the issuance of a final license, an Independent Testing Laboratory shall demonstrate compliance with 935 CMR 500.050(7)(a) and provide to the Commission documentation relating to its accreditation.

(h) To the extent that an Applicant for a Delivery Operator License decides, following the submission of the Application for Provisional Licensure, but prior to receiving Final Licensure, that the Applicant will engage in White Labeling, the Applicant shall submit the information required by 935 CMR 500.101(3)(h)4. to the Commission. The Executive Director shall determine whether the submission satisfies the requirements of 935 CMR 500.101(3)(h)4.

(2) Final License. On completion of all inspections required by the Commission, a Marijuana Establishment is eligible for a final license. All information described in 935 CMR 500.000 that is not available at the time of submission shall be provided to and approved by the Commission before Marijuana Establishment may receive a final license. Such final licenses shall be subject to reasonable conditions specified by the Commission, if any.

(a) No person or entity shall operate a Marijuana Establishment without a final license issued by the Commission.

(b) A provisional or final license may not be assigned or transferred without prior Commission approval.

(c) A provisional or final license shall be immediately void if the Marijuana Establishment Ceases to Operate or if, without the permission of the Commission, it relocates.

(d) Acceptance of a provisional or final license constitutes an agreement by the Marijuana Establishment 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 Commission as part of licensure.

(e) The Marijuana Establishment shall post the final license in a conspicuous location on the Premises at each Commission-approved location.

(f) The Marijuana Establishment shall conduct all activities authorized by 935 CMR 500.000 at the address(es) identified on the final license issued by the Commission.

(3) The Marijuana Establishment shall be operational within the time indicated in 935 CMR 500.101(1)(c)4. or as otherwise amended through the application process and approved by the Commission through the issuance of a final license.

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(4) Expiration and Renewal of Licensure. The Marijuana Establishment's license, as applicable, shall expire one year after the date of issuance of the provisional license and annually thereafter, and may be renewed as follows, unless an action has been taken based on the grounds set forth in 935 CMR 500.450.

(a) No later than 60 calendar days prior to the expiration date, a Marijuana Establishment shall submit a completed renewal application to the Commission in a form and manner determined by the Commission, as well as the required license fee.

(b) The Marijuana Establishment shall submit as a component of the renewal application a report or other information demonstrating the establishment's efforts to comply with the plans required under 935 CMR 500.101(1), including 935 CMR 500.101(1)(a)11. and 935 CMR 500.100(1)(c)7.k., as applicable. The report shall, at a minimum, have detailed, demonstrative, and quantifiable proof of the establishment's efforts, progress, and success of said plans.

(c) A Marijuana Cultivator engaged in indoor cultivation shall include a report of the Marijuana Cultivator's energy and water usage over the 12-month period preceding the date of the application.

(d) To the extent updates are required to the information provided for initial licensure, the Marijuana Cultivator shall submit an updated energy compliance letter prepared by a Massachusetts Licensed Professional Engineer or Massachusetts Licensed Registered Architect with supporting documentation, together with a renewal application submitted under 935 CMR 500.103(4).

(e) The Marijuana Establishment shall submit as a component of the renewal application certification of good standing from the Secretary of the Commonwealth, the DOR, and the DUA. Certificates of good standing will be valid if issued within 90 days of the submittal of the renewal application.

(f) A Marijuana Establishment shall submit as a component of the renewal application documentation that the establishment requested from its Host Community the records of any cost to a city or town reasonably related to the operation of the establishment, which would include the city's or town's anticipated and actual expenses resulting from the operation of the establishment in its community. The applicant shall provide a copy of the electronic or written request, which should include the date of the request, and either the substantive response(s) received or an attestation that no response was received from the city or town. The request should state that, in accordance with M.G.L. c. 94G, § 3(d), any cost to a city or town imposed by the operation of a Marijuana Establishment or MTC shall be documented and considered a public record as defined by M.G.L. c. 4, § 7, cl. 26.

(g) The Marijuana Establishments shall update as needed, and ensure the accuracy of, all information that it submitted on its initial application for a license.

(h) The Marijuana Establishment shall comply with the requirements of 935 CMR 500.104(1) in accordance with that section separately from the renewal application.

(i) Commission shall issue a renewal license within 30 days of receipt of a renewal application and renewal license fee to a Licensee in accordance with M.G.L. c. 94G, § 6, if the Licensee:

1. Is in good standing with the Secretary of Commonwealth, DOR, and DUA;

2. Provided documentation demonstrating substantial effort or progress towards achieving its goals submitted as part of its plans required under 935 CMR 500.101(1), including 935 CMR 500.101(1)(a)11. and 500.101(1)(c)7.k., as applicable; and

3. No new information submitted as part of the renewal application, or otherwise obtained, presents suitability issues for any individual or entity listed on the application or license.

(j) All Economic Empowerment Priority Applicants shall submit, as part of its renewal application, an attestation in a form and manner determined by the Commission, executed by the individuals who, through ownership, qualify an applicant or licensee as an Economic Empowerment Priority Applicant certifying that:

1. Such individuals have had control and ownership since licensure, or the most recent renewal; and

2. The licensee acknowledges that it may only avail itself of the benefits of Economic Empowerment Priority Applicant status so long as such individuals continue to have control and ownership or otherwise satisfy the criteria of Economic Empowerment Priority Applicant status as provided 935 CMR 500.002.

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(k) CMO Marijuana Retailers shall submit the following information pertaining to patient supply of Marijuana:

1. The licensee's policy and the procedures (*e.g.*, data points, formulas) relied on to determine what constitutes a sufficient quantity and variety of Marijuana Products consistent with 935 CMR 500.140(15); and

2. The licensee's policy and procedures for determining what qualifies as a reasonable substitution for a medical Marijuana Product under 935 CMR 500.140(15) and its policy for communicating reliance on the substitution to patients.

(5) The Commission shall maintain a publicly available and searchable source of information about all operating licensees, including Delivery Licensees, on its website.

500.104: Notification and Approval of Changes

(1) Prior to making the following changes, the Marijuana Establishment shall submit a request for such change to the Commission and pay the appropriate fee. No such change shall be permitted until approved by the Commission or in certain cases, the Commission has delegated authority to approve changes to the Executive Director. Failure to obtain approval of such changes may result in a license being suspended, revoked, or deemed void.

(a) Location Change. Prior to changing its location, a Marijuana Establishment shall submit a request for such change to the Commission.

(b) Ownership or Control Change.

1. Ownership Change. Prior to any change in ownership, where an Equity Holder acquires or increases its ownership to 10% or more of the equity or contributes 10% or more of the initial capital to operate the Marijuana Establishment, including capital that is in the form of land or buildings, the Marijuana Establishment shall submit a request for such change to the Commission.

2. Control Change. Prior to any change in control, where a new Person or Entity Having Direct or Indirect Control should be added to the license, the Marijuana Establishment shall submit a request for such change to the Commission prior to effectuating such a change. An individual, corporation, or entity shall be determined to be in a position to control the decision-making of a Marijuana Establishment if the individual, corporation, or entity falls within the definition of Person or Entity Having Direct or Indirect Control.

3. Priority Applicants Change in Ownership or Control.

a. Economic Empowerment Priority Applicants shall notify the Commission of any change in ownership or control, regardless of whether such change would require the applicant to seek approval pursuant to 935 CMR 500.104(1)(b)1. and 2.

b. When an Economic Empowerment Priority Applicant notifies the Commission of any change in ownership or control, the Commission shall review anew the applicant's eligibility for economic empowerment certification status.

c. When an Economic Empowerment Priority Applicant implicates the approval process established in 935 CMR 500.104(1)(b)(1)-(2), the applicant shall seek approval by the Commission of a change in ownership or control, and shall undergo the approval process provided therein prior to making a change in ownership or control.

i. In order to maintain its status as an Economic Empowerment Priority Applicant, the Economic Priority Applicant in its submission shall demonstrate that it continues to qualify as an Economic Empowerment Priority Applicant, as defined in 935 CMR 500.002.

ii. If the qualifications are no longer are met subsequent to the approved change, the applicant will no longer be certified as an Economic Empowerment Priority Applicant and will no longer receive any benefits stemming from that designation.

iii. The applicant may still seek approval of a change of ownership or control.

(c) Structural Change. Prior to any modification, remodeling, expansion, reduction or other physical, non-cosmetic alteration of the Marijuana Establishment, the establishment shall submit a request for such change to the Commission.

(d) Name Change. Prior to changing its name, the Marijuana Establishment shall submit a request for such change to the Commission. Name change requests, and prior approval, shall apply to an establishment proposing a new or amending a current doing-business-as name.

(e) Court Supervised Proceedings. Notification and approval requirements with respect to Court Appointees and Court Supervised Proceedings are detailed in 935 CMR 500.104(3).

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(2) The Executive Director of the Commission may approve, provided the Executive Director gives the Commission timely notice of his decision:
(a) A Location Change;
(b) A Name Change;
(c) Any new equity owner, provided that the equity acquired is below 10%;
(d) Any new Executive or Director, provided that the equity acquired is below 10%;
(e) A reorganization, provided that the ownership and their equity does not change; or
(f) Court Appointees, as detailed in 935 CMR 500.104(3).

(3) Court Supervised Proceedings.
(a) Commission Petition.
1. The Commission or its delegee may seek to file a petition where there is an imminent threat or danger to the public health, safety or welfare, which may include one or more of the following:
a. Notice of violations of state or federal criminal statutes including, but not limited to, M.G.L. c. 94C, §§ 32 and 34;
b. Noncompliance with or violations of its statute or regulations such that the imposition of fines or other disciplinary actions would not be sufficient to protect the public;
c. Conditions that pose a substantial risk of diversion of Marijuana or Marijuana Products to the illicit market or to individuals younger than 21 years of age, who do not possess a valid pediatric Patient Registration Card issued by the Commission;
d. Conditions that pose a substantial risk to Patients including, but not limited to, patient supply;
e. Violations of testing or inventory and transfer requirements such that the Commission cannot readily monitor Marijuana and Marijuana Products cultivated, manufactured, transported, delivered, transfer, or sold by a Licensee; or
f. Other circumstance that the Commission or its delegee determines possess an imminent threat or danger to public health, safety, or welfare.
2. The Commission or its delegee may seek to file a petition, intervene, or otherwise participate in a Court Supervised Proceeding or any other proceeding to secure its rights under M.G.L. c. 94G, § 19.
3. Nothing in 935 CMR 500.104(3) shall limit the Commission's authority under M.G.L. c. 94G, § 4(a)(v).
(b) Delegation. In accordance with M.G.L. c. 10, § 76(j), the Commission may delegate to the Executive Director the authority to appear on its behalf in Court Supervised Proceedings or any other proceeding, and to administer and enforce its regulations relative to such proceedings or Court Appointees which includes, but it not limited to, the following.
1. To determine the form and manner of the application process for a Preapproved Court Appointee;
2. To preapprove, recommend, disqualify, or discipline Court Appointees;
3. To approve the distribution of escrow funds under 935 CMR 500.105(10) or bond funds under 935 500.105(16) including, but not limited to, to cover the cost of a Court Appointee or the operations of a Marijuana Establishment under supervision subject to the receipt of a court order prior to the expenditure of such funds;
4. To approve the use of additional funds subject to the receipt of a court order prior to the expenditure of such funds;
5. To preapprove or approve certain transactions; provided, however, any change in the ownership or control under 935 CMR 500.104(1) shall be considered by the Commission; or
To impose fines or other disciplinary action under 935 CMR 500.500, however, any suspension or revocation of a License under 935 CMR 500.450 shall be considered by the Commission.
(c) Notice to the Commission.
1. A Licensee or Person or Entity Having Direct or Indirect Control over a Licensee shall provide notice to the Commission of a petition or Court Supervised Proceeding or any other proceeding implicating these regulations:

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a. Five business days prior to the Licensee or Person or Entity Having Direct or Indirect Control filing a petition; or

b. On receipt of notice that a petition was filed or an imminent threat of litigation was received.

2. Notice to the Commission shall include a copy of the relevant communications, petition, pleadings and supporting documents, and shall be sent electronically to Commission@CCCMass.Com and by mail to the Cannabis Control Commission at:
Cannabis Control Commission,
ATTN: General Counsel - Court Appointees
Union Station
2 Washington Square
Worcester, MA 01604

3. As soon as practicable, the Licensee or Person or Entity Having Direct or Indirect Control over a Licensee shall provide electronic and written notice to the Commission if the circumstances giving rise to the petition pose or may pose a threat to the public health, safety or welfare.

4. As soon as practicable, the Licensee or Person or Entity Having Direct or Indirect Control over a Licensee shall provide notice to the court that it is licensed by the Commission and of the regulations relative to Court Supervised Proceedings and Court Appointees including, but not limited to, the qualifications for a Court Appointee established in 935 CMR 500.104(3)(d)1; and the list of Preapproved Court Appointees. A Licensee or Person or Entity Having Direct or Indirect Control over a Licensee that fails to comply with the requirements of 935 CMR 500.104(3) may be subject to disciplinary action including, but not limited to revocation or suspension of any license or registration under 935 CMR 500.450.

(d) Commission Qualifications for Court Appointees.

1. Qualifications. The Commission deems the following qualifications essential in a Court Appointee, subject to the court's discretion. At a minimum, an individual or entity seeking to be a Preapproved Court Appointee shall demonstrate the following qualifications consistent with the regulatory requirements for licensees. An applicant may seek a waiver of these qualifications under 935 CMR 500.850. The failure to maintain these qualifications may be a basis for disqualification.

a. Suitability. An applicant must demonstrate suitability under 935 CMR 500.801 and *Table A*.

b. Ownership and Control Limits. A person or entity named as a Court Appointee shall, prior to and as a result of being a Court Appointee, be in compliance with the control limitations set forth in 935 CMR 500.050(1)(b) or any other limitations on licensure set forth in 935 CMR 500.000.

2. Application Process for Preapproved Court Appointees. The Commission or its delegee may preapprove, recommend, disqualify, or discipline Preapproved Court Appointees. A person or entity seeking to be a Preapproved Court Appointee shall pay a fee established in 935 CMR 500.005(5)(a) and submit the following information and make the necessary disclosures:

a. Qualifications. An applicant shall demonstrate the qualifications set forth in 935 CMR 500.104(3)(d)1.

b. Credentials. An applicant shall demonstrate sufficient training, knowledge and experience, to ensure a Licensee under supervision shall comply with Commissions statutory and regulatory requirements.

c. Affiliated Individuals or Entities. An applicant shall identify any person or entity that may exert control or influence over the Preapproved Court Appointee, whether or not such individuals or entities are can exercise the authority of a Court Appointee.

d. Engaged Individuals or Entities. An applicant shall identify any person or entity that the applicant intends to engage in conducting the work of a Court Appointee, whether or not such individuals or entities are exercising the authority of a Court Appointee.

e. Financial Information. An applicant shall make such financial disclosures necessary to determine its ability to serve as a Court Appointee.

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f. Licenses. The applicant shall submit any professional or occupational licenses and represent that these licenses are in good standing.

g. Good Standing. If the applicant is an entity, it shall submit a valid Certificate of Good Standing issued by each the Secretary of the Commonwealth and the Department of Revenue.

h. Limitations. The applicant shall identify any limitations on the ability to serve as a Court Appointee including, but not limited to, capacity, qualifications, credentials, conflicts of interest, and financial requirements.

i. An applicant shall submit any additional information the Commission or its delegee may request, in its sole discretion.

j. Suitability. An applicant shall demonstrate suitability to operate a Licensee. If the applicant is an entity, each individual exercising the authority of a Court Appointee shall demonstrate suitability as provided herein. An applicant shall demonstrate suitability by:

i. Submitting to a criminal background check in accordance with 935 CMR 500.030, 500.101, and 500.105; or

ii. If authorized by the Commission, submitting an attestation under the pains and penalties of perjury that the applicant is suitable to operate a Licensee.

3. Application requirements in this 935 CMR 500.104(3)(d)2. shall apply only to persons and entities acting as a Court Appointee.

4. Renewal. In order to remain as Preapproved Court Appointee, each Preapproved Court Appointee, on the anniversary of their preapproval, shall annually attest to the Commission under the pains and penalties of perjury that there has been no material change to the information and disclosures submitted as part of the initial application or provide updated information and disclosures with respect to those that have changed, and pay the fee identified in 935 CMR 500.005(5)(b).

(e) Licensee's Obligations. A Licensee placed under the oversight or a Court Appointee shall:

1. Continue to comply with all legal and regulatory requirements applicable to a Licensee, except as otherwise determined pursuant a court order or a waiver granted pursuant to 935 CMR 500.850.

2. Provide the Commission with any documents requested by the Commission.

3. Cooperate with the Commission's efforts to intervene as an interested party in any proceeding pursuant to which a Court Appointee is sought.

4. Comply with the requirements of 935 CMR 500.104(1) upon final disposition of the License(s) subject to oversight by a Court Appointee.

5. When a Licensee files a petition, it shall propose in such petition a Court Appointee with the qualifications identified in 935 CMR 500.104(3)(d)1. or identify a Preapproved Court Appointee.

(f) Applicability of 935 CMR 104(3).

1. All Licensees and Persons or Entities having Direct or Indirect Control shall comply with the notice requirements established in 935 CMR 500.104(3)(c).

2. A Person or Entity Having Direct or Indirect Control that has its ownership or control interest placed under the oversight of a Court Appointee shall be exempt from the requirements of 935 CMR 500.104(3)(b) and (d) through (f); provided however, that upon final disposition of the interest in question, the Licensee shall comply with the requirements of 935 CMR 500.104(1), as applicable.

3. Any Economic Empowerment Priority Applicant or any other Licensee subject to regulatory benefits provided for in 935 CMR 500.005(b), 500.050(6) and (10), 500.101(13) that is placed under the oversight of a Court Appointee shall have such status suspended until such time as the Court Appointee's work is deemed complete pursuant to a court order, at which time, such status will go back into effect, provided the Licensee continues to satisfy all requisite criteria.

(4) Assignment for the Benefit of Creditors. A Licensee must seek Commission approval, in a form or manner determined by the Commission, prior to effectuating an Assignment for the benefit of Creditors. The Commission may delegate authority to approve such agreements to the Executive Director; provided however, that any transfer of a License shall be subject to Commission Approval.

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(5) The Marijuana Establishment shall keep current all information required by 935 CMR 500.000 or otherwise required by the Commission. The Marijuana Establishment shall report any changes in or additions to the content of the information contained in any document to the Commission within five business days after such change or addition.

500.105: General Operational Requirements for Marijuana Establishments

(1) Written Operating Procedures. Every Marijuana Establishment shall have and follow a set of detailed written operating procedures. If the Marijuana Establishment has an additional location, it shall develop and follow a set of such operating procedures for that facility. A CMO shall have written operating procedures that comply with both 935 CMR 500.105(1) and 501.105(1): *Written Operating Procedures,* and may do so by having two sets of written operating procedures applicable to each medical-use and adult-use operations or having one set of written operating procedures, provided it complies with both medical-use and adult-use requirements. Operating procedures shall include, but need not be limited to, the following:

(a) Security measures in compliance with 935 CMR 500.110;

(b) Employee security policies, including personal safety and crime prevention techniques;

(c) A description of the Marijuana Establishment's hours of operation and after-hours contact information, which shall be provided to the Commission, made available to Law Enforcement Authorities on request, and updated pursuant to 935 CMR 500.000.

(d) Storage and waste disposal of Marijuana in compliance with 935 CMR 500.105(11);

(e) Description of the various strains of Marijuana to be cultivated, Processed or sold, as applicable, and the form(s) in which Marijuana will be sold;

(f) Price list for Marijuana and Marijuana Products and any other available products, and alternate price lists for patients with documented Verified Financial Hardship, as defined in 935 CMR 501.002: *Verified Financial* Hardship, as required by 935 CMR 501.100(1)(f);

(g) Procedures to ensure accurate recordkeeping, including inventory protocols for Transfer and inventory in compliance with 935 CMR 500.105(8) and (9);

(h) Plans for quality control, including product testing for contaminants in compliance with 935 CMR 500.160;

(i) A staffing plan and staffing records in compliance with 935 CMR 500.105(9)(d);

(j) Emergency procedures, including a disaster plan with procedures to be followed in case of fire or other emergencies;

(k) Alcohol, smoke, and drug-free workplace policies;

(l) A plan describing how Confidential Information and other records required to be maintained confidentially will be maintained;

(m) A policy for the immediate dismissal of any Marijuana Establishment Agent who has:

1. Diverted Marijuana, which shall be reported to Law Enforcement Authorities and to the Commission;

2. Engaged in unsafe practices with regard to operation of the Marijuana Establishment, which shall be reported to the Commission; or

3. Been convicted or entered a guilty plea, plea of *nolo contendere*, or admission to sufficient facts of a felony drug offense involving distribution to a minor in the Commonwealth, or a like violation of the laws of any Other Jurisdiction.

(n) A list of all board of directors, members and Executives of a Marijuana Establishment, and Members, if any, of the Licensee shall be made available on request by any individual. This requirement may be fulfilled by placing this required information on the Marijuana Establishment's website;

(o) Policies and procedure for the handling of cash on Marijuana Establishment Premises including, but not limited to, storage, collection frequency, and transport to financial institution(s), to be available on inspection.

(p) Policies and procedures to prevent the diversion of Marijuana to individuals younger than 21 years old;

(q) Policies and procedures for energy efficiency and conservation that shall include:

1. Identification of potential energy use reduction opportunities (including, but not limited to, natural lighting, heat recovery ventilation and energy efficiency measures), and a plan for implementation of such opportunities;

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2. Consideration of opportunities for renewable energy generation including, where applicable, submission of building plans showing where energy generators could be placed on the site, and an explanation of why the identified opportunities were not pursued, if applicable;

3. Strategies to reduce electric demand (such as lighting schedules, active load management and energy storage); and

4. Engagement with energy efficiency programs offered pursuant to M.G.L. c. 25, § 21, or through municipal lighting plants.

(r) Policies and procedures to promote workplace safety consistent with the standards set forth under the Occupational Safety and Health Act of 1970, 29 U.S.C. § 651, et seq., including the general duty clause under 29 U.S.C. § 654, whereby each employer:

(a) shall furnish to each of its employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to its employees;

(b) shall comply with occupational safety and health standards promulgated under this act. Each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to 29 U.S.C. § 651, *et seq.*, which are applicable to the employee's own actions and conduct. All current and updated regulations and references at 29 CFR Parts 1903, 1904, 1910, 1915, 1917, 1918, 1926, 1928 and 1977 are incorporated by reference, and applicable to all places of employment covered by 935 CMR 500.000.

(2) Marijuana Establishment Agent Training.

(a) Marijuana Establishments, including Independent Testing Laboratories, shall ensure that all Marijuana Establishment Agents complete minimum training requirements prior to performing job functions.

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

2. A minimum of four hours of training shall be from Responsible Vendor Training Program courses established under 935 CMR 500.105(2)(b). Any additional RVT hours over the four-hour RVT requirement may count toward the eight-hour total training requirement.

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

4. Agents responsible for tracking and entering product into the Seed-to-sale SOR shall receive training in a form and manner determined by the Commission. At a minimum, staff shall receive eight hours of on-going training annually.

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

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

(b) Responsible Vendor Training.

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

a. Marijuana Establishment Agents shall first take the Basic Core Curriculum.

b. On completing the Basic Core Curriculum, a Marijuana Establishment Agent is eligible to take the Advanced Core Curriculum.

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

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

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

4. Responsible Vendor Trainer Certification.

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

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

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

d. Except as provided in 935 CMR 500.105(2)(b)(4)(e), Responsible Vendor Training Program courses shall be taught in a real-time, interactive, virtual or in-person classroom setting in which the instructor is able to verify the identification of each individual attending the program and certify completion of the program by the individual.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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ii. The amount of time to feel impairment;
iii. Visible signs of impairment; and
iv. Recognizing the signs of impairment.

b. Diversion prevention and prevention of sales to minors, including best practices.

c. Compliance with all tracking requirements.

d. Acceptable forms of identification. Training shall include:
i. How to check identification;
ii. Spotting and confiscating fraudulent identification;
iii. Patient registration cards currently and validly issued by the Commission;
iv. Common mistakes made in identification verification.
v. Prohibited purchases and practices, including purchases by persons younger than 21 years of age in violation of M.G.L. c. 94G, § 13.

e. Other key state laws and rules affecting Marijuana Establishment Agents, which shall include:
i. Conduct of Marijuana Establishment Agents;
ii. Permitting inspections by state and local licensing and enforcement authorities;
iii. Local and state licensing and enforcement, including registration and license sanctions;
iv. Incident and notification requirements;
v. Administrative, civil, and criminal liability;
vi. Health and safety standards, including waste disposal;
vii. Patrons prohibited from bringing Marijuana and Marijuana Products onto licensed premises;
viii. Permitted hours of sale; and
ix. Licensee responsibilities for activities occurring within licensed premises; Maintenance of records, including confidentiality and privacy.

f. Such other areas of training determined by the Commission to be included in a Responsible Vendor Training Program.

6. Advanced Core Curriculum.

a. Each Advanced Core Curriculum class shall be approved by the Commission prior to being offered. The curriculum shall build on the knowledge, skills, and practices covered in the Basic Core Curriculum.

b. An Advanced Core Curriculum class shall include standard and best practices in one or more of the following areas
i. Cultivation;
ii. Product Manufacturing;
iii. Retail;
iv. Transportation;
v. Social Consumption;
vi. Laboratory Science;
vii. Energy and Environmental Best Practices;
viii. Social Justice and Economically Reparative Practices;
ix. Implicit Bias and Diversity Training;
x. Worker Safety;
xi. Food Safety and Sanitation;
xii. Confidentiality and Privacy;
xiii. In depth coverage of any topic(s) taught in the Basic Core Curriculum; or
xiv. Such other topic as the Commission may approve in its sole discretion.

7. Delivery Core Curriculum. In addition to the Basic Core Curriculum, all Marijuana Establishment Agents acting as delivery employees of a Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement shall have attended and successfully completed Delivery Core Curriculum prior to making a delivery, which shall, to the extent not covered in Basic Core Training include, without limitation, training on:

a. Safely conducting deliveries;

b. Safe cash handling practices;

c. Strategies for de-escalating potentially dangerous situations;

d. Securing product following any instance of diversion, theft or loss of Finished Marijuana Products pursuant to 935 CMR 500.110(1)(m);

e. Collecting and communicating information to assist in investigations;

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f. Procedures for checking identification;
g. Indications of impairment;
h. Notification to Consumers of use of mandatory recording devices; and
i. Such other areas of training determined by the Commission to be included in a Responsible Vendor Training Program.

(3) Requirements for the Handling of Marijuana.

(a) A Marijuana Establishment authorized to Process Marijuana shall do so in a safe and sanitary manner. A Marijuana Establishment shall Process the leaves and flowers of the female Marijuana plant only, which shall be:

1. Well cured and free of seeds and stems;
2. Free of dirt, sand, debris, and other foreign matter;
3. Free of contamination by mold, rot, other fungus, pests and bacterial diseases and satisfying the sanitation requirements in 105 CMR 500.000, and if applicable, 105 CMR 590.000: *State Sanitary Code Chapter X – Minimum Sanitation Standards for Food Establishments*;
4. Prepared and handled on food-grade stainless steel tables with no contact with Licensees' or Marijuana Establishment Agents' bare hands; and
5. Packaged in a secure area.

(b) All Marijuana Establishments, including those that develop, Repackage, or Process non-edible Marijuana Products, shall comply with the following sanitary requirements:

1. Any Marijuana Establishment Agent whose job includes contact with Marijuana or nonedible Marijuana Products, 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*;
2. Any Marijuana Establishment Agent working in direct contact with preparation of Marijuana or nonedible Marijuana Products shall conform to sanitary practices while on duty, including:
   a. Maintaining adequate personal cleanliness; and
   b. 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.
3. 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 Marijuana Establishment in Production Areas and where good sanitary practices require Employees to wash and sanitize their hands, and shall provide effective hand-cleaning and sanitizing preparations and sanitary towel service or suitable drying devices;
4. There shall be sufficient space for placement of equipment and storage of materials as is necessary for the maintenance of sanitary operations;
5. 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 935 CMR 500.105(12);
6. Floors, walls, and ceilings shall be constructed in such a manner that they may be adequately kept clean and in good repair;
7. There shall be adequate safety lighting in all Processing and storage areas, as well as areas where equipment or utensils are cleaned;
8. Buildings, fixtures, and other physical facilities shall be maintained in a sanitary condition;
9. 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;
10. All toxic items shall be identified, held, and stored in a manner that protects against contamination of Marijuana Products. Toxic items may not be stored in an area containing products used in the cultivation of Marijuana. The Commission may require a Marijuana Establishment to demonstrate the intended and actual use of any toxic items found on the Premises;

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11. A Marijuana Establishment'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 Marijuana Establishment's needs;
12. Plumbing shall be of adequate size and design, and adequately installed and maintained to carry sufficient quantities of water to required locations throughout the Marijuana Establishment. Plumbing shall properly convey sewage and liquid disposable waste from the Marijuana Establishment. There shall be no cross-connections between the potable and wastewater lines;
13. A Marijuana Establishment shall provide its employees with adequate, readily accessible toilet facilities that are maintained in a sanitary condition and in good repair;
14. Products that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms;
15. 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 finished products or their containers; and
16. All vehicles and transportation equipment used in the transportation of Marijuana Products or Edibles requiring temperature control for safety shall be designed, maintained, and equipped as necessary to provide adequate temperature control to prevent the Marijuana Products or Edibles from becoming unsafe during transportation, consistent with applicable requirements pursuant to 21 CFR 1.908(c).

(c) All Marijuana Establishments, including those that develop or Process Edibles, shall comply with sanitary requirements. All Edibles shall be prepared, handled, and stored in compliance with the sanitation requirements in 105 CMR 590.000: *State Sanitary Code Chapter X: Minimum Sanitation Standards for Food Establishments*.

(d) Unless otherwise authorized by the Commission, a CMO shall comply with 935 CMR 500.105(3) and 501.105(3): *Handling of Marijuana*.

(4) Advertising Requirements.

(a) Permitted Practices. The following Advertising activities are permitted:

1. A Marijuana Establishment may develop a Brand Name to be used in labeling, signage, and other materials; provided however, that use of medical symbols, images of Marijuana or Marijuana Products, or related Paraphernalia images, that are appealing to persons younger than 21 years old, and colloquial references to Marijuana and Cannabis are prohibited from use in the Brand Name
2. Brand Name Sponsorship of a charitable, sporting or similar event, so long as the following conditions are met.
   a. Sponsorship of the event is limited to the Brand Name.
   b. Any Advertising at or in connection with such an event is prohibited, unless such Advertising is targeted to entrants or participants reasonably expected to be 21 years of age or older, as determined by reliable, current audience composition data, and reasonable safeguards have been employed to prohibit Advertising from targeting or otherwise reaching entrants or participants reasonably expected to be 21 years old, as determined by reliable, current audience composition data;
3. Brand Name Sponsorship of a charitable, cultural or similar event both held and organized by the city or town in which the sponsoring Marijuana Establishment or CMO is licensed to conduct business, so long as the following conditions are met:
   a. Sponsorship of said event shall be included in its Positive Impact Plan submitted in accordance with 935 CMR 500.101(1)(a)11;
   b. Sponsorship of the event is limited to the Brand Name;
   c. Any Advertising at or in connection with such an event is prohibited, unless such Advertising is targeted to entrants or participants reasonably expected to be 21 years of age or older, as determined by reliable, current audience composition data, and reasonable safeguards have been employed to prohibit Advertising from targeting or otherwise reaching entrants or participants reasonably expected to be younger than 21 years old, as determined by reliable, current audience composition data;
4. A Marijuana Establishment engaging in Brand Name Sponsorship under 935 CMR 500.105(4)(a)2. and 3. shall retain documentation of reliable, reasonable audience composition data that is the basis for allowing any such Advertising or branding for a period of one year, or longer if otherwise required by the Commission, or a court or agency with jurisdiction.

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5. A Marijuana Establishment may display, in secure, locked cases, samples of each product offered for sale and subject to the requirements of 935 CMR 500.110. These display cases may be transparent. An authorized Marijuana Establishment Agent may remove a sample of Marijuana from the case and provide it to the Consumer for inspection, provided the Consumer may not consume or otherwise use the sample, unless otherwise authorized herein;

6. The establishment may post prices in the store and may respond to questions about pricing. The Marijuana Establishment shall provide a catalogue or a printed list of the prices and strains of Marijuana available at the Marijuana Establishment to Consumers and may post the same catalogue or printed list on its website and in the retail store;

7. A Marijuana Establishment may engage in reasonable Advertising practices that are not otherwise prohibited in 935 CMR 500.105(4)(b) that do not jeopardize the public health, welfare or safety of the general public or promote the diversion of Marijuana or Marijuana use in individuals younger than 21 years old or otherwise promote practices inconsistent with the purposes of M.G.L. c. 94G or 94I. Any such Advertising created for viewing by the public shall include the statement "Please Consume Responsibly", in a conspicuous manner on the face of the advertisement and shall include a minimum of two of the following warnings in their entirety in a conspicuous manner on the face of the advertisement:

a. "This product may cause impairment and may be habit forming.";

b. "Marijuana can impair concentration, coordination and judgment. Do not operate a vehicle or machinery under the influence of this drug.";

c. "There may be health risks associated with consumption of this product.";

d. "For use only by adults 21 years of age or older. Keep out of the reach of children."; or

e. "Marijuana should not be used by women who are pregnant or breastfeeding."

8. All Advertising produced by or on behalf of a Marijuana Establishment for Marijuana or Marijuana Products shall include the following warning, including capitalization, in accordance with M.G.L. c. 94G, § 4(a½)(xxvi):

"This product has not been analyzed or approved by the Food and Drug Administration (FDA). There is limited information on the side effects of using this product, and there may be associated health risks. Marijuana use during pregnancy and breast-feeding may pose potential harms. It is against the law to drive or operate machinery when under the influence of this product. KEEP THIS PRODUCT AWAY FROM CHILDREN. There may be health risks associated with consumption of this product. Marijuana can impair concentration, coordination, and judgment. The impairment effects of Edibles may be delayed by two hours or more. In case of accidental ingestion, contact poison control hotline 1-800-222-1222 or 9-1-1. This product may be illegal outside of MA."

9. A Licensee may utilize employee discounts as part of the Marijuana Establishment's operating policy and procedure for prevention of diversion pursuant to 935 CMR 500.101(1)(c)8.b. Institution of an employee discount program under 500.101(1)(c)8.b. shall not be considered a prohibited practice under 935 CMR 500.105(4)(b).

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

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

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

3. Advertising that utilizes statements, designs, representations, pictures or illustrations that portray anyone younger than 21 years old;

4. Advertising including, but not limited to, mascots, cartoons, and celebrity endorsements, that is deemed to appeal to a person younger than 21 years old;

5. Brand sponsorship including, but not limited to, mascots, cartoons, and celebrity endorsements, that is deemed to appeal to a person younger than 21 years old;

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

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7. Advertising by a Licensee that asserts that its products are safe, or represent that its products have curative or therapeutic effects, other than labeling required pursuant to M.G.L. c. 94G, § 4(a½)(xxvi), unless supported by substantial evidence or substantial clinical data with reasonable scientific rigor as determined by the Commission;
8. Advertising on any billboards, or any other public signage, which fails to comply with all state and local ordinances and requirements;
9. Use of any illuminated or external signage beyond the period of 30 minutes before sundown until closing; provided, however, that the Commission may further specify minimum signage requirements;
10. The use of vehicles equipped with radio or loudspeakers for the Advertising of Marijuana or Marijuana Products;
11. The use of radio or loudspeaker equipment in any Marijuana Establishment for the purpose of Advertising the sale of Marijuana or Marijuana Products;
12. Brand Name Sponsorship of a charitable, sporting or similar event, unless such Advertising is targeted to entrants or participants reasonably expected to be 21 years of age or older, as determined by reliable, current audience composition data, and reasonable safeguards have been employed to prohibit Advertising from targeting or otherwise reaching entrants or participants reasonably expected to be under 21 years of age, as determined by reliable, current audience composition data;
13. Operation of any website of a Marijuana Establishment that fails to verify that the entrant is 21 years of age or older;
14. Any Advertising, including the use of Brand Names, of an improper or objectionable nature including, but not limited to, the use of language or images offensive or disparaging to certain groups;
15. Any Advertising, solely for the promotion of Marijuana or Marijuana Products on Marijuana Establishment Branded Goods including, but not limited to, clothing, cups, drink holders, apparel accessories, electronic equipment or accessories, sporting equipment, novelty items and similar portable promotional items;
16. Advertising on or in public or private vehicles and at bus stops, taxi stands, transportation waiting areas, train stations, airports, or other similar transportation venues including, but not limited to, vinyl-wrapped vehicles or signs or logos on transportation vehicles not owned by the Marijuana Establishment;
17. The display of signs or other printed material Advertising any brand or any kind of Marijuana or Marijuana Products that are displayed on the exterior of any licensed Premises;
18. Advertising of the price of Marijuana or Marijuana Products, except as permitted above pursuant to 935 CMR 500.105(4)(a)6.;
19. Display of Marijuana or Marijuana Products so as to be clearly visible to a person from the exterior of a Marijuana Establishment; and
20. Advertising through the marketing of free promotional items including, but not limited to, gifts, giveaways, discounts, points-based reward systems, customer loyalty programs, coupons, and "free" or "donated" Marijuana, except as otherwise permitted by 935 CMR 500.105(4)(a)9. and except for the provision of Brand Name take-away bags by a Marijuana Establishment for the benefit of customers after a retail purchase is completed.

(c) Nothing in 935 CMR 500.105(4) prohibits a Marijuana Establishment from using a mark provided by the Commission which uses images of Marijuana or Marijuana Products. CMOs shall comply with the requirements of each 935 CMR 500.105(4) and 500.105(4) with respect to the applicable license. A CMO may develop a single marketing campaign; provided, however, it shall apply the most restrictive requirements applicable under either license.

(5) Labeling of Marijuana and Marijuana Products.

(a) Labeling of Marijuana Not Sold as a Marijuana Product. Prior to Marijuana being sold or Transferred, a Marijuana Establishment shall ensure the placement of 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 makes available for retail sale containing at a minimum the following information:

1. The name and registration number, telephone number and email address of the Licensee that produced the Marijuana, together with the retail Licensee's business telephone number, email address, and website information, if any;

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2. The date that the Marijuana Establishment packaged the contents and a statement of which Licensee performed the packaging;
3. A batch number, sequential serial number, and bar code when used, to identify the batch associated with manufacturing and Processing;
4. Net weight or volume in U.S. customary and metric units, listed in that order;
5. The full Cannabinoid Profile of the Marijuana contained within the package, including THC and other Cannabinoid levels;
6. A statement and a seal certifying that the product has been tested for contaminants, that there were no adverse findings, and the date of testing in accordance with M.G.L. c. 94G, § 15;
7. 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. Marijuana use during pregnancy and breast-feeding may pose potential harms. It is against the law to drive or operate machinery when under the influence of this product. "KEEP THIS PRODUCT AWAY FROM CHILDREN.";
8. The following symbol or easily recognizable mark issued by the Commission that indicates the package contains Marijuana:

9. The following symbol or other easily recognizable mark issued by the Commission that indicates that the product is harmful to children:

10. 935 CMR 500.105(5)(a) shall apply to Marijuana packaged as a Finished Marijuana Product for purposes of Wholesale to a Delivery Operator for delivery to Consumers, provided that the Marijuana Cultivator, Microbusiness or Craft Marijuana Cooperative is responsible for compliance with 935 CMR 500.105(5) for all Marijuana intended to be wholesaled for delivery to Consumers by a Delivery Operator. White labeling of Finished Marijuana Products wholesaled from a Marijuana Cultivator, Microbusiness or Craft Marijuana Cooperative for delivery to Consumers by a Delivery Operator may be performed by either Licensee, provided that white labeling is explicitly authorized by the Commission under the specific Delivery Operator License and reflected in any Wholesale Agreement.
11. 935 CMR 500.105(5)(a) shall not apply to Marijuana packaged for transport of wholesale cultivated Marijuana in compliance with 935 CMR 500.105(8); provided however, that the Marijuana Retailer is responsible for compliance with 935 CMR 500.105(5) for all Marijuana sold or displayed to Consumers.

(b) Labeling of Edibles. Prior to Edibles being sold or Transferred, the Marijuana Product Manufacturer shall place a legible, firmly Affixed label on which the wording is no less than $^{1}/_{16}$ inch in size on each Edible that it prepares for retail sale or wholesale, containing at a minimum the following information:
1. The name and registration number of the Marijuana Product Manufacturer that produced the Marijuana Product, together with the Marijuana Product Manufacturer's business telephone number, e-mail address, and website information, if any;
2. The name of the Marijuana Product;
3. Refrigeration of the product is required, as applicable;
4. Total net weight or volume in U.S. customary and metric units, listed in that order, of the Marijuana Product;

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5. The number of servings within the Marijuana Product based on the limits provided in 935 CMR 500.150(3) and the specific weight in milligrams of a serving size;
6. The type of Marijuana used to produce the product, including what, if any, Processing technique or solvents were used;
7. A list of ingredients, including the full Cannabinoid Profile of the Marijuana contained within the Marijuana Product, including the amount of delta-nine-tetrahydrocannabinol (Δ9-THC) and other Cannabinoids in the package and in each serving of a Marijuana Product as expressed in absolute terms and as a percentage of volume;
8. The amount, in grams, of sodium, sugar, carbohydrates and total fat per serving;
9. The date of creation and the recommended "use by" or expiration date which may not be altered or changed;
10. A batch number, sequential serial number and bar codes when used, to identify the batch associated with manufacturing and Processing;
11. Directions for use of the Marijuana Product;
12. A statement and a seal that the product has been tested for contaminants, that there were no adverse findings, and the date of testing in accordance with M.G.L. c. 94G, § 15;
13. A warning if nuts or other Known Allergens are contained in the product; and
14. This statement, including capitalization: "The impairment effects of edible products may be delayed by two hours or more. 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. Marijuana use during pregnancy and breast-feeding may pose potential harms. It is against the law to drive or operate machinery when under the influence of this product. KEEP THIS PRODUCT AWAY FROM CHILDREN.";
15. The following symbol or easily recognizable mark issued by the Commission that indicates the package contains Marijuana:

16. The following symbol or other easily recognizable mark issued by the Commission that indicates that the product is harmful to children:

17. 935 CMR 500.105(5)(b) shall apply to Edibles produced by a Marijuana Product Manufacturer for transport to a Licensee in compliance with 935 CMR 500.105(8) and shall be in addition to any regulation regarding the appearance of Edibles under 935 CMR 500.150.
18. The White Labeling of Edibles to be sold and delivered by a Delivery Operator may be conducted by the licensed Microbusiness or Product Manufacturer of the Edible at the Microbusiness's or Product Manufacturer's Premises or by the Delivery Operator at the Warehouse of the Delivery Licensee, provided that white labeling is explicitly authorized by the Commission under the specific Delivery Operator License and reflected in any Wholesale Agreement.

(c) Labeling of Marijuana Concentrates and Extracts. Prior to Marijuana concentrates or extracts being sold or Transferred, the Marijuana Product Manufacturer shall place a legible, firmly Affixed label on which the wording is no less than $^{1}/_{16}$ inch in size on each Marijuana concentrate container that it prepares for retail sale or wholesale, containing at a minimum the following information:

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1. The name and registration number of the Marijuana Product Manufacturer that produced the Marijuana Product, together with the Marijuana Product Manufacturer's business telephone number, e-mail address, and website information, if any;
2. The name of the Marijuana Product;
3. Product identity including the word "concentrate" or "extract" as applicable;
4. Total net weight for volume expressed in U.S. customary units and metric units, listed in that order, of the Marijuana Product;
5. If applicable, the number of servings in the Marijuana Product based on the limits provided in 935 CMR 500.150(3) and the specific weight in milligrams of a serving size;
6. The type of Marijuana used to produce the product including what, if any, Processing technique or solvents were used;
7. A list of ingredients including, but not limited to, the full Cannabinoid Profile of the Marijuana contained within the Marijuana Product, including the amount of delta-nine-tetrahydrocannabinol (Δ9-THC) and other Cannabinoids in the package and in each serving of a Marijuana Product as expressed in absolute terms and as a percentage of volume, and the amount of specific additives infused or incorporated during the manufacturing process, whether active or inactive including, but not limited to, thickening agents, thinning agents, and specific terpenes, expressed in absolute terms and as a percentage of volume.
   a. For Marijuana Vaporizer Devices, identification of specific additives shall include, but not be limited to, any additives identified on the FDA's Inactive Ingredient Database for "Respiratory (inhalation)" or "Oral" routes of administration and based on dosage form as an aerosol product or inhalant. The FDA Inactive Ingredient Database is available at https://www.fda.gov/media/72482/download. If the FDA database or its equivalent is no longer available, licensees shall use the database identified by the Commission.
   b. For Marijuana Vaporizer Devices produced using only cannabis-derived terpenes, the following statement: "This product was produced using only cannabis-derived terpenes."
   c. For Marijuana Vaporizer Devices produced using terpenes other than cannabis-derived terpenes, the following statement: "This product was produced using terpenes derived from sources other than cannabis."
8. The date of creation and the recommended "use by" or expiration date;
9. A batch number, sequential serial number, and bar code when used, to identify the batch associated with manufacturing and Processing;
10. Directions for use of the Marijuana Product;
11. A statement and a seal that the product has been tested for contaminants, that there were no adverse findings, and the date of testing in accordance with M.G.L. c. 94G, § 15;
12. A warning if nuts or other Known Allergens are contained in the product;
13. 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. Marijuana use during pregnancy and breast-feeding may pose potential harms. It is against the law to drive or operate machinery when under the influence of this product. "KEEP THIS PRODUCT AWAY FROM CHILDREN.";
14. The following symbol or easily recognizable mark issued by the Commission that indicates the package contains Marijuana:

15. The following symbol

or other easily recognizable mark issued by the Commission that indicates that the product is harmful to children:

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16. 935 CMR 500.105(5)(c) shall apply to Marijuana concentrates and extracts produced by a Marijuana Product Manufacturer for transport to a Marijuana Retailer in compliance with 935 CMR 500.105(13).

(d) Labeling of Marijuana Infused Tinctures and Topicals. Prior to Marijuana infused Tinctures or topicals being sold or Transferred the Marijuana Product Manufacturer shall place a legible, firmly Affixed label on which the wording is no less than $^{1}/_{16}$ inch in size on each container of Marijuana infused Tincture or topical that it prepares for retail sale or wholesale, containing at a minimum the following information:

1. The name and registration number of the Marijuana Product Manufacturer that produced the Marijuana Product, together with the Marijuana Product Manufacturer's business telephone number, e-mail address, and website information, if any;
2. The Marijuana Product's identity;
3. The type of Marijuana used to produce the product, including what, if any, Processing technique or solvents were used;
4. A list of ingredients, including the full Cannabinoid Profile of the Marijuana contained within the Marijuana Product, including the amount of delta-nine-tetrahydrocannabinol (Δ9-THC) and other Cannabinoids in the package and in each serving of a Marijuana Product as expressed in absolute terms and as a percentage of volume;
5. Total net weight or volume as expressed in U.S. customary units and metric units, listed in that order, of the Marijuana Product;
6. If applicable, the number of servings in the Marijuana Product based on the limits provided in 935 CMR 500.150(3) and the specific weight in milligrams of a serving size;
7. The date of product creation;
8. A batch number, sequential serial number, and bar code when used, to identify the batch associated with manufacturing and Processing;
9. Directions for use of the Marijuana Product;
10. A statement and a seal that the product has been tested for contaminants, that there were no adverse findings, and the date of testing in accordance with M.G.L. c. 94G, § 15;
11. A warning if nuts or other Known Allergens are contained in the product; and
12. 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. Marijuana use during pregnancy and breast-feeding may pose potential harms. It is against the law to drive or operate machinery when under the influence of this product. "KEEP THIS PRODUCT AWAY FROM CHILDREN.";
13. The following symbol or easily recognizable mark issued by the Commission that indicates the package contains Marijuana:
14. The following symbol or other easily recognizable mark issued by the Commission that indicates that the product is harmful to children:

15. 935 CMR 500.105(5)(d) shall apply to Marijuana-infused Tinctures and topicals produced by a Marijuana Product Manufacturer for transport to a Licensee in compliance with 935 CMR 500.105(8).

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(e) Labeling of Repackaged Marijuana. Prior to Repackaged Marijuana being sold, the Retailer shall place a legible, firmly Affixed label on which the wording is no less than $^{1}/_{16}$ inch in size on each container of Marijuana that it prepares for retail sale,

1. The Affixed label shall contain at a minimum the following information:
   a. The name and registration number of the Cultivator that produced the Marijuana;
   b. Business or trade name of licensee that packaged the product, if different from the Cultivator;
   c. Date of Harvest;
   d. Type of Marijuana or name of strain;
   e. The full Cannabinoid Profile of the Marijuana contained within the Repackaged Product, including the amount of delta-nine-tetrahydrocannabinol (Δ9-THC) and other Cannabinoids in the package;
   f. The net weight or volume as expressed in U.S. customary units or metric units;
   g. A batch number, sequential serial number, and bar code when used, to identify the batch associated with manufacturing and Processing;
   h. A statement and a seal that the product has been tested for contaminants, that there were no adverse findings, and the date of testing in accordance with M.G.L. c. 94G, § 15;
   i. 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. Marijuana use during pregnancy and breast-feeding may pose potential harms. It is against the law to drive or operate machinery when under the influence of this product. KEEP THIS PRODUCT AWAY FROM CHILDREN.";
   j. The following symbol or easily recognizable mark issued by the Commission that indicates the package contains Marijuana

   k. The following

symbol or other easily recognizable mark issued by the Commission that indicates that the product is harmful to children:

(f) In circumstances where

the labeling of the Marijuana Product is unreasonable or impractical, the Marijuana Establishment may include the labeling information on a peel-back label or may place the product in a take-away bag with an insert or additional, easily readable label placed within that bag.

(g) CMOs shall comply with the labeling requirements in 935 CMR 500.105(5) for all adult-use sales and 935 CMR 501.105(5): *Labeling of Marijuana and Marijuana Products* for all medical-use sales.

(6) Packaging of Marijuana and Marijuana Products.

(a) Child-resistant Packaging. Licensees licensed subject to 935 CMR 500.050(4) shall ensure that all Marijuana Products that are provided for sale to Consumers by a Licensee shall be sold in child-resistant packaging. Licensees licensed subject to 935 CMR 500.050(2) shall ensure that all Finished Marijuana Products provided at wholesale for delivery to Consumers by a Marijuana Delivery Operator shall be sold in child-resistant packaging. To comply with 935 CMR 500.105(6), Licensees shall ensure:

1. That to the extent it is not Unreasonably Impracticable for the specific type of product, Marijuana Products are packaged in containers that are:
   a. Opaque and plain in design;

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b. Do not use bright colors, cartoon characters and other features designed to appeal to minors;

c. Resealable for any marijuana product intended for more than a single use or containing multiple servings; and

d. Certified by a qualified child-resistant packaging testing firm that the packaging complies with the most recent poison prevention packaging regulations of the U.S. Consumer Product Safety Commission as included at 16 CFR 1700.

2. That where compliance with the requirements of child-resistant packaging is deemed to be Unreasonably Impracticable, Marijuana or Marijuana Products shall be placed in an exit package that is:

a. Capable of being resealed and made child-resistant resistant again after it has been opened;

b. Includes the following statement, including capitalization, in at least ten-point Times New Roman, Helvetica or Arial font: "KEEP OUT OF REACH OF CHILDREN."; and

c. Is certified by a qualified third-party child-resistant packaging testing firm that the packaging complies the most recent poison prevention packaging regulations of the U.S. Consumer Product Safety Commission as included at 16 CFR 1700.

(b) Limits on Packaging Design. Packaging for Marijuana or Marijuana Products sold or displayed for Consumers, including any label or imprint affixed to any packaging containing Marijuana, Marijuana Products or any exit packages, may not be attractive minors. Packaging is explicitly prohibited from:

1. Using bright colors, defined as colors that are "neon" in appearance;

2. Imitating or having a semblance to any existing branded consumer products, including foods and Beverages, that do not contain marijuana;

3. Featuring cartoons;

4. Featuring a design, brand or name that resembles a non-cannabis consumer product of the type that is typically marketed to minors;

5. Featuring symbols or celebrities that are commonly used to market products to minors;

6. Featuring images of minors; and

7. Featuring words that refer to products that are commonly associated with minors or marketed to minors.

(c) Packaging of Multiple Servings.

1. Packaging for Marijuana Products sold or displayed for Consumers in multiple servings shall include the following statement on the exterior of the package in a printed font that is no smaller than ten-point Times New Roman, Helvetica or Arial, including capitalization: "INCLUDES MULTIPLE SERVINGS".

2. Packaging for Marijuana Products in solid form sold or displayed for Consumers in multiple servings shall allow a Consumer to easily perform the division into single servings.

a. Edibles in a solid form shall be easily and permanently scored to identify individual servings.

b. Notwithstanding 935 CMR 500.105(6)(c)2.a., where a product is unable, because of its form, to be easily and permanently scored to identify individual servings, the product shall be packaged in a single serving size. The determination of whether a product can be easily and permanently scored shall be decided by the Commission consistent with sub-regulatory guidelines established by the Commission and provided to Licensees.

c. Packaging for Marijuana Product Beverages shall be packages solely in a single serving size. Multiple serving Beverages are strictly prohibited for sale.

(d) Each single serving of an Edibles contained in a multiple-serving package shall be marked, stamped or otherwise imprinted with the symbol issued by the Commission under 935 CMR 500.105(5) that indicates that the single serving is a Marijuana Product.

(e) Serving size shall be determined by the processor, but in no instance shall an individual serving size of any Marijuana Product contain more than five milligrams of delta-nine-tetrahydrocannabinol (Δ9-THC) subject to the testing variance specified in 935 CMR 500.160(11).

(f) CMOs shall comply with the packaging requirements in 935 CMR 500.105(6) for adult use sales or 935 CMR 501.105(6) for medical use sales.

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(7) Packaging and Labeling Preapproval. Prior to Marijuana or Marijuana Product being sold at a Marijuana Establishment, a CMO, a Licensee or License Applicant may submit an application for packaging and label approval to the Commission. An application for preapproval may be submitted at any time prior to Marijuana or Marijuana Product being sold or at any time a substantive change is made to the packaging or labeling of Marijuana or Marijuana Product. The Commission shall charge a fee for packaging and labeling preapproval pursuant to 935 CMR 500.005.

(a) Packaging and labeling preapproval review shall be limited to the physical attributes of, and statutorily required warnings on, the packaging and label including, but not limited to, legibility, but shall not include a review of specific Independent Testing Laboratory test results required pursuant to 935 CMR 500.105(5) and (6). The packaging and labeling preapproval process shall be in addition to the requirements of 935 CMR 500.105(4) through (6).

(b) In addition to an application for packaging and labeling preapproval in a form and manner determined by the Commission, an applicant for preapproval shall submit electronic files of the following to the Commission:

1. For packaging preapproval, two images of the packaging, one depicting the front of the packaging and one depicting the back of the packaging. Photographs shall be electronic files in a JPEG format with a minimum photo resolution of 640 x 480 and print resolution of 300 DPI. Photographs shall be against a white background.

2. For labeling preapproval, one image of each label requested for review. Photographs shall be electronic files in a JPEG format with a minimum photo resolution of 640 x 480 and print resolution of 300 DPI. Photographs shall be against a white background.

(c) The Commission shall make every effort to make a preapproval determination based on information submitted. In the event that a preapproval determination is unable to be made conclusively based on submitted photographs, the Commission may request to view the packaging or label in person or through a video conference. Any such request by the Commission shall be made to the applicant electronically or in writing.

(8) Inventory and Transfer.

(a) Subject to Marijuana or Marijuana Products being entered into the Seed-to-sale SOR, a Marijuana Establishment may Transfer product to an MTC; and an MTC may Transfer product to a Marijuana Establishment as long as there is no violation of the dosing limitations set forth in 935 CMR 500.150(4) or the limitations on total MTC inventory as set forth in 935 CMR 501.105(8)(m)1. Such Transfers cannot violate provisions protecting patient supply under 935 CMR 500.140(15). An MTC shall limit its Transfer of inventory of seeds, plants, and Usable Marijuana to reflect the projected needs of Registered Qualifying Patients.

(b) Real-time inventory shall be maintained as specified by the Commission and in 935 CMR 500.105(8)(c) and (d) including, at a minimum, an inventory of Marijuana plants; Marijuana plant-seeds and Clones in any phase of development such as Propagation, Vegetation, and Flowering; Marijuana ready for dispensing; all Marijuana Products; and all damaged, defective, expired, or contaminated Marijuana and Marijuana Products awaiting disposal.

(c) A Marijuana Establishment shall:

1. Establish inventory controls and procedures for the conduct of inventory reviews, and comprehensive inventories of Marijuana Products in the process of cultivation, and finished, stored Marijuana;

2. Conduct a monthly inventory of Marijuana in the process of cultivation and finished, stored Marijuana;

3. Conduct a comprehensive annual inventory at least once every year after the date of the previous comprehensive inventory; and

4. Promptly transcribe inventories if taken by use of an oral recording device.

(d) 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.

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(e) A Marijuana Establishment shall attach plant tags to all Marijuana, Clones, and plants and attach package tags to all Finished Marijuana and Marijuana Products, and track all Marijuana seeds, Clones, plants, and Marijuana Products, using a Seed-to-sale methodology in a form and manner to be approved by the Commission.

(f) The failure to enter inventory into the Seed-to-sale SOR may result in the suspension or revocation of a Marijuana Establishment License.

(g) Any distribution and acquisition of Marijuana and Marijuana Products shall be tracked in the Seed-to-sale SOR in a form and manner determined by the Commission. Any distribution of Marijuana and Marijuana Products that is not tracked in the Seed-to-sale SOR may result in the suspension or revocation of a Marijuana Establishment License or other administrative action.

(h) No Marijuana Product, including Marijuana, may be sold or otherwise marketed for adult use that has not first been tested by Independent Testing Laboratories, except as allowed under 935 CMR 500.000: Adult Use of Marijuana.

(i) A CMO shall implement procedures for electronic separation of medical and adult use Marijuana, MIPs, and Marijuana Products in the Seed to sale SOR.

(j) A CMO shall designate whether Marijuana or MIPs, or Marijuana Products are intended for sale for adult use or medical use through the SOR. Products shall be transferred to the appropriate license within the Seed to sale SOR prior to sale. After the point of sale, there shall be a reconciliation of that inventory in the SOR.

(9) Recordkeeping. Records of a Marijuana Establishment shall be available for inspection by the Commission, on request. The financial records of a Marijuana Establishment shall be maintained in accordance with generally accepted accounting principles. Written records that are required and are subject to inspection include, but are not necessarily limited to, all records required in any section of 935 CMR 500.000, in addition to the following:

(a) Written Operating Procedures as required by 935 CMR 500.105(1);

(b) Inventory Records as required by 935 CMR 500.105(8);

(c) Seed-to-sale SOR Electronic Tracking System records for all Marijuana Products as required by 935 CMR 500.105(8)(e);

(d) The following personnel records:

1. Job descriptions for each employee and volunteer position, as well as organizational charts consistent with the job descriptions;

2. A personnel record for each marijuana establishment agent. Such records shall be maintained for at least 12 months after termination of the individual's affiliation with the marijuana establishment and shall include, at a minimum, the following:

a. All materials submitted to the commission pursuant to 935 CMR 500.030(2);

b. Documentation of verification of references;

c. The job description or employment contract that includes duties, authority, responsibilities, qualifications, and supervision;

d. 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;

e. Documentation of periodic performance evaluations;

f. A record of any disciplinary action taken; and

g. Notice of completed Responsible Vendor Training Program and in-house training for Marijuana Establishment Agents required under 935 CMR 500.105(2).

3. A staffing plan that will demonstrate accessible business hours and safe cultivation conditions;

4. Personnel policies and procedures, including, at a minimum, the following:

a. Code of ethics;

b. Whistle-blower policy; and

c. A policy which notifies persons with disabilities of their rights under https://www.mass.gov/service-details/about-employment-rights or a comparable link, and includes provisions prohibiting discrimination and providing reasonable accommodations; and

5. All background check reports obtained in accordance with M.G.L c. 6 § 172, 935 CMR 500.029, 935 CMR 500.030, and 803 CMR 2.00: *Criminal Offender Record Information (CORI)*.

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(e) Business records, which shall include manual or computerized records of:
1. Assets and liabilities;
2. Monetary transactions;
3. Books of accounts, which shall include journals, ledgers, and supporting documents, agreements, checks, invoices, and vouchers;
4. Sales records, including the quantity, form, and cost of marijuana products; and
5. Salary and wages paid to each employee, or stipend, executive compensation, bonus, benefit, or item of value paid to any persons having direct or indirect control over the marijuana establishment.

(f) Waste disposal records as required under 935 CMR 500.105(12); and

(g) Following closure of a Marijuana Establishment, all records shall be kept for at least two years at the expense of the Marijuana Establishment and in a form and location acceptable to the Commission.

(10) Liability Insurance Coverage or Maintenance of Escrow. A Marijuana Establishment 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:

(a) $2,000,000 in aggregate, annually, except as provided in 935 CMR 500.105(10)(b) or otherwise approved by the Commission. The deductible for each policy shall be no higher than $5,000 per occurrence.

(b) A Marijuana Establishment that documents an inability to obtain minimum liability insurance coverage as required by 935 CMR 500.105(10)(a) may place in escrow a sum of no less than $250,000 or such other amount approved by the Commission, to be expended for coverage of liabilities.

(c) The escrow account required pursuant to 935 CMR 500.105(10)(b) shall be replenished within ten business days of any expenditure.

(d) Reports documenting compliance with 935 CMR 500.105(10) shall be made in a manner and form determined by the Commission pursuant to 935 CMR 500.000.

(e) A CMO shall maintain the insurance coverage or escrow account required under 500.105(10) or Maintenance of Escrow or 935 CMR 501.105(10): *Liability Insurance Coverage or Maintenance of Escrow* per location.

(11) Storage Requirements.

(a) A Marijuana Establishment shall provide adequate lighting, ventilation, temperature, humidity, space, and equipment, in accordance with applicable provisions of 935 CMR 500.105 and 500.110.

(b) A Marijuana Establishment 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.

(c) Marijuana Establishment storage areas shall be maintained in a clean and orderly condition.

(d) Marijuana Establishment storage areas shall be free from infestation by insects, rodents, birds, and pests of any kind.

(e) Marijuana Establishment storage areas shall be maintained in accordance with the security requirements of 935 CMR 500.110.

(12) Waste Disposal.

(a) All recyclables and waste, including organic waste composed of or containing Finished Marijuana and Marijuana Products, shall be stored, secured, and managed in accordance with applicable state and local statutes, ordinances, and regulations. All exterior waste receptacles located on the Marijuana Establishment's Premises shall be locked and secured to prevent unauthorized access.

(b) Liquid waste containing Marijuana or by-products of Marijuana Processing shall be disposed of in compliance with all applicable state and federal requirements, including but not limited to, for discharge of pollutants into surface water or groundwater (Massachusetts Clean Waters Act, M.G.L. c. 21, §§ 26 through 53; 314 CMR 3.00: *Surface Water Discharge Permit Program*; 314 CMR 5.00: *Groundwater Discharge Program*; 314 CMR 12.00: *Operation Maintenance and Pretreatment Standards for Wastewater Treatment Works* and *Indirect Dischargers*; Federal Clean Water Act, 33 U.S.C. 1251 *et seq*., National

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Pollutant Discharge Elimination System Permit Regulations at 40 CFR Part 122; 314 CMR 7.00: *Sewer System Extension and Connection Permit Program*), or stored pending disposal in an industrial wastewater holding tank in accordance with 314 CMR 18.00: *Industrial Wastewater Holding Tanks and Containers, Construction, Operation, and Recordkeeping Requirements*.

(c) Organic material, recyclable material and solid waste generated at a Marijuana Establishment shall be redirected or disposed of as follows:

1. Organic and recyclable material shall be redirected from disposal in accordance with the waste disposal bans described at 310 CMR 19.017: *Waste Bans*.
2. To the greatest extent feasible:
   a. Any recyclable material as defined in 310 CMR 16.02: *Definitions* shall be recycled in a manner approved by the Commission; and
   b. Any Marijuana containing organic material as defined in 310 CMR 16.02: *Definitions* shall be ground up and mixed with other organic material as defined in 310 CMR 16.02: *Definitions* such that the resulting mixture renders any Marijuana unusable for its original purpose. Once such Marijuana has been rendered unusable, the organic material may be composted or digested at an aerobic or anaerobic digester at an operation that complies with the requirements of 310 CMR 16.00: *Site Assignment Regulations for Solid Waste Facilities*.
3. Solid waste containing Marijuana generated at a Marijuana Establishment shall be ground up and mixed with other solid waste at the Marijuana Establishment such that the resulting mixture renders any Marijuana unusable for its original purpose. Once such Marijuana has been rendered unusable, the resulting solid waste may be brought to a solid waste transfer facility or a solid waste disposal facility (*e.g.*, landfill or incinerator) that holds a valid permit issued by the Department of Environmental Protection or by the appropriate agency in the jurisdiction in which the facility is located.

(d) No fewer than two Marijuana Establishment Agents shall witness and document how the solid waste or organic material containing Marijuana is handled on-site including, but not limited to, the grinding up, mixing, storage and removal from the Marijuana Establishment in accordance with 935 CMR 500.105(12). When Marijuana Products or waste is disposed or handled, the Marijuana Establishment shall create and maintain an electronic record of the date, the type and quantity disposed or handled, the manner of disposal or other handling, the location of disposal or other handling, and the names of the two Marijuana Establishment Agents present during the disposal or other handling, with their signatures. A Marijuana Establishment shall keep these records for at least three years. This period shall automatically be extended for the duration of any disciplinary action and may be extended by an order of the Commission.

(13) Transportation between Marijuana Establishments.

(a) General Requirements.

1. A licensed Marijuana Establishment shall be licensed to transport its Marijuana and Marijuana Products to other licensed establishments, including except as otherwise provided herein.
2. Marijuana Products may only be transported between licensed Marijuana Establishments by registered Marijuana Establishment Age
3. A licensed Marijuana Transporter may contract with a licensed Marijuana Establishment to transport that Licensee's Marijuana Products to other licensed Marijuana Establishments.
4. The originating and receiving licensed Marijuana Establishments shall ensure that all transported Marijuana Products are linked to the Seed-to-sale SOR. For the purposes of tracking, seeds and Clones shall be properly tracked and labeled in a form and manner determined by the Commission.
5. Any Marijuana Product that is undeliverable or is refused by the destination Marijuana Establishment shall be transported back to the originating establishment.
6. All vehicles transporting Marijuana Products shall be staffed with a minimum of two Marijuana Establishment Agents. At least one agent shall always remain with the vehicle when the vehicle contains Marijuana or Marijuana Products.

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7. Prior to leaving a Marijuana Establishment for the purpose of transporting Marijuana Products, the originating Marijuana Establishment shall weigh, inventory, and account for, on video, all Marijuana Products to be transported.

8. Within eight hours after arrival at the destination Marijuana Establishment, the destination establishment shall reweigh, re-inventory, and account for, on video, all Marijuana Products transported.

9. When videotaping the weighing, inventorying, and accounting of Marijuana Products before transportation or after receipt, the video shall show each product being weighed, the weight, and the manifest.

10. Marijuana Products shall be packaged in sealed, labeled, and tamper or child-resistant packaging prior to and during transportation.

11. In the case of an emergency stop during the transportation of Marijuana Products, a log shall be maintained describing the reason for the stop, the duration, the location, and any activities of personnel exiting the vehicle. Licensees shall comply with applicable requirements of 935 CMR 500.110(9).

12. A Marijuana Establishment or a Marijuana Transporter transporting Marijuana Products shall ensure that all transportation times and routes are randomized.

13. A Marijuana Establishment or a Marijuana Transporter transporting Marijuana Products shall ensure that all transport routes remain within the Commonwealth.

14. All vehicles and transportation equipment used in the transportation of Marijuana Products or Edibles requiring temperature control for safety shall be designed, maintained, and equipped as necessary to provide adequate temperature control to prevent the Marijuana Products or Edibles from becoming unsafe during transportation, consistent with applicable requirements pursuant to 21 CFR 1.908(c).

15. All vehicles shall be equipped with a video system that includes one or more video cameras in the storage area of the vehicle and one or more video cameras in the driver area of the vehicle and which shall remain operational at all times during the entire transportation process and which shall have:

a. The ability to produce a clear color still photo whether live or recorded; and

b. A date and time stamp embedded in all recordings which shall always be synchronized and set correctly and may not significantly obscure the picture.

(b) Reporting Requirements.

1. Marijuana Establishment Agents shall document and report any unusual discrepancy in weight or inventory to the Commission and Law Enforcement Authorities not more than 24 hours of the discovery of such a discrepancy.

2. Marijuana Establishment Agents shall report to the Commission and Law Enforcement Authorities any vehicle accidents, diversions, losses, or other reportable incidents that occur during transport, not more than 24 hours of such accidents, diversions, losses, or other reportable incidents.

(c) Vehicles.

1. A vehicle used for transporting Marijuana Products shall be:

a. Owned or leased by the Marijuana Establishment or the Marijuana Transporter;

b. Properly registered, inspected, and insured in the Commonwealth (documentation of such status shall be maintained as records of the Marijuana Establishment or the Marijuana Transporter, and shall be made available to the Commission on request);

c. Equipped with an alarm system approved by the Commission; and

d. Equipped with functioning heating and air conditioning systems appropriate for maintaining correct temperatures for storage of Marijuana Products.

2. Marijuana Products may not be visible from outside the vehicle.

3. Any vehicle used to transport or deliver Marijuana or Marijuana Products shall comply with applicable Massachusetts Registry of Motor Vehicles (RMV) requirements, but may not include any additional external marking that indicate the vehicle is being used to transport or deliver Marijuana or Marijuana Products.

4. When transporting Marijuana Products, no other products may be transported or stored in the same vehicle.

5. No firearms may be located within the vehicle or on a Marijuana Establishment Agent.

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(d) Storage Requirements.

1. Marijuana Products shall be transported in a secure, locked storage compartment that is a part of the vehicle transporting the Marijuana Products.

2. The storage compartment shall be sufficiently secure that it cannot be easily removed.

3. If a Marijuana Establishment, pursuant to a Marijuana Transporter License, or a Marijuana Transporter is transporting Marijuana Products for more than one Marijuana Establishment at a time, the Marijuana Products for each Marijuana Establishment shall be kept in a separate locked storage compartment during transportation and separate manifests shall be maintained for each Marijuana Establishment.

4. If a Marijuana Establishment is transporting Marijuana Products to multiple other establishments, it may seek the Commission's permission to adopt reasonable alternative safeguards.

(e) Communications.

1. Any vehicle used to transport Marijuana Products shall contain a global positioning system (GPS) monitoring device that is:

a. Not a mobile device that is easily removable;

b. Attached to the vehicle at all times that the vehicle contains marijuana products;

c. Monitored by the marijuana establishment or marijuana transporter during transport of marijuana products; and

d. Inspected by the commission prior to initial transportation of marijuana products, and after any alteration to the locked storage compartment.

2. Each Marijuana Establishment Agent transporting Marijuana Products shall always have access to a secure form of communication with personnel at the originating location when the vehicle contains Marijuana and Marijuana Products.

3. Secure types of communication include, but are not limited to:

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

b. Cellular phone; or

c. Satellite phone.

4. When choosing a type of secure communications, the following shall be taken into consideration:

a. Cellular signal coverage;

b. Transportation area;

c. Base capabilities;

d. Antenna coverage; and

e. Frequency of transportation.

5. Prior to, and immediately after leaving the originating location, the Marijuana Establishment Agents shall use the secure form of communication to contact the originating location to test communications and GPS operability.

6. If communications or the GPS system fail while on route, the Marijuana Establishment Agents transporting Marijuana Products shall return to the originating location until the communication system or GPS system is operational.

7. The Marijuana Establishment Agents transporting Marijuana Products shall contact the originating location when stopping at and leaving any scheduled location, and regularly throughout the trip, at least every 30 minutes.

8. The originating location shall have a Marijuana Establishment Agent assigned to monitoring the GPS unit and secure form of communication, who shall log all official communications with Marijuana Establishment Agents transporting Marijuana Products.

(f) Manifests.

1. A manifest shall be filled out in triplicate, with the original manifest remaining with the originating Marijuana Establishment, a second copy provided to the destination Marijuana Establishment on arrival, and a copy to be kept with the licensed Marijuana Establishment Agent during transportation and returned to the Marijuana Establishment or Marijuana Transporter on completion of the transportation.

2. Prior to transport, the manifest shall be securely transmitted to the destination Marijuana Establishment by facsimile or email.

3. On arrival at the destination Marijuana Establishment, a Marijuana Establishment Agent at the destination Marijuana Establishment shall compare the manifest produced by the agents who transported the Marijuana Products to the copy transmitted by facsimile or email. This manifest shall, at a minimum, include:

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a. The originating Marijuana Establishment name, address, and registration number;
b. The names and registration numbers of the agents who transported the Marijuana Products;
c. The name and registration number of the Marijuana Establishment Agent who prepared the manifest;
d. The destination Marijuana Establishment name, address, and registration number;
e. A description of the Marijuana Products being transported, including the weight and form or type of product;
f. The mileage of the transporting vehicle at departure from originating Marijuana Establishment and mileage on arrival at destination Marijuana Establishment, as well as mileage on return to originating Marijuana Establishment;
g. The date and time of departure from originating Marijuana Establishment and arrival at destination Marijuana Establishment for each transportation;
h. A signature line for the Marijuana Establishment Agent who receives the Marijuana Products;
i. The weight and inventory before departure and on receipt;
j. The date and time that the transported products were reweighed and re-inventoried;
k. The name of the Marijuana Establishment Agent at the destination Marijuana Establishment who reweighed and re-inventoried products; and
l. The vehicle make, model, and license plate number.

4. The manifest shall be maintained within the vehicle during the entire transportation process, until the delivery is completed.
5. A Marijuana Establishment shall retain all transportation manifests for no less than one year and make them available to the Commission on request.

(g) Requirements for Agents.
1. Each employee or agent transporting or otherwise handling Marijuana Products for a Marijuana Transporter shall be registered as a Marijuana Establishment Agent and have a driver's license in good standing issued by the Massachusetts Registry of Motor Vehicles for all classes of vehicle the Marijuana Establishment Agent will operate for the Marijuana Transporter prior to transporting or otherwise handling Marijuana Products.
2. A Marijuana Establishment Agent shall carry his or her Agent Registration Card at all times when transporting Marijuana Products and shall produce his or her Agent Registration Card to the Commission or Law Enforcement Authorities on request.

(h) Marijuana Transporters shall use best management practices to reduce energy and water usage, engage in energy conservation and mitigate other environmental impacts.

(i) A CMO can transport adult use and medical use Marijuana and Marijuana Products if it is appropriately licensed to do so. Where a CMO is transporting both adult use and medical use Marijuana, MIPs and Marijuana Products, the CMO shall comply with the more restrictive security provisions.

(14) Access to the Commission, Emergency Responders and Law Enforcement.
(a) The following individuals shall have access to a Marijuana Establishment or Marijuana Establishment transportation vehicle:
1. Representatives of the Commission in the course of responsibilities authorized by St. 2016, c. 334, as amended by St. 2017, c. 55, M.G.L. c. 94G, and 935 CMR 500.000;
2. Representatives of other state agencies of the Commonwealth; and
3. Emergency responders in the course of responding to an emergency.

(b) 935 CMR 500.000 shall not be construed to prohibit access by authorized law enforcement personnel or local public health, inspectional services, or other permit-granting agents acting within their lawful jurisdiction.

(15) Energy Efficiency and Conservation. A Marijuana Establishment shall demonstrate consideration of the following factors as part of its operating plan and application for licensure:
(a) Identification of potential energy use reduction opportunities (such as natural lighting and energy efficiency measures), and a plan for implementation of such opportunities;

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(b) Consideration of opportunities for renewable energy generation including, where applicable, submission of building plans showing where energy generators could be placed on the site, and an explanation of why the identified opportunities were not pursued, if applicable;
(c) Strategies to reduce electric demand (such as lighting schedules, active load management, and energy storage); and
(d) Engagement with energy efficiency programs offered pursuant to M.G.L. c. 25, § 21, or through municipal lighting plants.

(16) Bond.
(a) Prior to commencing operations, a Marijuana Establishment shall provide proof of having obtained a surety bond in an amount equal to its licensure fee payable to the Marijuana Regulation Fund to ensure payment of the cost incurred for:
1. The destruction of Cannabis goods necessitated by a violation of M.G.L. c. 94G or 935 CMR 500.000;
2. The costs and compensation of a Court Appointee;
3. The cessation of operation of the Marijuana Establishment; or
4. Such other uses that the Commission may authorize to ensure public health, safety and welfare.
(b) All bonds required under 935 CMR 500.000 shall be issued by a corporate surety licensed to transact surety business in the Commonwealth.
(c) If the Marijuana Establishment is unable to secure a surety bond, as required by 935 CMR 500.105(16)(a), it may place in escrow a sum of no less than $5,000 or such other amount approved by the Commission, to be expended for coverage of liabilities.
(d) The escrow account required pursuant to 935 CMR 500.105(16)(c) shall be replenished within ten business days of any expenditure required under 935 CMR 500.105, unless the Marijuana Establishment has ceased operations. Documentation of the replenishment shall be promptly sent to the Commission.

(17) Social Equity Program.
(a) There shall be a Social Equity Program established by the Commission to provide training and technical assistance to eligible applicants and Licensees which may include, but may not be limited to:
1. Management, recruitment and employee trainings;
2. Accounting and sales forecasting;
3. Tax prediction and compliance;
4. Legal compliance;
5. Business plan creation and operational development;
6. Marijuana industry best practices; and
7. Assistance with identifying or raising funds or capital.
(b) Eligibility for the Social Equity Program shall be met if applicants or Licensees satisfy one or more of the following criteria:
1. Income does not exceed 400% of Area Median Income and Residency in an Area of Disproportionate Impact, as defined by the Commission, for at least five of the preceding ten years, as established by:
a. A Massachusetts driver's record or Massachusetts ID card record;
b. A signed lease agreement that includes the subject's name;
c. Residential property deed that includes the subject's name;
d. School records;
e. Housing authority records;
f. Banking records;
g. Utility bills, which identifies energy and water use; or
h. Dated notices or correspondence from a local or state government entity that includes the subject's name.
2. Residency in Massachusetts for at least the preceding 12 months and a conviction or continuance without a finding for an offense under M.G.L. c. 94C or an equivalent conviction in Other Jurisdictions; or

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3. Residency in Massachusetts for at least the preceding 12 months and proof that the individual was either married to or the child of an individual convicted or continuance without a finding for a M.G.L. c. 94C offense or an equivalent conviction in Other Jurisdictions.

4. Any individual listed as an Owner on the original certification of an Economic Empowerment Priority Applicant who satisfies one or more the following criteria:

a. Lived for five of the preceding ten years in an Area of Disproportionate Impact, as determined by the Commission;

b. Experience in one or more previous positions where the primary population served were disproportionately impacted, or where primary responsibilities included economic education, resource provision or empowerment to disproportionately impacted individuals or communities;

c. Black, African American, Hispanic or Latino descent; or

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

5. The Commission may, in consideration of new information and data, broaden the categories of eligibility for the Social Equity Program by a vote of the Commission.

(c) The Social Equity Program is not a licensing program. Completion of the Social Equity Program will not result in, or guarantee participants' receipt of a License.

500.110: Security Requirements for Marijuana Establishments

(1) General Requirements. A Marijuana Establishment shall implement sufficient security measures to deter theft of Marijuana and Marijuana Products, prevent unauthorized entrance into areas containing Marijuana and Marijuana Products and ensure the safety of Marijuana Establishment employees, Consumers and the general public. Security measures taken by the Licensee to protect the Premises, employees, Marijuana Establishment Agents, Consumers and general public shall include, but not be limited to, the following:

(a) Positively identifying individuals seeking access to the Premises of the Marijuana Establishment or to whom or Marijuana Products are being transported pursuant to 935 CMR 500.105(13) or delivered pursuant to 935 CMR 500.145(13) to limit access solely to individuals 21 years of age or older;

(b) Adopting procedures to prevent loitering and ensure that only individuals engaging in activity expressly or by necessary implication permitted by 935 CMR 500.000 and its enabling statute are allowed to remain on the Premises;

(c) Disposing of Marijuana in accordance with 935 CMR 500.105(12) in excess of the quantity required for normal, efficient operation as established within 935 CMR 500.105;

(d) Securing all entrances to the Marijuana Establishment to prevent unauthorized access;

(e) Establishing Limited Access Areas pursuant to 935 CMR 500.110(4), which, after receipt of a final License, shall be accessible only to specifically authorized personnel, limited to include only the minimum number of employees essential for efficient operation;

(f) Storing all Finished Marijuana Products in a secure, locked safe or vault in such a manner as to prevent diversion, theft and loss;

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

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

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

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

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

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

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(m) Developing emergency policies and procedures for securing all product following any instance of diversion, theft or loss of Marijuana, and conduct an assessment to determine whether additional safeguards are necessary;
(n) Developing sufficient additional safeguards as required by the Commission for Marijuana Establishments that present special security concerns;
(o) At Marijuana Establishments where transactions are conducted in cash, establishing procedures for safe cash handling and cash transportation to financial institutions to prevent theft, loss and associated risks to the safety of employees, customers and the general public;
(p) Sharing the Marijuana Establishment's floor plan or layout of the facility with Law Enforcement Authorities, and in a manner and scope as required by the municipality and identifying when the use of flammable or combustible solvents, chemicals or other materials are in use at the Marijuana Establishment; and
(q) Sharing the Marijuana Establishment's security plan and procedures with Law Enforcement Authorities, police and fire departments, if the plans or procedures are modified in a material way, including the addition of plans to deliver directly to Consumers in the case of a Marijuana Retailer or Marijuana Establishment with a Delivery Endorsement.

(2) Alternate Security Provisions.
(a) Notwithstanding the requirements specified in 935 CMR 500.110(1), (5) through (7), if a Marijuana Establishment has provided other, specific safeguards that may be regarded as an adequate substitute for those requirements, such measures may be taken into account by the Commission in evaluating the overall required security measures. For purposes of cash handling and cash transportation, only alternative safeguards that comply with the requirements of 935 CMR 500.110(7)(b) shall be considered to be adequate substitutes.
(b) The applicant or Licensee shall submit a request for an alternative security provision to the Commission on a form as determined and made available by the Commission. On receipt of the form, the Commission shall submit the request to the chief law enforcement officer in the municipality where the Marijuana Establishment is located or will be located. The Commission shall request that the chief law enforcement officer review the request and alternative security provision requested and, within 30 days,
1. certify the sufficiency of the requested alternate security provision; or
2. provide the Commission with a statement of reasons why the alternative security provision is not sufficient in the opinion of the chief law enforcement officer.
(c) The Commission shall take the chief law enforcement officer's opinion under consideration in determining whether to grant the alternative security provision, provided that it shall not be determinative. If no response is received from the chief law enforcement officer or a delegee within 30 days of submitting the request to the chief law enforcement officer, the Commission shall proceed with a determination.

(3) Buffer Zone. A Marijuana Establishment Entrance may not be closer than 500 feet from the nearest School Entrance, unless a city or town adopts an ordinance or bylaw that reduces the distance requirement.
(a) The buffer zone distance of 500 feet shall be measured in a straight line from the geometric center of the Marijuana Establishment Entrance to the geometric center of the nearest School Entrance, unless there is an Impassable Barrier within those 500 feet; in these cases, the buffer zone distance shall be measured along the center of the shortest publicly-accessible pedestrian travel path from the geometric center of the Marijuana Establishment Entrance to the geometric center of the nearest School Entrance.
(b) The buffer zone distance of 500 feet may be reduced if a city or town adopts an ordinance or bylaw that reduces the distance requirement.

(4) Limited Access Areas.
(a) All Limited Access Areas shall be identified by the posting of a sign that shall be a minimum of 12" x 12" and which states: "Do Not Enter - Limited Access Area - Access Limited to Authorized Personnel Only" in lettering no smaller than one inch in height.
(b) All Limited Access Areas shall be clearly described by the filing of a diagram of the licensed Premises, in the form and manner determined by the Commission, reflecting entrances and exits, including loading areas, walls, partitions, counters, Propagation, Vegetation, Flowering, Processing, production, storage, disposal and retail sales areas.

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(c) At all times following receipt of a final License, access to Limited Access Areas shall be restricted to employees, agents, or volunteers specifically permitted by the Marijuana Establishment, agents of the Commission, Commission Delegees, and state and local Law Enforcement Authorities acting within their lawful jurisdictions, police and fire departments, and emergency medical services acting in the course of their official capacity.
(d) Employees of the Marijuana Establishment shall visibly display an employee identification badge issued by the Marijuana Establishment at all times while at the Marijuana Establishment or transporting Marijuana.
(e) Following receipt of a final License, all outside vendors, contractors, and Visitors shall obtain a Visitor Identification Badge prior to entering a Limited Access Area and shall be escorted at all times by a Marijuana Establishment Agent authorized to enter the Limited Access Area. The Visitor Identification Badge shall be visibly displayed at all times while the Visitor is in any Limited Access Area. All Visitors shall be logged in and out and that log shall be available for inspection by the Commission at all times. All Visitor Identification Badges shall be returned to the Marijuana Establishment on exit.
(f) A Marijuana Establishment conducting operations under multiple license types on a single Premise may establish Limited Access Areas for each licensed activity that overlap in shared hallways and access points, provided that operations under each license type are segregated and a Marijuana Establishment Agent has access only to the areas where activities are conducted pursuant to the license under which the Marijuana Establishment Agent is registered.

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

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

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7. A date and time stamp embedded in all recordings, which shall be synchronized and set correctly at all times and may not significantly obscure the picture;
8. The ability to remain operational during a power outage for a minimum of four hours and, if it appears likely that the outage will last for more than four hours, the Marijuana Establishment takes sufficient steps to ensure security on the Premises in consultation with the Commission; and
9. A video recording that allows for the exporting of still images in an industry standard image format, including .jpg, .bmp and .gif. Exported video shall have the ability to be archived in a proprietary format that ensures authentication of the video and guarantees that no alteration of the recorded image has taken place. Exported video shall also have the ability to be saved in an industry standard file format that may be played on a standard computer operating system. All recordings shall be erased or destroyed prior to disposal.

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

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

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

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

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

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

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

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

1. A perimeter security fence designed to prevent unauthorized entry to the cultivation facility with signs notifying observers that it is a Limited Access Area;
2. Commercial-grade, nonresidential locks;
3. A security alarm system that shall:
   a. be continuously monitored, whether electronically, by a monitoring company or other means determined to be adequate by the Commission; and
   b. provide an alert to designated employees of the Marijuana Establishment within five minutes after a notification of an alarm or a system failure, either by telephone, email or text message.
4. Video cameras at all points of entry and exit and in any parking lot which shall be appropriate for the normal lighting conditions of the area under surveillance. The cameras shall be directed at all safes, vaults, sales areas, and areas where Marijuana is cultivated, harvested, Processed, prepared, stored, handled, Transferred or dispensed and for the purpose of securing cash. Cameras shall be angled so as to allow for the capture of clear and certain identification of any Person entering or exiting the Marijuana Establishment or area;
5. 24-hour recordings from all video cameras that are available immediate viewing by the Commission on request and that are retained for at least 90 calendar days. Recordings may not be destroyed or altered, and shall be retained as long as necessary if the Marijuana Establishment is aware of a pending criminal, civil or administrative investigation or legal proceeding for which the recording may contain relevant information;

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6. The ability to immediately produce a clear, color still image whether live or recorded;
7. A date and time stamp embedded in all recordings, which shall be synchronized and set correctly at all times and may not significantly obscure the picture;
8. The ability to remain operational during a power outage; and
9. A video recording that allows for the exporting of still images in an industry standard image format, including .jpg, .bmp and .gif. Exported video shall have the ability to be archived in a proprietary format that ensures authentication of the video and guarantees that no alteration of the recorded image has taken place. Exported video shall also have the ability to be saved in an industry standard file format that may be played on a standard computer operating system. All recordings shall be erased or destroyed prior to disposal.

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

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

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

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

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

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

(7) Cash Handling and Transportation Requirements.

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

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

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

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

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

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

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

1. A vehicle security system that includes an exterior alarm;
2. A secure, locked storage compartment in each vehicle and not easily removable for the purpose of transporting the Marijuana or Marijuana Products;
3. A secure, locked storage compartment in each vehicle that is not easily removable for the purpose of transporting and securing cash used as payment for deliveries of Marijuana or Marijuana Products;
4. A means of secure communication between each vehicle and the Marijuana Establishment's dispatching location which shall be capable of being monitored at all times that a vehicle is performing a delivery route. Means of communication shall include:
   a. Two-way digital or analog radio (UHF or VHF);
   b. Cellular phone; or
   c. Satellite phone.
5. A global positioning system (GPS) monitoring device that is:
   a. Not a mobile device and that is attached to the vehicle at all times that the vehicle contains Marijuana or Marijuana Products; and
   b. Monitored by the Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement at a fixed location during the transportation of Marijuana or Marijuana Products for the purpose of home delivery with location checks occurring at least every 30 minutes. The Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement may delegate monitoring of the GPS to the Third-party Technology Platform Provider with which the Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement has a contract, provided that the Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement shall be responsible for ensuring that monitoring occurs as required under 935 CMR 500.110(8).

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

a. The ability to produce a clear color still photo whether live or recorded; and

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

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

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

1. The body camera shall record all deliveries.

2. Consumers shall be notified of the use of body cameras to record delivery transactions at the time of order, on the proof of order and by the Marijuana Establishment agent on arrival at the Residence.

3. In addition to providing notice, body cameras shall be displayed conspicuously on the Marijuana Establishment Agent's person.

4. A Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement shall maintain video from body cameras confidentially and protected from disclosure to the full extent allowed by law. The Licensee shall implement data security, records retention, and record destruction policies for body camera video in compliance with applicable federal and state privacy laws including, but not limited to, the Driver Privacy Protection Act, 18 USC § 2721, the Massachusetts Identify Theft Act, M.G.L. c. 93H, 201 CMR 17.00: *Standards for the Protection of Personal Information of Residents of the Commonwealth,* and the *Fair Information Practices Act, M.G.L. c. 66A*.

5. Video of deliveries shall be retained for a minimum of 30 days, or, with notice to the Delivery Licensee or Marijuana Establishment with a Delivery Endorsement, for the duration of an investigation by the Commission or by law enforcement, whichever is longer. To obtain video from a Licensee as part of an investigation, Commission staff shall consult with the Executive Director and to the extent possible, view the video at the place of storage.

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

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

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

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

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

(d) All Marijuana Establishment Agents acting as delivery employees of a Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement must have attended and successfully completed Responsible Vendor Training Basic Core Curriculum and Delivery Core Curriculum courses in accordance with 935 CMR 500.105(2)(b) prior to making a delivery.

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

(f) A Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement shall report to the Commission and local law enforcement any vehicle accidents, diversions, losses, or other reportable incidents that occur during transport immediately and, under no circumstances, more than 24 hours of becoming aware of any accidents, diversions, losses, or other reportable incidents and shall otherwise comply with the incident reporting requirements set forth under 935 CMR 500.110(9).

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

1. Representatives of the Commission in the course of responsibilities authorized by M.G.L. c. 94G or 935 CMR 500.000;
2. Representatives of other state agencies acting within their jurisdiction; and
3. Law Enforcement Authorities and emergency medical services in the course of responding to an emergency.

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

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

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

(9) Incident Reporting.

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

1. Discovery of inventory discrepancies;
2. Diversion, theft or loss of any Marijuana Product;
3. Any criminal action involving or occurring on or in the Marijuana Establishment Premises or Licensee or agent;
4. Any suspicious act involving the sale, cultivation, distribution, Processing or production of Marijuana by any Person;
5. Unauthorized destruction of Marijuana;
6. Any loss or unauthorized alteration of records related to Marijuana;
7. An alarm activation or other event that requires response by public safety personnel, including but not limited to local law enforcement, police and fire departments, public works or municipal sanitation departments, and municipal inspectional services departments, or security personnel privately engaged by the Marijuana Establishment;
8. The failure of any security alarm system due to a loss of electrical power or mechanical malfunction that is expected to last more than eight hours;
9. A significant motor vehicle crash that occurs while transporting or delivering Marijuana or Marijuana Products and would require the filing of a Motor Vehicle Crash Operator Report pursuant to M.G.L. c. 90 § 26; provided however that a motor vehicle crash that renders the Licensee's vehicle inoperable shall be reported immediately to state and local law enforcement so that Marijuana or Marijuana Products may be adequately secured; or
10. Any other breach of security.

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

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

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

500.120: Additional Operational Requirements for Indoor and Outdoor Marijuana Cultivators

(1) In addition to the general operational requirements for Marijuana Establishments required under 935 CMR 500.105 and security requirements provided in 935 CMR 500.110, Marijuana Cultivators shall comply with additional operational requirements required under 935 CMR 500.120.

(2) A Marijuana Cultivator may cultivate its own Marijuana or acquire Marijuana from other Marijuana Establishments for the purposes of Propagation. Prior to commencing operations, Marijuana Cultivators shall disclose all growing media and plant nutrients intended to be used during the cultivation process. In all instances, Marijuana Cultivators shall disclose all growing media and plant nutrients used for cultivation upon request.

(3) Only a licensed Marijuana Cultivator or Microbusiness is permitted to cultivate Marijuana for adult use for sale to Marijuana Establishments.

(4) All phases of the cultivation, Processing, and packaging of Marijuana by a Marijuana Cultivator shall take place in a designated Limited Access Area where Marijuana is not visible from a public place without the use of binoculars, aircraft or other optical aids. Marijuana is not visible if it cannot be reasonably identified.

(5) Application of Pesticides shall be performed in compliance with M.G.L. c. 132B and the regulations promulgated at 333 CMR 2.00 through 14.00. Any testing results indicating noncompliance shall be immediately reported to the Commission, who may refer any such result to the MDAR.

(6) A Marijuana Cultivator selling or otherwise transferring Marijuana to another Marijuana Establishment shall provide documentation of its compliance, or lack thereof, with the testing requirements of 935 CMR 500.160.

(7) A Marijuana Cultivator may label Marijuana and Marijuana Products with the word "organic" only if all cultivation is consistent with US Department of Agriculture organic requirements at 7 CFR 205: *National Organic Program* and consistent with MDAR requirements for Pesticide usage;

(8) Soil for cultivation shall meet federal standards identified by the Commission including, but not limited to, the U.S. Agency for Toxic Substances and Disease Registry's Environmental Media Evaluation Guidelines for residential soil levels.

(9) The cultivation process shall use best practices to limit contamination including, but not limited to, mold, fungus, bacterial diseases, rot, pests, Pesticides not in compliance with 935 CMR 500.120(5) for use on Marijuana, mildew, and any other contaminant identified as posing potential harm. Best practices shall be consistent with state and local law including, but not limited to, the Commission's Guidance on Integrated Pest Management.

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(10) Any application of plant nutrient to land used for the cultivation of Marijuana shall comply with St. 2012, c. 262, as amended by St. 2013, c. 118, § 26, and 330 CMR 31.00: *Plant Nutrient Application Requirements for Agricultural Land and Non-agricultural Turf and Lawns*.

(11) A Marijuana Cultivator shall satisfy minimum energy efficiency and equipment standards established by the Commission and meet all applicable environmental laws, regulations, permits and other applicable approvals including, but not limited to, those related to water quality and quantity, wastewater, solid and hazardous waste management, and air pollution control, including prevention of odor and noise pursuant to 310 CMR 7.00: *Air Pollution Control* as a condition of obtaining a final license under 935 CMR 500.103(2) and as a condition of renewal under 935 CMR 500.103(4). A Marijuana Cultivator shall adopt and use additional best management practices as determined by the Commission, in consultation with the working group established under St. 2017, c. 55, § 78(b) or applicable departments or divisions of the EOEEA, to reduce energy and water usage, engage in energy conservation and mitigate other environmental impacts, and shall provide energy and water usage reporting to the Commission in a form determined by the Commission. Each license renewal application under 935 CMR 500.103(4) shall include a report of the Marijuana Cultivator's energy and water usage over the 12-month period preceding the date of application. Marijuana Cultivators shall be subject to the following minimum energy efficiency and equipment standards:

(a) The building envelope for all facilities, except Greenhouses, shall meet minimum Massachusetts Building Code requirements and all Massachusetts amendments (780 CMR: *State Building Code*), International Energy Conservation Code (IECC) Section C402 or The American Society of Heating, Refrigerating and Air-conditioning Engineers (ASHRAE) Standard 90.1 Sections 5.4 and 5.5 as applied or incorporated by reference in 780 CMR: *State Building Code*, except that facilities using existing buildings may demonstrate compliance by showing that the envelope insulation complies with code minimum standards for Type Factory Industrial F-1, as further defined in guidelines issued by the Commission.

(b) Lighting used for Cannabis cultivation shall meet one of the following compliance requirements:

1. Horticulture Lighting Power Density may not exceed 36 watts per square foot, except for Tier 1 and Tier 2 which may not exceed 50 watts per square foot; or

2. All horticultural lighting used in a facility is listed on the current Design Lights Consortium Solid-state Horticultural Lighting Qualified Products List ("Horticultural QPL") or other similar list approved by the Commission as of the date of license application, and lighting Photosynthetic Photon Efficacy (PPE) is at least 15% above the minimum Horticultural QPL threshold rounded up to the nearest 0.1 µmol/J (micromoles per joule).

3. A facility seeking to use horticultural lighting not included on the Horticultural QPL or other similar list approved by the Commission shall seek a waiver pursuant to 935 CMR 500.850 and provide documentation of third-party certification of the energy efficiency features of the proposed lighting. All facilities, regardless of compliance path, shall provide third-party safety certification by an OSHA NRTL or SCC-recognized body, which shall certify that products meet a set of safety requirements and standards deemed applicable to horticultural lighting products by that safety organization.

(c) Heating Ventilation and Air Condition (HVAC) and dehumidification systems shall meet Massachusetts Building Code requirements and all Massachusetts amendments (780 CMR *State Building Code*), IECC Section C403 or ASHRAE Chapter 6 as applied or incorporated by reference in (780 CMR: *State Building Code*). As part of the documentation required under 935 CMR 500.120(11)(b), a Marijuana Cultivator shall provide a certification from a Massachusetts Licensed Mechanical Engineer that the HVAC and dehumidification systems meet Massachusetts building code as specified in 935 CMR 500.120(11)(c) and that such systems have been evaluated and sized for the anticipated loads of the facility.

(d) Safety protocols shall be established and documented to protect workers, Consumers, or Visitors (*e.g.*, eye protection near operating Horticultural Lighting Equipment).

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(e) Requirements in 935 CMR 500.120(11)(b) and (c) shall not be required if an indoor Marijuana Cultivator is generating 80% or more of the total annual on-site energy use for all fuels (expressed on a MWh basis) from an on-site clean or renewable generating source, or renewable thermal generation, as provided in M.G.L. c. 25A § 11F and 11F½. Additionally, the Marijuana Establishment shall document that renewable energy credits or alternative energy credits representing the portion of the Licensee's energy usage not generated onsite have been purchased and retired on an annual basis.

(f) Prior to final licensure, a Marijuana Cultivator Licensee shall demonstrate compliance with 935 CMR 500.120(11), by submitting an energy compliance letter prepared by a Massachusetts Licensed Professional Engineer or Massachusetts Licensed Registered Architect with supporting documentation, together with submission of building plans under 935 CMR 500.103. For a Microbusiness or Craft Marijuana Cooperative with a cultivation location sized as Tier 1 or Tier 2, or such other Marijuana Cultivators that have been granted a waiver under 935 CMR 500.850, compliance with any of the requirements of 935 CMR 500.120(11) may be demonstrated through an energy compliance letter or updated energy compliance letter prepared by one or more of the following energy professionals:

1. A Certified Energy Auditor certified by the Association of Energy Engineers;
2. A Certified Energy Manager certified by the Association of Energy Engineers;
3. A Massachusetts Licensed Professional Engineer; or
4. A Massachusetts Licensed Registered Architect.

(g) A CMO with a final Certificate of Licensure issued before November 1, 2019 shall have until July 1, 2020 to comply with 935 CMR 500.120(11), except that any additions to or renovations to a facility shall comply with 935 CMR 500.120(11). A CMO subject to 935 CMR 500.120(11)(g) may apply for an additional six-month extension if it agrees to install meters to monitor energy usage, water usage and other data determined by the Commission as necessary in order to provide reports on energy usage, water usage, waste production and other data in a form and manner determined by the Commission.

(h) For purposes of 935 CMR 500.120(11), the following terms shall have the following meanings:

1. Horticultural Lighting Equipment (HLE) means any lighting equipment (*e.g.*, fixtures, bulbs, ballasts, controls, *etc*.) that uses energy for the cultivation of plants, at any stage of growth (*e.g*., germination, cloning/Mother Plants, Propagation, Vegetation, Flowering, and harvest).

2. Horticulture Lighting Square Footage (HLSF) means an area to be calculated in square feet and measured using clearly identifiable boundaries of all areas(s) that will contain plants at any point in time, at any stage of growth, including all of the space(s) within the boundaries, HLSF may be noncontiguous, but each unique area included in the total HLSF calculations shall be separated by an identifiable boundary which includes, but is not limited to: interior walls, shelves, Greenhouse walls, hoop house walls, garden benches, hedge rows, fencing, garden beds, or garden plots. If plants are being cultivated using a shelving system, the surface area of each level shall be included in the total HLSF calculation.

3. Lighting Power Density (HLPD) means a measure of total watts of Horticultural Lighting Equipment per total Horticulture Lighting Square Footage, (HLE / HLSF = HLPD) expressed as number of watts per square foot.

(12) In addition to the written operating policies required under 935 CMR 500.105(1), a Marijuana Cultivator, including CMO Marijuana Cultivators and MTCs, shall maintain written policies and procedures for the cultivation, production, Transfer or distribution of Marijuana, as applicable, which shall include, but not be limited to:

(a) Methods for identifying, recording, and reporting diversion, theft, or loss, for correcting all errors and inaccuracies in inventories, and for maintaining accurate inventory. The policies and procedures, at a minimum, shall comply with 935 CMR 500.105(8);

(b) Policies and procedures for handling voluntary and mandatory recalls of Marijuana. Such procedures shall be adequate to deal with recalls due to any action initiated at the request or order of the Commission, and any voluntary action by a Marijuana Establishment to remove defective or potentially defective Marijuana from the market, as well as any action undertaken to promote public health and safety;

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(c) Policies and procedures for ensuring that any outdated, damaged, deteriorated, mislabeled, or contaminated Marijuana is segregated from other Marijuana and destroyed. Such procedures shall provide for written documentation of the disposition of the Marijuana. The policies and procedures, at a minimum, shall comply with 935 CMR 500.105(12);

(d) Policies and Procedures for Transportation. The policies and procedures, at a minimum, shall comply with 935 CMR 500.105(13);

(e) Policies and procedures to reduce energy and water usage, engage in energy conservation and mitigate other environmental impacts. The policies and procedures, at a minimum, shall comply with 935 CMR 500.105(15) and 935 CMR 500.120(11);

(f) Policies and procedures for ensuring fire safety in cultivation activities including, but not limited to, the storage and processing of chemicals or fertilizers, in compliance with the standards set forth in 527 CMR 1.00: *The Massachusetts Comprehensive Fire Code*;

(g) Policies and procedures for the Transfer, acquisition, or sale of Marijuana between Marijuana Establishments;

(h) Policies and procedures for developing and providing Vendor Samples to a Marijuana Product Manufacturer, a Marijuana Retailer or a Delivery Operator. Policies and procedures shall include methods by which the Marijuana Cultivator will adequately track, record, and document all Vendor Samples developed on, or provided from, the licensed Premises in satisfaction of 935 CMR 500.120(13);

(i) Policies and procedures for developing and providing Quality Control Samples to employees for the purpose of ensuring product quality and determining whether to make the product available to sell. Policies and procedures shall include methods by which the Marijuana Cultivator will adequately track, record, and document all Quality Control Samples developed on, or provided from, the licensed Premises in satisfaction of 935 CMR 500.120(14). Policies and procedures shall further prohibit consumption of Quality Control Samples on the licensed Premises; and

(j) Policies and procedures for packaging Marijuana and White Labeling Marijuana Cultivators shall retain all Wholesale Agreements entered into with Delivery Operators and shall make them available to the Commission upon request.

(13) Vendor Samples.

(a) A Marijuana Cultivator may provide a Vendor Sample of Marijuana flower to a Marijuana Product Manufacturer or to a Marijuana Retailer. Provision of a Vendor Sample under 935 CMR 500.110(13) shall not be considered a prohibited practice under 935 CMR 500.105(4)(b)20.

(b) Vendor Samples provided under 935 CMR 500.110(13):

1. May not be consumed on any licensed Premises;
2. May not be sold to another licensee or Consumer;
3. Shall be tested in accordance with 935 CMR 500.160; and
4. Shall be transported in accordance with 935 CMR 500.105(13). A Marijuana Cultivator may include Vendor Samples with other Marijuana flower intended for transportation to an individual Marijuana Product Manufacturer or an individual Marijuana Retailer;

(c) Vendor Sample limits. A Marijuana Cultivator is limited to providing the following aggregate amount of Vendor Samples to an individual Marijuana Product Manufacturer or an individual Marijuana Retailer in a calendar month period: Four grams per strain of Marijuana flower and no more than seven strains of Marijuana flower.

(d) All Vendor Samples provided by a Marijuana Cultivator under 935 CMR 500.120(13) shall be assigned a unique, sequential alphanumeric identifier and entered into the Seed-to-sale SOR in a form and manner to be determined by the Commission, and further, shall be designated as "Vendor Sample";

(e) Vendor Samples provided under 935 CMR 500.120(13) shall have a legible, firmly Affixed label on which the wording is no less than $^{1}/_{16}$ inch in size containing at minimum the following information:

1. A statement that reads: "VENDOR SAMPLE NOT FOR RESALE";
2. The name and registration number of the Marijuana Cultivator;

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3. The quantity, net weight, and type of Marijuana flower contained within the package; and
4. A unique sequential, alphanumeric identifier assigned to the Cultivation Batch associated with the Vendor Sample that is traceable in the Seed-to-sale SOR.

(14) Quality Control Samples.
(a) A Marijuana Cultivator may provide a Quality Control Sample of Marijuana flower to its employees for the purpose of ensuring product quality and determining whether to make the product available to sell. Provision of a Quality Control Sample under 935 CMR 500.110(14) shall not be considered a prohibited practice under 935 CMR 500.105(4)(b)20.
(b) Quality Control Samples provided to employees under 935 CMR 500.110(14):
1. May not be consumed on the licensed Premises;
2. May not be sold to another licensee or Consumer; and
3. Shall be tested in accordance with 935 CMR 500.160.
(c) Quality Control Sample Limits. A Marijuana Cultivator is limited to providing the following aggregate amount of Quality Control Samples to all employees in a calendar month period: Four grams per strain of Marijuana flower and no more than seven strains of Marijuana flower.
(d) All Quality Control Samples provided by a Marijuana Cultivator under 935 CMR 500.120(14) shall be assigned a unique, sequential alphanumeric identifier and entered into the Seed-to-sale SOR in a form and manner to be determined by the Commission, and further, shall be designated as "Quality Control Sample."
(e) Quality Control Samples provided under 935 CMR 500.120(14) shall have a legible, firmly Affixed label on which the wording is no less than $^{1}/_{16}$ inch in size containing, at minimum, the following information:
1. A statement that reads: "QUALITY CONTROL SAMPLE NOT FOR RESALE";
2. The name and registration number of the Marijuana Cultivator;
3. The quantity, net weight, and type of Marijuana flower contained within the package; and
4. A unique sequential, alphanumeric identifier assigned to the Cultivation Batch associated with the Quality Control Sample that is traceable in the Seed-to-sale SOR.
(f) Upon providing a Quality Control Sample to an employee, the Marijuana Cultivator shall record:
1. The reduction in quantity of the total weight or item count under the unique alphanumeric identifier associated with the Quality Control Sample;
2. The date and time the Quality Control Sample was provided to the employee;
3. The agent registration number of the employee receiving the Quality Control Sample; and
4. The name of the employee as it appears on their agent registration card.

500.130: Additional Operational Requirements for Marijuana Product Manufacturers

(1) In addition to the general operational requirements for Marijuana Establishments required under 935 CMR 500.105 and security requirements provided in 935 CMR 500.110, Marijuana Product Manufacturers shall comply with additional operational requirements required under 935 CMR 500.130.

(2) Production of Edibles shall take place in compliance with the following:
(a) All Edibles shall be prepared, handled, and stored in compliance with the sanitation requirements in 105 CMR 590.000: *State Sanitary Code Chapter X: Minimum Sanitation Standards for Food Establishments*, and with the requirements for food handlers specified in 105 CMR 300.000: *Reportable Diseases*, *Surveillance, and Isolation and Quarantine Requirements*; and
(b) Any Marijuana Product that is made to resemble a typical food or Beverage product shall be packaged and labelled as required by 935 CMR 500.105(5) and (6).

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(3) A Marijuana Product Manufacturer shall meet all applicable environmental laws, regulations, permits and other applicable approvals including, but not limited to, those related to water quality and quantity, wastewater, solid and hazardous waste management and air pollution control, including prevention of odor and noise pursuant to 310 CMR 7:00: *Air Pollution Control*, and to use additional best management practices as determined by the Commission in consultation with the working group established under St. 2017, c. 55, § 78(b) or applicable departments or divisions of the EOEEA to reduce energy and water usage, engage in energy conservation and mitigate other environmental impacts.

(4) A Marijuana Product Manufacturer selling or otherwise Transferring Marijuana to another Marijuana Establishment shall provide documentation of its compliance, or lack thereof, with the testing requirements of 935 CMR 500.160, and standards established by the Commission for the conditions, including time and temperature controls, necessary to protect Marijuana Products against physical, chemical, and microbial contamination as well as against deterioration of finished products during storage and transportation.

(a) A Product Manufacturer shall retain all records of purchases from any manufacturer or supplier of any ingredient, additive, device, component part or other materials obtained by the Product Manufacturer in relation to the manufacturing of Marijuana Vaporizer Devices and such records shall be made available to the Commission on request.

(b) A Marijuana Product Manufacturer shall maintain records of the name and business address of the manufacturer of any cartridge, battery, atomizer coil, hardware or other component of Marijuana Vaporizer Products manufactured by the Licensee. Further, the Product Manufacturer shall, on request by the Commission, identify the materials used in the device's atomizer coil (*e.g.*, titanium, titanium alloy, quartz, copper, nichrome, kanthal, or other specified material) or state if such information cannot be reasonably ascertained.

(c) A copy of the Certificate of Analysis for each thickening agent, thinning agent or terpene infused or incorporated into a Marijuana Vaporizer Device during production shall be retained by a Product Manufacturer and provided as a part of a wholesale transaction with any Marijuana Retailer, MTC or Delivery Operator.

(d) A Product Manufacturer that wholesales Marijuana Vaporizer Devices to a Marijuana Retailer, MTC or Delivery Operator shall provide the recipient with the information insert required by 935 CMR 500.105(5)(c) or the necessary information to produce such an insert and the appropriate labeling information required by 935 CMR 500.000; provided, however, that White Labeling of Marijuana Vaporizer Devices is explicitly prohibited.

(5) In addition to the written operating policies required under 935 CMR 500.105(1), a Marijuana Product Manufacturer shall maintain written policies and procedures for the production or distribution of Marijuana Products as applicable, 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. The policies and procedures, at a minimum, shall comply with 935 CMR 500.105(8);

(b) Policies and procedures for handling voluntary and mandatory recalls of Marijuana Products. Such procedures shall be adequate to deal with recalls due to any action initiated at the request or order of the Commission, and any voluntary action by a Marijuana Establishment to remove defective or potentially defective Marijuana Products from the market, as well as any action undertaken to promote public health and safety;

(c) Policies and procedures for ensuring that any outdated, damaged, deteriorated, mislabeled, or contaminated Marijuana or Marijuana Products are segregated from other Marijuana and destroyed. Such procedures shall provide for written documentation of the disposition of the Marijuana or Marijuana Products. The policies and procedures, at a minimum, shall comply with 935 CMR 500.105(12);

(d) Policies and procedures for transportation. The policies and procedures, at a minimum, shall comply with 935 CMR 500.105(13);

(e) Policies and procedures to reduce energy and water usage, engage in energy conservation and mitigate other environmental impacts. The policies and procedures, at a minimum, shall comply with 935 CMR 500.105(15);

(f) Policies and procedures for the Transfer, acquisition, or sale of Marijuana Products between Marijuana Establishments, and if applicable, MTCs and CMOs;

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(g) Policies and procedures to ensure that all Edibles are prepared, handled, and stored in compliance with the sanitation requirements in 105 CMR 590.000: *State Sanitary Code Chapter X: Minimum Sanitation Standards for Food Establishments*, and with the requirements for food handlers specified in 105 CMR 300.000: *Reportable Diseases, Surveillance, and Isolation and Quarantine Requirements*;

(h) Policies and procedures for maintaining a product catalogue identifying all types of Marijuana Products actively manufactured at the facility. The catalog shall include a description of the product, photograph or illustration, packaging design, and dosage amounts, including expected Cannabinoid Profile;

(i) Policies and procedures for ensuring safety in all processing activities and the related uses of extraction equipment in compliance with the standards set forth in 527 CMR 1.00: *The Massachusetts Comprehensive Fire Code*;

(j) Policies and procedures for developing and providing Vendor Samples to a Marijuana Retailer. Policies and procedures shall include methods by which the Marijuana Product Manufacturer will adequately track, record, and document all Vendor Samples developed on, or provided from, the licensed Premises in satisfaction of 935 CMR 500.130(7);

(k) Policies and procedures for developing and providing Quality Control Samples to employees for the purpose of ensuring product quality and determining whether to make the product available to sell. Policies and procedures shall include methods by which the Marijuana Product Manufacturer will adequately track, record, and document all Quality Control Samples developed on, or provided from, the licensed Premises in satisfaction of 935 CMR 500.130(8). Policies and procedures shall further prohibit consumption of Quality Control Samples on the licensed Premises; and

(l) Policies and procedures for White Labeling on behalf of any Delivery Operator. Marijuana Product Manufacturers shall retain all Wholesale Agreements entered into with Delivery Operators and shall make them available to the Commission upon request.

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

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

1. Marijuana Product type;
2. Marijuana Product Brand Name;
3. List of direct ingredients;
4. List of indirect ingredients;
5. Serving size, including a description of what constitutes a serving size for a product that is not already a single serving;
6. Potency;
7. A photograph of a finished Marijuana Product, against a white background, outside of but next to the Marijuana Product's packaging, including any external or internal packaging, provided however that where single servings of a multi-serving product are unable to be easily identified because of its form, a description of what constitutes a single serving shall be provided (*e.g.* a single serving is a 1" x 1" square), and where an Edible cannot be stamped, for example, due to size or a coating, the photograph of the Edible outside of, but next to, its external and internal packaging, such as the wrapper, and labeling information for the Edible;
8. A photograph of the Marijuana Product, against a white background, inside the packaging; and
9. A list of Marijuana Products to be sold based on anticipated or executed agreements between the Marijuana Product Manufacturer and Marijuana Retailer or Delivery Operator.

(b) Photographs shall be submitted in a form and manner determined by the Commission.

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

(7) Notwithstanding a stricter municipal or state regulation, a Marijuana Product Manufacturer shall identify the method of extraction (*e.g.*, Butane, Propane, CO2) on a physical posting at all entrances of the Marijuana Establishment. The Posting shall be a minimum of 12" x 12" and identify the method of extraction in lettering no smaller than one inch in height. A Marijuana Product Manufacturer shall post a copy of a permit to keep, store, handle or otherwise use flammable and combustible at each place of operation within the facility.

(8) Vendor Samples.

(a) A Marijuana Product Manufacturer may provide a Vendor Sample of a Marijuana Product to a Marijuana Retailer, or Delivery Operator, Provision of a Vendor Sample under 935 CMR 500.130(8) shall not be considered a prohibited practice under 935 CMR 500.105(4)(b)20.

(b) Vendor Samples provided under 935 CMR 500.130(8):

1. May not be consumed on any licensed Premises;
2. May not be sold to another licensee or Consumer;
3. Shall be tested in accordance with 935 CMR 500.160; and
4. Shall be transported in accordance with 935 CMR 500.105(13). A Marijuana Product Manufacturer may include Vendor Samples with other Marijuana Products intended for transportation to an individual Marijuana Retailer or Delivery Operator.

(c) Vendor Sample Limits. A Marijuana Product Manufacturer is limited to providing the following aggregate amounts of Vendor Samples to an individual Marijuana Retailer or Delivery Operator in a calendar month period:

1. Five grams of Marijuana concentrate or extract including, but not limited to, tinctures;
2. Five hundred milligrams of Edibles whereby the serving size of each individual sample does not exceed five milligrams and otherwise satisfies the potency levels set forth in 935 CMR 500.150(4); and
3. Five units of sale per Cannabis product line and no more than six individual Cannabis product lines. For purposes of 935 CMR 500.130(8), a Cannabis product line shall mean items bearing the same Stock Keeping Unit Number.

(d) All Vendor Samples received from a Marijuana Cultivator pursuant to 935 CMR 500.120(13) that are used to manufacture a Marijuana Product shall be assigned a unique, sequential alphanumeric identifier and entered into the Seed-to-sale SOR in a form and manner to be determined by the Commission, and further, shall be designated as "Vendor Sample";

(e) All Vendor Samples provided by a Marijuana Product Manufacturer under 935 CMR 500.130(7) shall be assigned a unique, sequential alphanumeric identifier and entered into the Seed-to-sale SOR in a form and manner to be determined by the Commission and shall further be designated as "Vendor Sample";

(f) Vendor Samples provided under 935 CMR 500.130(8) shall have a legible, firmly Affixed label on which the wording is no less than $^{1}/_{16}$ inch in size containing at minimum the following information:

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

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(9) Quality Control Samples.

(a) A Marijuana Product Manufacturer may provide a Quality Control Sample of Marijuana Product to its employees for the purpose of ensuring product quality and determining whether to make the product available to sell. Provision of a Quality Control Sample under 935 CMR 500.130(9) shall not be considered a prohibited practice under 935 CMR 500.105(4)(b)20.

(b) Quality Control Samples provided to employees under 935 CMR 500.130(9):

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

(c) Quality Control Sample Limits. A Marijuana Product Manufacturer is limited to providing the following aggregate amounts of Quality Control Samples to all employees in a calendar month period:

1. Five grams of Marijuana concentrate or extract including, but not limited to, tinctures;
2. Five hundred milligrams of Edibles whereby the serving size of each individual sample does not exceed five milligrams and otherwise satisfies the potency levels set forth in 935 CMR 500.150(4); and
3. Five units of sale per Cannabis product line and no more than six individual Cannabis product lines. For purposes of 935 CMR 500.130(8), a Cannabis product line shall mean items bearing the same Stock Keeping Unit Number.

(d) All Quality Control Samples provided under 935 CMR 500.130(8) shall be assigned a unique, sequential alphanumeric identifier and entered into the Seed-to-sale SOR in a form and manner to be determined by the Commission, and further, shall be designated as "Quality Control Sample."

(e) Quality Control Samples provided under 935 CMR 500.130(9) shall have a legible, firmly Affixed label on which the wording is no less than $^{1}/_{16}$ inch in size containing at minimum the following information:

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

(f) Upon providing a Quality Control Sample to an Employee, the Marijuana Product Manufacturer shall record:

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

500.140: Additional Operational Requirements for Retail Sale

(1) In addition to the general operational requirements for Marijuana Establishments required under 935 CMR 500.105 and security requirements provided in 935 CMR 500.110, Licensees engaged in retail sales shall comply with 935 CMR 500.140.

(2) On-premises Verification of Identification.

(a) On entry into the Premises of a Marijuana Retailer by an individual, a Marijuana Establishment Agent shall immediately inspect the individual's proof of identification and determine the individual's age. An individual shall not be admitted to the Premises, unless the Marijuana Retailer has verified that the individual is 21 years of age or older by an individual's proof of identification.

(b) On point-of-sale by an individual, a Marijuana Establishment Agent shall inspect the individual's proof of identification and determine the individual's age.

(c) In accordance with M.G.L. c. 94G, § 4(c)(3), a Marijuana Retailer may not acquire or record Consumer personal information other than information typically required in a retail transaction, which can include information to determine the Consumer's age. A Marijuana Retailer may not record or retain any additional personal information from Consumer without the Consumer's voluntary written permission, except as provided in (d) and (e).

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(d) A Marijuana Retailer that has entered into Delivery Agreements with Delivery Licensees for the purpose of transacting home deliveries to Consumers shall establish a Pre-verification process for Consumers who intend to place orders for delivery with the Marijuana Establishment. A Marijuana Retailer that holds more than one Marijuana Retailer license may establish a process to share Pre-verification information about Consumers among their multiple locations for the purpose of enabling deliveries from any licensed location operated by the Marijuana Retailer; provided, however that information shall only be shared among locations upon the affirmative election by a Consumer. To comply with the requirements of Pre-verification, the Marijuana Establishment shall:

1. Require the Consumer to pre-verify with the Marijuana Establishment either in person or through a Commission-approved electronic means by presenting or submitting the Consumer's valid, unexpired government-issued photo identification; and
2. Examine the government-issued identification card and verify that the individual Consumer presenting or submitting the government-issued identification card is the individual Consumer that matches the government-issued identification card and that the individual Consumer is 21 years of age or older.

(e) A Marijuana Retailer shall collect and maintain relevant information about the individual Consumer, for the purpose of transacting a delivery and ensuring that the recipient of a delivery under 935 CMR 500.145 is legally allowed to receive Marijuana and Marijuana Products, which shall be limited to:

1. The individual's name;
2. The individual's date of birth;
3. The individual's address;
4. The individual's primary telephone number; and
5. The individual's email address.

(f) Any such information collected by the Marijuana Establishment shall be used solely for the purpose of transacting a delivery under 935 CMR 500.145 and shall be otherwise maintained confidentially.

(3) Limitation on Sales.

(a) In accordance with M.G.L. c. 94G, § 7, a Marijuana Retailer may not knowingly sell more than one ounce of Marijuana or its combined dry weight equivalent in Marijuana concentrate or Edibles to a retail customer per day.

1. One ounce of Marijuana flower shall be equivalent to five grams of active tetrahydrocannabinol (THC) in Marijuana concentrate including, but not limited to, Tinctures.
2. One ounce of Marijuana flower shall be equivalent to five hundred milligrams of active tetrahydrocannabinol (THC) in Edibles.
3. Topicals and ointments shall not be subject to a limitation on daily sales.

(b) A Marijuana Retailer may not sell Marijuana or Marijuana Products in excess of the potency levels established by 935 CMR 500.150(4); and

(c) A Marijuana Retailer shall demonstrate that it has a point-of-sale system that does not allow for a transaction in excess of the limit established in 935 CMR 500.140(3)(a) or the potency levels established in 935 CMR 500.140(3)(b).

(4) Unauthorized Sales and Right to Refuse Sales.

(a) A Marijuana Retailer shall refuse to sell Marijuana to any Consumer who is unable to produce valid proof of government-issued identification.

(b) A retailer shall refuse to sell Marijuana Products to a Consumer if, in the opinion of the Marijuana Establishment Agent based on the information available to the agent at that time, the Consumer or the public would be placed at risk. This includes, but is not limited to, the Consumer engaging in daily transactions that exceed the legal possession limits or that create a risk of diversion.

(c) A retailer may not sell to an individual more than one ounce of Marijuana or its dry weight equivalent in Marijuana concentrate or Edibles per transaction. A retailer may not knowingly sell to an individual more than one ounce of Marijuana or its dry weight equivalency per day.

(d) A retailer is prohibited from selling Marijuana Products containing nicotine.

(e) A retailer is prohibited from selling Marijuana Products containing alcohol, if sales of such alcohol would require licensure pursuant to M.G.L. c. 138.

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(5) Recording Sales.

(a) A Marijuana Retailer shall only utilize a point-of-sale system approved by the Commission, in consultation with the DOR.

(b) A retailer may utilize a sales recording module approved by the DOR.

(c) A retailer is prohibited from utilizing software or other methods to manipulate or alter sales data.

(d) A retailer shall conduct a monthly analysis of its equipment and sales data to determine that no software has been installed that could be utilized to manipulate or alter sales data and that no other methodology has been employed to manipulate or alter sales data.

A Marijuana Retailer shall maintain records that it has performed the monthly analysis and produce it on request to the Commission. If a retailer determines that software has been installed for the purpose of manipulation or alteration of sales data or other methods have been utilized to manipulate or alter sales data:

1. It shall immediately disclose the information to the Commission;
2. It shall cooperate with the Commission in any investigation regarding manipulation or alteration of sales data; and
3. Take such other action directed by the Commission to comply with 935 CMR 500.105.

(e) A retailer shall comply with 830 CMR 62C.25.1: *Record Retention and DOR Directive 16-1* regarding recordkeeping requirements.

(f) A retailer shall adopt separate accounting practices at the point of sale for Marijuana and Marijuana Product sales, and non-Marijuana sales.

(g) The Commission and the DOR may audit and examine the point-of-sale system used by a retailer in order to ensure compliance with Massachusetts tax laws and 935 CMR 500.140(5).

(6) Consumer Education. A Marijuana Retailer shall make available educational materials about Marijuana Products to Consumers. A retailer shall have an adequate supply of current educational material available for distribution. Educational materials shall be available in commonly spoken languages designated by the Commission, which will include, but not be limited to, appropriate materials for the visually- and hearing-impaired. Such materials shall be made available for inspection by the Commission on request. The educational material shall include at least the following:

(a) A warning that Marijuana has not been analyzed or approved by the 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;

(b) A warning that when under the influence of Marijuana, driving is prohibited by M.G.L. c. 90, § 24, and machinery should not be operated;

(c) 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;

(d) Materials offered to Consumers to enable them to track the strains used and their associated effects;

(e) 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 shall also be explained;

(f) A discussion of tolerance, dependence, and withdrawal;

(g) Facts regarding substance use disorder signs and symptoms, as well as referral information for substance use disorder treatment programs, and the telephone number for the Massachusetts Substance Use Helpline;

(h) A statement that Consumers may not sell Marijuana to any other individual;

(i) Information regarding penalties for possession or distribution of Marijuana in violation of Massachusetts law; and

(j) Any other information required by the Commission.

(7) Testing. No Marijuana Product, including Marijuana, may be sold or otherwise marketed for adult use that has not first been tested by Independent Testing Laboratories, except as allowed under 935 CMR 500.000. The product shall be deemed to comply with the standards required under 935 CMR 500.160. Potency levels derived from the Cannabinoid Profile,

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including the amount of delta-nine-tetrahydrocannabinol (Δ9-THC) and other Cannabinoids, contained within Finished Marijuana or Marijuana Product to be sold or otherwise marketed, shall be recorded in the Seed-to-sale SOR.

(8) Repackaging. Repackaged Marijuana shall comply with the labeling and packaging requirements under 935 CMR 500.105(5) and 500.105(6).

(9) Advance Contactless Order Fulfillment.

(a) A Marijuana Retailer may allow for advance contactless ordering of Marijuana and Marijuana Products by telephone, website or third-party platform, which shall be available for inspection prior to commencing operations and on request.

(b) Marijuana Retailer may fulfill advance orders through contactless means by not requiring contact between a Consumer and Registered Marijuana Agent.

(c) Any physical unit used for the purpose of the fulfillment of an advance contactless order (order) shall ensure that access to orders of Marijuana or Marijuana Products is limited to the Consumer who placed the order.

(d) Any physical unit used for the purpose of order fulfillment shall be located within the Marijuana Retailer's building and be bolted or otherwise permanently affixed to the Marijuana Establishment Premises.

(e) A Marijuana Retailer that adopts a contactless means of fulfilling orders shall have a written operations plan which shall be submitted to the Commission prior to commencing these operations and on request. The plan shall include a detailed description of how the Marijuana Retailer will ensure that advance contactless order fulfillment complies with the requirements of:

1. 935 CMR 500.105(3)(b) and (c) for the safe storage of Marijuana and Marijuana Products;
2. 935 CMR 500.110(1)(a) and M.G.L. c. 94G, § 4(c)(3) for the positive identification of individuals seeking access to the Premises of the Marijuana Establishment for the purpose of obtaining an order placed in advance to limit access solely to individuals 21 years of age or older;
3. 935 CMR 500.110(5)(a)(4) for the video surveillance of the advance contactless order; and
4. 935 CMR 500.140(8)(c) and (d).

(f) Orders placed in advance may not be retained in a physical unit used for the purpose of contactless order fulfillment overnight or outside of business hours.

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

(a) The Marijuana Retailer shall provide the following:

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

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

(c) Marijuana Retailers shall provide the information required under 935 CMR 500.140(8)(a) for each Marijuana Product it Repackages for sale prior to the product being made available for sale and shall update the information whenever a substantial change to packaging or label of the Marijuana Product occurs. For purposes of 935 CMR 500.140(10), a substantial change shall be a change to the physical attributes or content of the package or label.

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

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

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

(12) Vendor Samples.

(a) A Marijuana Retailer may receive a Vendor Sample of Marijuana flower from a Marijuana Cultivator pursuant to 935 CMR 500.120(13). A Marijuana Retailer may also receive a Vendor Sample of Marijuana Product from a Marijuana Product Manufacturer pursuant to 935 CMR 500.130(7). Receipt of a Vendor Sample under 935 CMR 500.140(12) shall not be considered a prohibited practice under 935 CMR 500.105(4)(b)20.

(b) Vendor Samples may not be sold to another licensee or Consumer.

(c) A Marijuana Retailer may provide the Vendor Samples it receives from a Marijuana Cultivator or a Marijuana Product Manufacturer to its Employees for the purpose of assessing product quality and determining whether to make the product available to sell the product. Vendor Samples may not be consumed on any licensed Premises.

(d) Vendor Sample limits. A Marijuana Retailer is limited to providing the following aggregate amounts of Vendor Samples to all Employees in a calendar month period:

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

2. Five grams of Marijuana concentrate or extract including, but not limited to, Tinctures;

3. Five hundred milligrams of Edibles whereby the serving size of each individual sample does not exceed five milligrams and otherwise satisfies the potency levels set forth in 935 CMR 500.150(4); and

4. Five units of sale per Cannabis product line and no more than six individual Cannabis product lines. For purposes of 935 CMR 500.140(15), a Cannabis product line shall mean items bearing the same Stock Keeping Unit Number.

(e) Upon providing a Vendor Sample to an employee, the Marijuana Retailer shall record:

1. The reduction in quantity of the total weight or item count under the unique alphanumeric identifier associated with the Vendor Sample;

2. The date and time the Vendor Sample was provided to the Employee;

3. The agent registration number of the employee receiving the Vendor Sample; and

4. The name of the Employee as it appears on their agent registration card.

(f) All Vendor Samples provided by a Marijuana Retailer to its employees shall also be entered into the point-of-sale system and shall count against the individual employee's daily purchase limit, if applicable, consistent with 935 CMR 500.140(3).

(13) Sale of Marijuana Vaporizer Devices.

(a) Marijuana Retailers offering Marijuana Vaporizer Devices for sale to Consumers shall include signage at the point of sale, that is legible and enlarged and contains the following statements:

1. "Marijuana Vaporizer Devices have been tested for Vitamin E Acetate and other contaminants, with no adverse findings. WARNING: Vaporizer Devices may contain ingredients harmful to health when inhaled."

2. "Consumers shall have access to the test results of Marijuana Vaporizer Devices including copies of any Certificates of Analysis provided by the device's manufacturer."

(b) Marijuana Retailers shall provide a physical insert to Consumers that accompanies all purchased Marijuana Vaporizer Devices that states, including capitalization and emphasis, the following: "Marijuana Vaporizer Devices have been tested for Vitamin E Acetate and other contaminants, with no adverse findings. WARNING: Vaporizer Devices may contain ingredients harmful to health when inhaled."

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(c) The sale of disposable and reusable vaporizer pens and devices shall be accompanied by a product insert identifying the materials used in the vaporizer device's atomizer coil (*e.g.*, titanium, titanium alloy, quartz, copper, nichrome, kanthal, or other specified material), and manufacturer identification of the device hardware, cartridge, battery and other components;

(d) A Marijuana Retailer shall make available the information contained in 935 CMR 500.105(5)(c)(6) in the product description at the point of sale and as part of any product list posted on the Marijuana Retailer's website or Third-party Technology Platforms or applications employed for preordering or delivery.

(e) A Marijuana Retailer shall retain all records of purchases from any Product Manufacturer or supplier of any ingredient, additive, device, component part or other materials provided to the Marijuana Retailer about Marijuana Vaporizer Devices sold at retailers. Such records shall be made available to the Commission upon request.

(14) Physical Separation of Marijuana and MIPs or Marijuana Products for Medical or Adult Use. A CMO shall provide for physical separation between medical and adult use sales areas. Separation may be provided by a temporary or semipermanent physical barrier, such as a stanchion, that, in the opinion of the Commission, adequately separates sales areas of MIPs for medical use from sales areas of Marijuana products for adult use for the purpose of Patient Confidentiality.

(a) A CMO shall provide for separate lines for sales of Marijuana or MIPs for medical use from Marijuana Products for adult use within the sales area, provided that the holder of a patient registration card may use either line and may not be limited only to the medical use line, so long as the CMO can record the patient's transaction in accordance with 935 CMR 501.105(5)(d).

(b) A CMO shall additionally provide a patient consultation area, an area that is separate from the sales floor that is enclosed to allow privacy and for confidential visual and auditory consultation with Qualifying Patients.

(c) A CMO's patient consultation area shall have signage stating, "Consultation Area". The private consultation area shall be separate from the sales area. It shall be accessible by a Qualifying Patient or Caregiver without having to traverse a Limited Access Area.

(d) A CMO shall use best efforts to prioritize Patient and Caregiver identification verification and physical entry into its retail area.

(15) Patient Supply.

(a) A CMO shall ensure access to a sufficient quantity and variety of marijuana products, including marijuana, for patients registered under 935 CMR 501.000: *Medical Use of Marijuana*.

1. Where the CMO has been open and dispensing for a period of less than six months, the license shall reserve 35% of the MTC's marijuana products.

2. Where the CMO has been open and dispensing for a period of six months or longer, the licensee shall maintain a quantity and variety of marijuana products for patients registered under 935 CMR 501.000: *Medical Use of Marijuana*, sufficient to meet the demand indicated by an analysis of sales data collected by the licensee during the preceding six months in accordance with 935 CMR 500.140(5), and 935 CMR 501.140(5): *Recording Sales*.

(b) Marijuana products reserved for patient supply shall, unless unreasonably impracticable, reflect the actual types and strains of marijuana products documented during the previous six months. If a substitution must be made, the substitution shall reflect as closely as possible the type and strain no longer available.

(c) On a biennial basis, the CMO shall submit to the Commission an inventory plan to reserve a sufficient quantity and variety of medical use Marijuana Products for Registered Qualifying Patients, based on reasonably anticipated patient needs as documented by sales records over the preceding six months. On each occasion that the supply of any product within the reserved patient supply is exhausted and a reasonable substitution cannot be made, the CMO shall submit a report to the Commission in a form determined by the Commission.

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(d) Marijuana Products reserved for patient supply shall be either maintained on-site at the retailer or easily accessible at another location operated by the licensee and transferable to the retailer location within 48 hours of notification that the on-site supply has been exhausted. CMOs shall perform audits of available patient supply on a weekly basis and retain those records for a period of six months.

(e) The Commission shall, consistent with 935 CMR 500.301 or 501.301: *Inspections and Compliance*, inspect and audit CMOs to ensure compliance with 935 CMR 500.140. The Commission may, in addition to the issuance of a deficiency statement under 935 CMR 500.310 or 501.310: *Deficiency Statements* and a plan of correction under 935 CMR 500.320 or 935 CMR 501.320: *Plans of Correction*, demand that the CMO take immediate steps to replenish its reserved patient supply to reflect the amounts required under 935 CMR 500.140(15)(a) or 935 CMR 501.140(12)(a). Failure to adequately address a deficiency statement or follow a plan of correction shall result in administrative action by the Commission pursuant to 935 CMR 500.450 and 500.500 or 935 CMR 501.450: *Marijuana Establishment License: Grounds for Denial of Renewal Applications, Suspension and Revocation* and 935 CMR 501.500: *Hearings and Appeals of Actions on Licenses*.

(f) CMOs may transfer marijuana products reserved for medical-use to adult-use within a reasonable period of time prior to the date of expiration provided that the product does not pose a risk to health or safety.

(16) Undeliverable Marijuana and Marijuana Products. Any Finished Marijuana Product that is undeliverable by a Marijuana Courier or is refused by the Consumer shall be transported back to the originating Marijuana Retailer that provided the product once all other deliveries included on a delivery manifest have been made. The Marijuana Retailer shall ensure that a Registered Marijuana Agent remains at the premises to receive any undeliverable Marijuana or Marijuana Product from a Marijuana Courier. A process for ensuring that undelivered Marijuana and Marijuana Products can be returned to the Marijuana Retailer by the Marijuana Courier shall be a term of the Delivery Agreement.

(17) Prohibition on Monopolies.

(a) It shall be a violation of, 935 CMR 500.000, for any Marijuana Retailer to or attempt to monopolize, or combine or conspire with any other person or entity including, but not limited to, a Third-party Technology Platform Provider, to monopolize any part of licensed activities authorized under 935 CMR 500.000.

(b) It shall be a violation of these regulations, 935 CMR 500.000, for any Marijuana Retailer engaged in activities authorized under 935 CMR 500.000 to make a contract for services with a Third-party Technology Platform Provider for the listing of a Marijuana Retailer's Finished Marijuana Products on the condition, agreement or understanding that the parties to the contract shall not deal in Marijuana or Marijuana Products, either generally or specific brands or categories of Finished Marijuana Products, of a competitor or competitors of the parties where the effect of such contract or such condition, agreement or understanding may be to lessen substantially competition or tend to create a monopoly in any activity engaged in under 935 CMR. 500.000.

500.141: Additional Operational Requirements for Social Consumption Establishments

(1) In addition to the general operational requirements for Marijuana Establishments required under 935 CMR 500.105, and except as otherwise provided in 935 CMR 500.141; and additional operational requirements under 935 CMR 500.140 and 500.141.

(2) Written Policies and Procedures. In addition to the written operating policies required under 935 CMR 500.105(1), prior to commencing operations, a Social Consumption Establishment shall maintain written policies and procedures for the sale, distribution, and serving of Marijuana and Marijuana Products and provide in-house training to employees to the extant not covered in a Responsible Vendor Training Program course on such policies and procedures. In-house training provided under 935 CMR 500.141(2) may be counted toward the eight-hour total training requirement required under 935 CMR 500.105(2)(a). Such written policies and procedures shall include, without limitation:

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(a) Methods for identifying, recording, and reporting diversion, theft, or loss, and for correcting all errors and inaccuracies in inventories in compliance with 935 CMR 500.110(7) and 500.141(8);

(b) Procedures to ensure that all sales of Marijuana and Marijuana Products under a Social Consumption Establishment license shall include a label or supplementary insert with the following information:

1. The symbols issued by the Commission under 935 CMR 500.105(5)(b)15. and 16.;
2. The following 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. Marijuana use during pregnancy and breast-feeding may pose potential harms. It is against the law to drive or operate machinery when under the influence of this product. KEEP THIS PRODUCT AWAY FROM CHILDREN.";
3. Additionally, for Edibles, the warning, "The impairment effects of Edibles may be delayed by two hours or more";
4. The name and contact information of the Marijuana Establishment that produced the Marijuana or Marijuana Product;
5. The results of sampling, testing and analysis conducted by an Independent Testing Laboratory;
6. A seal certifying the Marijuana or Marijuana Products meets such testing standards;
7. A unique batch number identifying the Production Batch associated with manufacturing, Processing, and cultivating;
8. A list of ingredients and possible allergens;
9. The amount of delta-nine-tetrahydrocannabinol (Δ9-THC) in the package and in each serving of Marijuana or Marijuana Product as expressed in absolute terms and as a percentage of volume;
10. An explanation of the number of "servings" in the package; and
11. A use-by date, if applicable;

(c) Security procedures, including specific plans for securing entrances and that all Marijuana and Marijuana Products are kept out of plain sight and not visible from a public place;

(d) Procedures to ensure prevention of diversion;

(e) Procedures to ensure the prevention of a Consumer from bringing Marijuana or Marijuana Products onto the Premises that have not been obtained from the Social Consumption Establishment, including policies for ensuring Marijuana Accessories brought on site, do not contain Marijuana or Marijuana Products not obtained from the Social Consumption Establishment;

(f) Procedures to ensure that Marijuana or Marijuana Products purchased on-site does not leave the Premises; except as otherwise authorized in 935 CMR 500.141(3)(a);

(g) Procedures for the storage of Marijuana or Marijuana Products including, but not limited to, disposal procedures for unconsumed Marijuana or Marijuana Products;

(h) Procedural and operational plans making a diligent effort to assist Consumers who may be impaired in finding means of transportation. Such requirements shall be tailored to the region in which the establishment is located.

(i) Procedures to ensure that Consumers are not overserved, including the developments of standards, consistent with Responsible Vendor Training, for Marijuana Establishment Agents to use to evaluate impairment;

(j) Procedures to ensure that no one younger than 21 years old may access the establishment;

(k) If vaporization or other non-smoking forms of consumption involving heat are permitted indoors, procedures and building plans or schematic to ensure that:

1. The area(s) in which consumption involving heat takes place are isolated from the other areas, separated by walls and a secure door, with access only from the Social Consumption Establishment;
2. Employees may monitor the consumption area from a smoke-free, vapor-free area; and
3. A ventilation system directs air from the consumption area to the outside of the building through a filtration system sufficient to remove visible vapor, consistent with all applicable building codes and ordinances, and adequate to eliminate odor at the property line;

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(l) Procedures to ensure that no sales occur within the consumption area;
(m) Procedures to ensure that smoking as defined by M.G.L. c. 270, § 22 is prohibited indoors.
(n) Sanitary practices in compliance with 105 CMR 590.000: *State Sanitary Code Chapter X: Minimum Sanitation Standards for Food Establishments*; and
(o) A detailed description of qualifications and intended training(s) for Marijuana Establishment Agents who will be employees;

(3) Limitation on Sales.
(a) Social Consumption Establishment agents shall only sell Marijuana or Marijuana Products to individuals in an amount reasonable for on-site consumption. Notwithstanding the terms of 935 CMR 500.140(3)(a), 500.140(4)(c) and 500.150(4)(a) and(b), Consumers may not purchase more than 20 milligrams of delta-nine-tetrahydrocannabinol (Δ9-THC) within any single day. Unconsumed Marijuana or Marijuana Product(s) that is packaged by the establishment in a Commission preapproved sealed and resealable exit bag may be removed from the Premises.
(b) A Social Consumption Establishment may not knowingly sell to a Consumer more than 20 milligrams of delta-nine-tetrahydrocannabinol (Δ9-THC) per day.
(c) Sale of Edibles. Sale of Edibles shall be limited to pre-packaged Shelf-stable items. Products that are perishable, or "Time/ and Temperature Controlled for Safety Food" as it is defined in the 2013 Retail Food Code as adopted under 105 CMR 590.001(A) or time and temperature controlled to prevent deterioration may not be allowed to be sold.
(d) Sale of Shelf-stable Products. A Social Consumption Establishment may sell food pre-packaged, Shelf-stable and drink items other than Edibles if it acquires all necessary licenses and permits to do so. A Marijuana Social Consumption Establishment may not sell alcohol or tobacco products.
(e) A Social Consumption Establishment May Sell Marijuana Accessories. A Social Consumption Establishment may sell items not expressly authorized herein only after receiving the express written permission of the Commission following receipt of an application in a form and manner determined by the Commission.

(4) Social Consumption Sales.
(a) Except as otherwise authorized in 935 CMR 500.141(3)(a), the sale of Marijuana and Marijuana Products for consumption on-site shall take place in compliance with the following:
1. Except as otherwise authorized in 935 CMR 500.141(3)(a), Marijuana and Marijuana Products may only be used by Consumers on the Premises who have demonstrated in compliance with 935 CMR 500.140(2)(b) that they are 21 years of age or older;
2. In addition to the requirements of 935 CMR 500.140(6), a Social Consumption Establishment shall distribute to each Consumer a Consumer information card, which shall be provided by the Commission that informs Consumers about the impairment effects of different forms of consumption of Marijuana or Marijuana Products including, but not limited to, the length of time that the Marijuana or Marijuana Products may take in order to take effect, and information to prevent impaired driving. The informational card will be scientifically based. The information card will be two-sided and presented in a form and manner determined by the Commission.
3. Consumer shall orally affirm to a Marijuana Establishment Agent receipt and understanding of the Consumer information card prior to the dispensing of Marijuana or Marijuana Products.
(b) A Social Consumption Establishment may not allow the consumption of alcohol or the smoking of tobacco, or the sale of alcohol or tobacco on the Premises.
(c) All Marijuana and Marijuana Product sales shall be tracked using the Seed-to-sale SOR.
(d) Limitations on the time for sales of Marijuana or Marijuana Products shall comply with all municipal bylaws and ordinances. Unless otherwise explicitly authorized by the municipality, sales shall only occur between the hours of 8:00 A.M. and 9:00 P.M.
(e) Every effort shall be made to minimize the amount of cash held by a Social Consumption Licensee at any one time. Licensees shall use best efforts to implement platforms for the electronic payment of funds.

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(f) A Social Consumption Establishment Agent may refuse the sale of Marijuana or Marijuana Products based on a reasonable belief that a Consumer is visibly impaired.

(5) Age Verification.
(a) Entry into the Premises of a Social Consumption Establishment by Persons younger than 21 years old is prohibited;
(b) On entry into the Premises of a Social Consumption Establishment by an individual, a Marijuana Establishment Agent shall immediately inspect the individual's proof of identification and determine the individual's age. An individual may not be admitted to the Premises, unless the establishment has verified that the individual is 21 years of age or older by an individual's proof of identification.
(c) At the point of sale by an individual, a Marijuana Establishment Agent shall inspect the individual's proof of identification and determine the individual's age.

(6) Consumption Areas.
(a) Where needed for security or health reasons, a Social Consumption Establishment shall separate the designated sales and consumption areas. Each area shall be isolated from other areas of the establishment. The consumption area shall be separated by walls and a secure door and accessible only from the sales area.
(b) The consumption area shall be visible to individuals located in the sales area.
(c) The Marijuana Establishment shall maintain an updated diagram of the consumption area which shall show the location of:
1. The licensed Premises of the Marijuana Establishment;
2. Serving area or areas;
3. Ventilation exhaust points, if applicable;
4. The employee monitoring area;
5. Doors, windows, or other exits; and
6. Any other information required by the Commission.
(d) Consumption of Marijuana or Marijuana Products through vaporization or other nonsmoking forms of consumption involving heat shall require the following:
1. A ventilation system that directs air from the consumption area to the outside of the building through a filtration system sufficient to remove vapor, consistent with all applicable building codes and ordinances, and adequate to eliminate odor at the property line.
2. A smoke-free area for agents to monitor the Marijuana consumption area.
(e) The establishment shall have a standard operating procedure to ensure the health of agents in the cleaning and sanitation of all consumption areas.
(f) A Social Consumption Establishment shall provide Consumers with adequate, readily accessible toilet facilities that are maintained in a sanitary condition and in good repair.
(g) Vaping may be permitted in a designated outdoor area if it is not in view of the general public and complies with 105 CMR 661.200: *Smoking in Outdoor Spaces*.

(7) Waste Disposal.
(a) The Social Consumption Establishment shall be responsible for ensuring Consumers dispose of any unused Marijuana or Marijuana Products prior to exiting the establishment.
(b) The Social Consumption Establishment shall provide a secure receptacle to dispose of Marijuana or Marijuana Products sold on-site, but not consumed by the Consumer prior to exiting the establishment.
(c) Marijuana or Marijuana Products returned by a Consumer shall be disposed of in accordance with 935 CMR 500.105(12).

(8) Incident Reporting.
(a) The Social Consumption Establishment shall provide notice to appropriate Law Enforcement Authorities and the Commission in accordance with 935 CMR 500.110(8).
(b) In addition to the incidents identified in 935 CMR 500.110(8)(a), a Social Consumption Establishment shall provide notification shall notify the Commission of any of the following incidents immediately, and in no instance, no more than 24 hours after the following occasions:

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1. Any instance involving the consumption of tobacco, tobacco products or alcohol on the Premises;
2. Any instance involving the consumption of any Marijuana or Marijuana Product not purchased from the Social Consumption Establishment; or
3. Any instance involving the consumption of any Marijuana or Marijuana Product in a designated sales area or other area outside the designated consumption area.

(9) Prohibitions. A Social Consumption Establishment may not:
(a) Sell Marijuana or Marijuana Products other than those authorized pursuant to 935 CMR 500.141.
(b) Allow a Consumer to smoke or otherwise consume Marijuana through combustible methods, except outdoors as otherwise authorized under 935 CMR 500.000, so long as smoking is not a nuisance to the non-smoking public.
(c) Allow any agent to consume Marijuana or Marijuana Products during the course of a work shift;
(d) Allow the consumption of tobacco or tobacco products or alcohol or alcoholic products on the Premises;
(e) Allow the possession or consumption of any Marijuana or Marijuana Product that was not purchased from the Social Consumption Establishment;
(f) Offer to sell or sell any Marijuana or Marijuana Product for a discounted or promotional price or for any price other than the product's fixed price;
(g) Gift or discount Marijuana and Marijuana Products;
(h) Allow, encourage or permit any organized game or contest involving the consumption of Marijuana or Marijuana Product or awarding of Marijuana or Marijuana Products as a prize;
(i) Advertise, market or brand any practice prohibited under 935 CMR 500.141(9) or 935 CMR 500.105(4)(b); and
(j) May not permit Consumers determined to be impaired by its Marijuana Establishment Agents to purchase additional Marijuana or Marijuana Products while still impaired.

(10) Outdoor Smoking Waiver.
(a) The prohibition on smoking in an indoor area cannot be waived.
(b) The prohibition on smoking in a designated outdoor area may be subject to a waiver in accordance with the following process:
1. The waiver request shall comply with the requirements outlined in 935 CMR 500.850(1);
2. On receipt of the waiver request and written documentation, the Commission shall submit the request and documentation to the Board of Health or Health Commissioner in the municipality where the Social Consumption Establishment is located. The Commission shall request that the local health authority examine the waiver and documentation and provide a determination whether the proposed outdoor smoking activity would:
a. Comply with the municipality's applicable local rules and regulations pertaining to Smoking;
b. Be compatible with uses in the surrounding community;
c. Not pose an unacceptable risk to public, health, safety or welfare greater than if consumption were to occur indoors;
d. Would not be in view of the general public;
e. Be physically separated from an enclosed workspace and there is no migration of smoke into the workplace;
f. Comply with the following requirements:
i. In accordance with M.G.L. c. 270, § 22, any outdoor space that has a structure capable of being enclosed, regardless of the materials or removable nature of the walls or covers, shall be regarded as an enclosed space when the walls or covers are in place.
ii. The outdoor space shall be open to the air at all times. For purposes of 105 CMR 661.000: *Regulations Implementing M.G.L. c. 270, § 22*, this shall mean that the space has thorough, unobstructed circulation of outside air to all parts of the outdoor space. An outdoor space shall be presumed to meet this test if:

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(A) the space has a ceiling and at least ½ of the total surface area of the walls and other vertical boundaries of the space permits unobstructed flow of outside air into the space; or

(B) the space has no ceiling and no more than two walls or other vertical boundaries of the space that obstruct the flow of air into the space exceed eight feet in height.

iii. For purposes of 105 CMR 661.000: *Regulations Implementing M.G.L. c. 270, § 22*, a ceiling shall include any top or covering that is placed or maybe placed over a space, or any other structure or arrangement above the space (including substantial coverage by umbrellas or awnings) that may impede the flow of air into the space, regardless of the type or nature of the materials or the partial or removable nature of the covering.

iv. The local board of health shall be notified in writing prior to initiating construction or renovation of an outdoor space for the purpose of permitting smoking, if such construction or renovation requires notification of the local building department or a licensing authority.

500.145: Additional Operational Requirements for Delivery of Marijuana, Marijuana Products, Marijuana Accessories, and Marijuana Establishment Branded Goods to Consumers and as Permitted, to Patients or Caregivers

(1) General Requirements.

(a) For purposes of 935 CMR 500.145, Delivery Items means Finished Marijuana Products, Marijuana Accessories, and Marijuana Establishment Branded Goods.

(b) Pursuant to 935 CMR 500.105(4), a Delivery License or Delivery Endorsement is a necessary prerequisite for the delivery of Delivery Items directly to Consumers, and as permitted, Marijuana Couriers, to Patients or Caregivers. Applications for a Delivery License or Delivery Endorsement shall be in a form and manner to be determined by the Commission.

(c) Prior to commencing operations, Delivery Licensee or a Marijuana Establishment with a Delivery Endorsements shall comply with all operational requirements imposed by:

1. 935 CMR 500.105;
2. 935 CMR 500.110 as applicable, including 935 CMR 500.110(8); and
3. 935 CMR 500.145.

(d) All individuals delivering for a Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement directly to Consumers, and as permitted Patients or Caregivers, shall be employees of the Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement and shall hold a valid Marijuana Establishment Agent registration.

(e) All Marijuana and Marijuana Products delivered by a Marijuana Courier shall be obtained from a licensed Marijuana Retailer or MTC. A Marijuana Courier may deliver Marijuana Establishment Branded Goods and MTC Branded Goods carrying the Marijuana Courier's brand or that of a licensed Marijuana Retailer or MTC. A Marijuana Courier may deliver Marijuana Accessories from a licensed Marijuana Retailer or MTC, or acquire and deliver their own Marijuana Accessories. A Marijuana Courier may not acquire electronic vape devices, hardware or batteries utilized in products that vaporize concentrates and oils, other than from a licensed Marijuana Retailer or MTC.

1. Marijuana Couriers shall only obtain Marijuana or Marijuana Products for delivery from a licensed Marijuana Retailer or MTC with which the Marijuana Courier has a Delivery Agreement.
2. All agreements between a Marijuana Courier and a Marijuana Retailer or MTC shall be disclosed under the requirements of licensure in 935 CMR 500.101 and subject to limitations on control over Licenses under 935 CMR 500.050(1)(b).
3. The Commission shall be notified in writing of any Substantial Modification to a Delivery Agreement.

(f) Delivery Operators shall only deliver Finished Marijuana Products, Marijuana Accessories and Marijuana Establishment Branded Goods carrying the Delivery Operator's brand or that of a licensed Marijuana Cultivator, Marijuana Product Manufacturer, Microbusiness or Craft Marijuana Cooperative. All Finished Marijuana Products delivered by a Delivery Operator Licensee shall be obtained from a licensed Marijuana Cultivator, Marijuana Product Manufacturer, Microbusiness or Craft Marijuana Cooperative and shall

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comply with 935 CMR 500.105(1)(e). Delivery Operators may deliver Marijuana Establishment Branded Goods carrying the Delivery Operator's brand or that of a licensed Marijuana Cultivator, Marijuana Product Manufacturer, Microbusiness or Craft Marijuana Cooperative.

1. A Delivery Operator shall only obtain Finished Marijuana Products for delivery from a licensed Marijuana Cultivator, Marijuana Product Manufacturer, Microbusiness or Craft Marijuana Cooperative with which the Delivery Operator has a Wholesale Agreement.

2. All Wholesale Agreements between a Delivery Operator and a Marijuana Cultivator, Marijuana Product Manufacturer, Microbusiness or Craft Marijuana Cooperative shall be subject to limitations on control over Licenses under 935 CMR 500.050(1)(b) and shall be subject to inspection and disclosure under 935 CMR 500.105(9).

3. The Commission shall be notified in writing of any Substantial Modification to a Wholesale Agreement.

(g) A Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement and Marijuana Retailer may use a Third-party Technology Platform Provider to facilitate orders by Consumers, and as permitted Patients or Caregivers.

1. All agreements between a Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement and a Third-party Technology Platform Provider shall be submitted to the Commission prior to Final Licensure as part of the requirements for licensure in 935 CMR 500.101 and shall be subject to the control limitations under 935 CMR 500.050(1)(a).

2. The Commission shall be notified in writing within five days of the following:

a. Any Substantial Modification to an agreement.

b. Any new or additional or assigned agreements between a Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement and a Third-party Technology Platform Provider.

3. Contracts between Delivery Licensees and Third-party Technology Platform Providers shall be negotiated at arm's length and entered into knowingly and willingly by both parties.

a. The terms of a contract between a Delivery Licensee and a Third-party Technology Platform Provider shall be transparent and shall describe the methodology for determining the placement of Delivery Licensees in search results.

b. The terms of a contract between a Delivery Licensee and a Third-party Technology Platform Provider shall define the fee structure for payment of services provided under the contract.

c. The terms of a contract between a Delivery Licensee and a Third-party Technology Platform Provider shall include that the placement of Delivery Licensees in search results shall be based on objective, consumer-oriented criteria which may include, but shall not be limited to, time to deliver to the Consumer; Finished Marijuana Product price; and Finished Marijuana Product availability.

d. Inducements intended to influence the placement of Delivery Licensees shall be strictly prohibited. No Delivery Licensee shall directly or indirectly give, permit other people or entities to give, receive or otherwise accept, an Inducement in any effort to persuade or influence a Third-party Technology Platform Provider to list any particular Delivery Licensee, brand or kind of Finished Marijuana Product, or to persuade or influence a Third-party Technology Platform Provider from listing any particular Delivery Licensee, brand or kind of Finished Marijuana Product.

e. Advertising by a Delivery Licensee on a Third-party Technology Platform Provider shall not be considered to be an Inducement, provided:

i. The contract terms for Advertising clearly state that the decision by a Delivery Licensee to advertise or not to advertise on a Third-party Technology Platform Provider shall not influence the placement of that Delivery Licensee in search results.

ii. Any advertisement shall include a clear and conspicuous disclosure on the face of the advertisement that it is paid Advertising.

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iii. No Delivery Licensee may advertise or market Marijuana or Marijuana Products in conjunction with a Third-party Technology Platform Provider outside of the technology platform, and shall ensure that the Third-party Technology Platform Provider does not use the Delivery Licensee's license number, legal business name or Brand Name on any advertisement or marketing that primarily promotes the services of the technology platform.

4. A Delivery Licensee, in its engagement with a Third-party Technology Platform Provider shall ensure compliance with the consumer and patient protection standards established by M.G.L. c. 94G and c. 94I and the associated regulations, including, but not limited to 935 CMR 500.820 and 935 CMR 501.820: *Confidentiality*, and other applicable state laws.

5. A Delivery Licensee shall ensure minimum identifying information regarding the Delivery Licensee and its products, including but not limited to the Delivery Licensee's business name and license number, and as specified by the Commission, is on its menu and any receipt provided to Consumers placing an order for Marijuana and Marijuana Products through the technology platform.

(h) The maximum retail value of Marijuana or Marijuana Products allowed in a Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement's vehicle at any one time shall be $10,000 and each Marijuana Product shall be associated with a specific Individual Order. For purposes of this provision, "maximum retail value" shall mean the aggregate value of Marijuana and Marijuana Products as priced on the day of the order for delivery.

(i) All Marijuana and Marijuana Product deliveries shall be tracked using the Seed-to-sale SOR as designated by the Commission.

(j) Records of sales of Marijuana Accessories and Marijuana Establishment Branded Goods shall be maintained by the Delivery Licensee or Marijuana Establishment with a Delivery Endorsement, but may not be tracked in the Seed-to-sale SOR.

(k) For non-Marijuana or non-Marijuana Product sales, a Delivery Licensee or Marijuana Establishment with a Delivery Endorsement shall comply with Massachusetts tax laws, and DOR rules and regulations including, but not limited to, 830 CMR 62C.25.1: *Record Retention* and DOR Directive 16-1 regarding recordkeeping requirements.

(l) Deliveries by a Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement shall be geographically limited to:

1. The municipality identified as the Marijuana Establishment License's place of business;

2. Any municipality which allows for retail within its borders whether or not one is operational; or

3. Any municipality which after receiving notice from the Commission, has notified the Commission that delivery may operate within its borders.

(m) Limitations on the time for delivery shall comply with all municipal bylaws and ordinances, provided however, that all deliveries shall be completed before 9:00 P.M. local time or the time determined by municipal bylaw or ordinance, whichever occurs first, and deliveries may not occur between the hours of 9:00 P.M. and 8:00 A.M., unless otherwise explicitly authorized by municipal bylaw or ordinance.

(n) Every effort shall be made to minimize the amount of cash carried in a Delivery Licensee or Marijuana Establishment with a Delivery Endorsement vehicle at any one time. Marijuana Retailers utilizing a Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement for Consumer transactions shall use best efforts to implement platforms for the electronic payment of funds. Where cash is carried by a Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement vehicle, cash shall be stored in a locked compartment.

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

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

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

(2) Orders Fulfilled by Marijuana Couriers. All orders for deliveries made by a Marijuana Courier or a Marijuana Establishment with a Delivery Endorsements shall comply 935 CMR 500.145(1)(e) and the following requirements:

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

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

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

(d) A Marijuana Courier shall only acquire from a Marijuana Retailer and deliver Marijuana or Marijuana Products for which a specific order has been received by a licensed Marijuana Retailer with which the Marijuana Courier has a Delivery Agreement. A Marijuana Courier is prohibited from delivering Marijuana or Marijuana Products without a specific order destined for an identified Residence. An order may be generated directly through a Marijuana Retailer or through a Third-party Technology Platform identified to the Commission under 935 CMR 500.145(1)(g).

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

(f) Delivery Licensees or a Marijuana Establishments with a Delivery Endorsements are prohibited from delivery of more Marijuana or Marijuana Products to an individual Consumer than the individual possession amounts authorized by M.G.L. c. 94G, § 7(a)(1). An Individual Order may not exceed one ounce of Marijuana or its dry-weight equivalent. The Individual Order shall only be delivered to the individual Consumer identified on the order after verification of the individual's identity consistent with the requirements of 935 CMR 500.140(2)(d) and 500.145(4). A Marijuana Courier or a Marijuana Establishment with a Delivery Endorsements shall only deliver one Individual Order, per Consumer, during each delivery.

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

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

(i) Any Delivery Item that is undeliverable or is refused by the Consumer shall be transported back to the originating Marijuana Establishment that provided the product once all other deliveries included on a delivery manifest have been made. A Marijuana Courier or Marijuana Establishment with a Delivery Endorsement is prohibited from maintaining custody overnight of Marijuana or Marijuana Products intended for delivery. It shall be the responsibility of the Marijuana Courier or Marijuana Establishment with a Delivery Endorsement, in conjunction with the Marijuana Retailer with which there is a Delivery Agreement, to ensure that any undelivered product is returned to the appropriate Marijuana Retailer and not retained by the Marijuana Courier or Marijuana Establishment with a Delivery Endorsement. A process for ensuring that undelivered Marijuana and Marijuana Products can be returned to the Marijuana Retailer by the Marijuana Courier shall be a term of the Delivery Agreement.

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(3) Orders Fulfilled by Delivery Operators. All orders for deliveries made by a Delivery Operator shall comply with 935 CMR 500.145(1)(f) and the following requirements:

(a) Orders for home delivery by a Delivery Operator shall be received by the Delivery Operator.

(b) Only Finished Marijuana Products that are Shelf-stable may be delivered. Products that are perishable or time and temperature controlled to prevent deterioration may not be allowed to be delivered by a Delivery Operator.

(c) A Delivery Operator shall deliver only to the Residence address provided. A Delivery Operator shall be prohibited from delivering to college- or university-designated dormitories or housing; and federal public housing identified at https://resources.hud.gov/.

(d) A Delivery Operator shall only acquire from its inventory at its Warehouse and deliver Finished Marijuana Products for which a specific order has been received by the Licensee. Delivery Operators are prohibited from loading a delivery vehicle for deliveries and delivering Finished Marijuana Products without a specific order destined for an identified Residence. An order may be generated directly through a Delivery Operator or through a Third-party Technology Platform identified to the Commission under 935 CMR 500.145(1)(g).

(e) Delivery Operators are prohibited from delivery of more Finished Marijuana Products to an individual Consumer than the individual possession amounts authorized by M.G.L. c. 94G, § 7(a)(1). An Individual Order may not exceed one ounce of Marijuana or its dry-weight equivalent. The Individual Order shall only be delivered to the individual Consumer identified on the order after verification of the individual's identity consistent with the requirements of 935 CMR 500.145(5). A Delivery Operator shall only deliver one Individual Order, per Consumer, during each delivery.

(f) A Delivery Operator may not deliver to the same Consumer at the same Residence more than once each calendar day and only during authorized delivery hours.

(g) Prior to fulfilling an Individual Order for delivery to a Consumer, each Finished Marijuana Product shall be packaged and labeled in accordance with 935 CMR 500.105(5) and (6) before transportation by the Delivery Operator.

(h) Any Delivery Item that is undeliverable or is refused by the Consumer shall be transported back to the originating Delivery Operator's Warehouse that provided the product once all other deliveries included on a delivery manifest have been made.

(4) Marijuana Courier Consumer Age Verification.

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

(b) Pre-verification of the Consumer's identification shall be performed prior to the initial delivery, by using one of the following Pre-verification methods:

1. In-person at the Marijuana Retailer's physical location or through a Commission approved electronic means, which may include a Commission-approved Third-party Technology Platform, and shall include examination of the Consumer's valid, unexpired government-issued photo identification that bears a date of birth in accordance with 935 CMR 500.140(2)(d). A Marijuana Courier or Marijuana Establishment with a Delivery Endorsement is prohibited from performing a delivery to any Consumer who has not established an account for delivery through Pre-verification of the Consumer's government-issued identification card by the Marijuana Retailer; or

2. Through a Commission-approved electronic means and shall include examination of the Consumer's valid, unexpired government-issued photo identification that bears a date of birth. A Marijuana Establishment with a Delivery Endorsement is prohibited from performing a delivery to any Consumer who has not established an account for delivery through Pre-verification of the Consumer's government-issued identification card.

(c) A Marijuana Courier or a Marijuana Establishment with a Delivery Endorsement may not deliver Delivery Items to any Person other than the Consumer who ordered the Delivery Items.

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(d) A Marijuana Courier or a Marijuana Establishment with a Delivery Endorsement shall verify the age and identity of the Consumer at the time at which the Delivery Items are delivered to the Consumer at a Residence to ensure that Marijuana and Marijuana Products are not delivered to individuals younger than 21 years old. Prior to relinquishing custody of the Marijuana or Marijuana Products to the Consumer, the Marijuana Establishment Agent conducting the delivery shall verify that the government-issued identification card of the Consumer receiving the Marijuana or Marijuana Products matches the pre-verified government-issued identification card of the Consumer who placed the order for delivery by:

1. Viewing the government-issued identification as provided for Pre- verification under 935 CMR 500.145(4)(a);
2. Viewing proof of order generated at the time of order; and
3. Receiving the signature of the Consumer who ordered the Delivery Items and verifying that the signature matches the government-issued photo identification card presented.

(5) Delivery Operator Consumer Age Verification.

(a) A Delivery Operator shall require any Consumer making a purchase for delivery to have the valid government-issued identification card a Consumer intends to use to verify her or his age at the time of delivery examined and authenticated by the Delivery Operator prior to the first Individual Order.

(b) Pre-verification of the Consumer's identification shall be performed prior to the initial delivery through a Commission approved electronic means, which may include a Commission-approved Third-party Technology Platform, and shall include examination of the Consumer's valid, unexpired government-issued photo identification that bears a date of birth.

(c) A Delivery Operator may not deliver Finished Marijuana Products to any Person other than the Consumer who ordered the Finished Marijuana Product.

(d) A Delivery Operator shall verify the age and identity of the Consumer at the time at which the Finished Marijuana Products are delivered to the Consumer at a Residence to ensure that Finished Marijuana Products are not delivered to individuals younger than 21 years old. Prior to relinquishing custody of the Finished Marijuana Products to the Consumer, the Marijuana Establishment Agent conducting the delivery shall verify that the government-issued identification card of the Consumer receiving the Finished Marijuana Products matches the pre-verified government-issued identification card of the Consumer who placed the order for delivery by:

1. Viewing the government-issued identification as provided for Pre- verification under 935 CMR 500.145(5)(a);
2. Viewing proof of order generated at the time of order; and
3. Receiving the signature of the Consumer who ordered the Delivery Items and verifying that the signature matches the government-issued photo identification card presented.

(6) Vehicle and Transport Requirements for Home Delivery.

(a) Vehicles used for home delivery by a Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement shall be owned or leased by the Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement, shall be properly registered as commercial vehicles, and inspected and insured in the Commonwealth of Massachusetts.

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

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

(d) Any vehicle used to transport or deliver Marijuana or Marijuana Products shall comply with applicable Massachusetts Registry of Motor Vehicles (RMV) requirements, but may not include any additional external marking that indicate the vehicle is being used to transport or deliver Marijuana or Marijuana Products.

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

(f) Marijuana and Marijuana Products must not be visible from outside the vehicle.

(g) A Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement shall transport Marijuana and Marijuana Products in a secure, locked storage compartment that is a part of the vehicle and complies with the requirements of 935 CMR 500.110(8).

(h) A Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement shall maintain, in each vehicle used for deliveries, a secure, locked storage compartment for the purpose of transporting and securing cash used as payment. This compartment shall be separate from compartments required under 935 CMR 500.145(5)(h) for the transport of Marijuana and Marijuana Products.

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

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

(k) The Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement shall maintain a separate log for each vehicle in use for home deliveries. For each delivery, the Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement shall record:

1. The location of the originating Marijuana Establishment and date and time the vehicle leaves the location;
2. The mileage of the transporting vehicle at departure from the Marijuana Establishment mileage on arrival at each Consumer destination, and mileage on return to the Marijuana Establishment;
3. The date and time of departure from the Marijuana Establishment and arrival at each Consumer destination for each delivery; and
4. An entry indicating the date and time of the last delivery in an order.

(l) A Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement shall ensure that all delivery routes remain within the Commonwealth of Massachusetts at all times.

(m) A Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement shall make every effort to randomize its delivery routes.

(n) A Delivery Licensee or a Marijuana Establishment with a Delivery Endorsements may not transport products other than Delivery Items during times when the Delivery Licensee or a Marijuana Establishment with a Delivery Endorsements are performing home deliveries.

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

(7) Manifests.

(a) Every home delivery shall have a manifest produced by the originating Marijuana Establishment. A Marijuana Retailer shall provide the manifest to the Delivery Licensee or Marijuana Establishment with a Delivery Endorsement. A Delivery Operator shall produce its manifests. A manifest shall be completed in duplicate, with the original manifest remaining at the premises of the originating Marijuana Establishment, whether it is a Marijuana Retailer or a Delivery Operator, and a copy to be kept with the Delivery Licensee agent or a Marijuana Establishment with a Delivery Endorsement agent during the delivery.

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The manifest shall be signed by the Consumer, and as applicable Patient or Caregiver receiving the Marijuana or Marijuana Products and the Marijuana Establishment Agent acting on behalf of the Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement. A signed manifest shall serve as the written record of the completion of the delivery. A manifest does not need to include Marijuana Accessories or Marijuana Establishment Branded Goods, however, the Delivery Licensee or Marijuana Establishment with a Delivery Endorsement shall maintain a record of the sale of all Delivery Items.

(b) The manifest shall, at a minimum, include:

1. The originating Marijuana Retailer's or Delivery Operator's name, address, and License number;
2. The name and License number of the Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement performing the home delivery;
3. The names and Marijuana Establishment Agent numbers of the Marijuana Establishment Agents performing the delivery;
4. The Consumer's, Patient's or Caregiver's name and address;
5. A description of the Marijuana or Marijuana Products being transported, including the weight and form or type of product;
6. Signature lines for the agents who transported the Marijuana or Marijuana Products;
7. A signature line for Consumer, Patient or Caregiver who receives the Marijuana or Marijuana Products; and
8. The Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement vehicle make, model, and license plate number.

(c) The manifest shall be maintained within the vehicle during the entire transportation process, until all the deliveries are completed.

(d) A Marijuana Establishment shall retain all transportation manifests for no less than one year and make them available to the Commission on request.

500.146: Additional Operational Requirements for Marijuana Delivery Operators

(1) Warehousing.

(a) A Delivery Operator shall operate a Warehouse for the storage of Finished Marijuana Products and preparation of Individual Orders for Delivery.

(b) Warehouses shall comply with all applicable requirements of 935 CMR 500.110.

(c) Warehouses shall comply with all requirements of 935 CMR 500.105(11).

(d) Warehouses shall incorporate a sally port or loading area immediately adjacent to the Warehouse that enables the transfer of Finished Marijuana Products into a vehicle for delivery.

(2) Limitation on Sales.

(a) In accordance with M.G.L. c. 94G, § 7, a Delivery Operator may not knowingly sell more than one ounce or its combined dry weight equivalent in Finished Marijuana Products to Consumers per day.

1. One ounce of Marijuana flower shall be equivalent to five grams of active tetrahydrocannabinol (THC) in Marijuana concentrate including, but not limited to, Tinctures.
2. One ounce of Marijuana flower shall be equivalent to five hundred milligrams of active tetrahydrocannabinol (THC) in Edibles.
3. Topicals and ointments shall not be subject to a limitation on daily sales.

(b) A Delivery Operator may not sell Finished Marijuana Products in excess of the potency levels established by 935 CMR 500.150(4); and

(c) A Delivery Operator shall demonstrate that it has a point-of-sale system that does not allow for a transaction in excess of the limit established in 935 CMR 500.146(1)(a) or the potency levels established in 935 CMR 500.146(1)(b).

(3) Unauthorized Sales and Right to Refuse Sales or Delivery.

(a) A Delivery Operator shall refuse to sell or deliver Finished Marijuana Products to any Consumer who is unable to produce valid proof of government-issued identification.

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(b) A Delivery Operator shall refuse to sell or deliver Finished Marijuana Products to a Consumer if, in the opinion of the Marijuana Establishment Agent based on the information available to the agent at that time, the Consumer or the public would be placed at risk. This includes, but is not limited to, the Consumer engaging in daily transactions that exceed the legal possession limits or that create a risk of diversion.

(c) A Delivery Operator may not sell or deliver to an individual more than one ounce or its dry weight equivalent in Finished Marijuana Products per transaction. A Delivery Operator may not knowingly sell or deliver to an individual more than one ounce or its dry weight equivalency in Finished Marijuana Products per day.

(d) A Delivery Operator is prohibited from selling or delivering Finished Marijuana Products containing nicotine, if sales of tobacco or cigarettes would require licensure under state law.

(e) A Delivery Operator is prohibited from selling or delivering Finished Marijuana Products containing alcohol, if sales of such alcohol would require licensure pursuant to M.G.L. c. 138.

(4) Recording Sales.

(a) A Delivery Operator shall only utilize a point-of-sale system approved by the Commission, in consultation with the DOR.

(b) A Delivery Operator may utilize a sales recording module approved by the DOR.

(c) A Delivery Operator is prohibited from utilizing software or other methods to manipulate or alter sales data.

(d) A Delivery Operator shall conduct a monthly analysis of its equipment and sales data to determine that no software has been installed that could be utilized to manipulate or alter sales data and that no other methodology has been employed to manipulate or alter sales data. A Delivery Operator shall maintain records that it has performed the monthly analysis and produce it on request to the Commission. If a Delivery Operator determines that software has been installed for the purpose of manipulation or alteration of sales data or other methods have been utilized to manipulate or alter sales data:

1. It shall immediately disclose the information to the Commission and DOR;
2. It shall cooperate with the Commission in any investigation regarding manipulation or alteration of sales data; and
3. Take such other action directed by the Commission to comply with 935 CMR 500.105.

(e) A Delivery Operator shall comply with 830 CMR 62C.25.1: *Record Retention* and DOR Directive 16-1 regarding recordkeeping requirements.

(f) A Delivery Operator shall adopt separate accounting practices at the point of sale for Marijuana and Marijuana Product sales, and non-Marijuana sales.

(g) The Commission and the DOR may audit and examine the point-of-sale system used by a Delivery Operator in order to ensure compliance with Massachusetts tax laws and 935 CMR 500.140(5).

(5) Consumer Education. A Delivery Operator shall make available educational materials about Finished Marijuana Products to Consumers. A Delivery Operator shall have an adequate supply of current educational material available for distribution. Educational materials shall be available in commonly spoken languages designated by the Commission, which will include, but not be limited to, appropriate materials for the visually- and hearing-impaired. Such materials shall be made available for inspection by the Commission on request. If there is a failure to provide these materials, a licensee may be subject to disciplinary action under 935 CMR 500.000. The educational material shall include at least the following:

(a) A warning that Marijuana has not been analyzed or approved by the 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;

(b) A warning that when under the influence of Marijuana, driving is prohibited by M.G.L. c. 90, § 24, and machinery should not be operated;

(c) Information to assist in the selection of Finished Marijuana Products, describing the potential differing effects of various strains of Marijuana, as well as various forms and routes of administration;

(d) Materials offered to Consumers to enable them to track the strains used and their associated effects;

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(e) 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 shall also be explained;
(f) A discussion of tolerance, dependence, and withdrawal;
(g) Facts regarding substance use disorder signs and symptoms, as well as referral information for substance use disorder treatment program, and the telephone number for the Massachusetts Substance Use Helpline;
(h) A statement that Consumers may not sell Finished Marijuana Products to any other individual;
(i) Information regarding penalties for possession or distribution of Marijuana in violation of Massachusetts law; and
(j) Any other information required by the Commission.

(6) Testing. No Finished Marijuana Product may be sold or otherwise marketed for adult use that has not first been tested by Independent Testing Laboratories, except as allowed under 935 CMR 500.000. The product shall be deemed to comply with the standards required under 935 CMR 500.160. Potency levels derived from the Cannabinoid Profile, including the amount of delta-nine-tetrahydrocannabinol (Δ9-THC) and other Cannabinoids, contained within Finished Marijuana or Marijuana Product to be sold or otherwise marketed shall be recorded in the Seed-to-sale SOR.

(7) White Labeling. The Licensee engaged in the White Labeling of Finished Marijuana Products shall comply with the labeling and packaging requirements under 935 CMR 500.105(5) and (6) prior to delivery to Consumers.
(a) The Wholesale Agreement between a Delivery Operator and the Marijuana Establishment from which they are wholesaling shall clearly indicate whether the Delivery Operator or the Marijuana Establishment licensee from which the Finished Marijuana Product(s) are being wholesaled shall be responsible for White Labeling on behalf of the Delivery Operator.
(b) The Delivery Operator shall notify the Commission within 21 days of any Substantial Modification to a Wholesale Agreement that alters which Licensee has responsibility for White Labeling on behalf of the Delivery Operator. A Licensee shall obtain the written authorization of the Commission prior to commencing White Labeling.
(c) The Delivery Operator may submit the label to be used for White Labeling to the Commission in accordance with 935 CMR 500.105(7).

(8) Product Database. A Delivery Operator that purchases any Wholesale Finished Marijuana Products from a licensed Marijuana Cultivator, Microbusiness or Craft Marijuana Cooperative for the purpose of delivery to Consumers, whether White Labeled or not, shall provide the Commission with information to populate the Product Database. A Delivery Operator that purchases wholesale Finished Marijuana Products from a licensed Marijuana Product Manufacturer for the purpose of White Labeling and sale to Consumers shall provide the Commission with information to populate the Product Database. Product Database information for Finished Marijuana Products purchased at Wholesale from Product Manufacturers that are not White Labeled shall remain the responsibility of the Product Manufacturer under 935 CMR 500.130(6).
(a) The Delivery Operator shall provide the following:
1. A photograph of a Finished Marijuana Product outside of but next to the Marijuana Product's packaging; provided however that where single servings of a multi-serving product are unable to be easily identified because of its form, a description of what constitutes a single serving shall be provided (*e.g.* a single serving is a 1" x 1" square);
2. A photograph of the Marijuana Product inside packaging; and
3. The name of the Product Manufacturer that produced the Marijuana Product.
(b) Photographs submitted shall be electronic files in a JPEG format with a minimum photo resolution of 640 x 480 and print resolution of 300 DPI. Photographs shall be against a white background.

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(c) A Delivery Operator shall provide the information required under 935 CMR 500.146(7)(a) for each Finished Marijuana Product it offers for sale and delivery prior to the product being made available for sale and shall update the information whenever a substantial change to packaging or label of the Finished Marijuana Product occurs. For purposes of 500.146(8)(c), a substantial change shall be a change to the physical attributes or content of the package or label.

(9) In addition to the written operating policies required under 935 CMR 500.105(1), a Delivery Operator shall maintain written policies and procedures which shall include:

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

(b) Policies and procedures for adequately tracking, recording, and documenting all Vendor Samples that the Delivery Operator provides to employees for the purpose of assessing product quality and determining whether to make the product available to sell.

(10) Vendor Samples.

(a) A Delivery Operator may receive a Vendor Sample of Marijuana flower from a Marijuana Cultivator pursuant to 935 CMR 500.120(13). A Delivery Operator may also receive a Vendor Sample of Marijuana Product from a Marijuana Product Manufacturer pursuant to 935 CMR 500.130(7). Receipt of a Vendor Sample under 935 CMR 500.146(10) shall not be considered a prohibited practice under 935 CMR 500.105(4)(b)6.

(b) Vendor Samples may not be sold to another licensee or Consumer.

(c) A Delivery Operator may provide the Vendor Samples it receives from a Marijuana Cultivator or a Marijuana Product Manufacturer to its Employees for the purpose of assessing product quality and determining whether to make the product available to sell the product. Vendor Samples may not be consumed on any licensed Premises.

(d) Vendor Sample limits. A Marijuana Delivery Operator is limited to providing the following aggregate amounts of Vendor Samples to all Employees in a calendar month period:

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

2. Five grams of Marijuana concentrate or extract including, but not limited to, Tinctures;

3. Five hundred milligrams of Edibles whereby the serving size of each individual sample does not exceed five milligrams and otherwise satisfies the potency levels set forth in 935 CMR 500.150(4); and

4. Five units of sale per Cannabis product line and no more than six individual Cannabis product lines. For purposes of 935 CMR 500.146(12), a Cannabis product line shall mean items bearing the same Stock Keeping Unit Number.

(e) Upon providing a Vendor Sample to an employee, the Delivery Operator shall record:

1. The reduction in quantity of the total weight or item count under the unique alphanumeric identifier associated with the Vendor Sample;

2. The date and time the Vendor Sample was provided to the Employee;

3. The agent registration number of the employee receiving the Vendor Sample; and

4. The name of the Employee as it appears on their agent registration card.

(f) All Vendor Samples provided by a Delivery Operator to its employees shall also be entered into the point-of-sale system and shall count against the individual employee's daily purchase limit, if applicable, consistent with 935 CMR 500.146(2).

(11) Sale of Marijuana Vaporizer Devices.

(a) A Marijuana Delivery Operator offering Marijuana Vaporizer Devices for sale to Consumers shall include a conspicuous and prominently displayed statement on its website, that is legible and enlarged and contains the following statements:

1. "Marijuana Vaporizer Devices have been tested for Vitamin E Acetate and other contaminants, with no adverse findings. WARNING: Vaporizer Devices may contain ingredients harmful to health when inhaled."

2. "Consumers shall have access to the test results of Marijuana Vaporizer Devices including copies of any Certificates of Analysis provided by the device's manufacturer."

(b) A Delivery Operator shall provide a physical insert to Consumers that accompanies all purchased and delivered Marijuana Vaporizer Devices that states, including capitalization and emphasis, the following: "Marijuana Vaporizer Devices have been tested for Vitamin E Acetate and other contaminants, with no adverse findings. WARNING: Vaporizer Devices may contain ingredients harmful to health when inhaled."

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(c) The sale of disposable and reusable vaporizer pens and devices shall be accompanied by a product insert identifying the materials used in the vaporizer device's atomizer coil (*e.g.*, titanium, titanium alloy, quartz, copper, nichrome, kanthal, or other specified material), and manufacturer identification of the device hardware, cartridge, battery and other components;

(d) A Delivery Operator shall make available the information contained in 935 CMR 500.105(5)(c)6 in the product description as part of any product list posted on the Delivery Operator's website or Third-party Technology Platforms or applications employed for delivery.

(e) A Delivery Operator shall retain all records of purchases from any Product Manufacturer or supplier of any ingredient, additive, device, component part or other materials provided to the Delivery Operator about Marijuana Vaporizer Devices sold by licensees. Such records shall be made available to the Commission upon request.

(12) Prohibition on Monopolies.

(a) It shall be a violation of 935 CMR 500.000 for any Delivery Operator to monopolize or attempt to monopolize, or combine or conspire with any other person or entity including, but not limited to, a Third-party Technology Platform Provider, to monopolize any part of licensed activities authorized under 935 CMR 500.000.

(b) It shall be a violation of, 935 CMR 500.000, for any Delivery Operator engaged in activities authorized under 935 CMR 500.000 to make a contract for services with a Third-party Technology Platform Provider for the listing of a Delivery Operator or a Delivery Operator's Finished Marijuana Products on the condition, agreement or understanding that the parties to the contract shall not deal in Marijuana or Marijuana Products, either generally or specific brands or categories of Finished Marijuana Products, of a competitor or competitors of the parties where the effect of such contract or such condition, agreement or understanding may be to lessen substantially competition or tend to create a monopoly in any activity engaged in under 935 CMR. 500.000.

500.147: Operational Requirements for Marijuana Research Facility Licensees and Research Permits.

(1) In addition to the security requirements provided in 935 CMR 500.110, Marijuana Research Facility Licensees shall comply with the operational requirements required under 935 CMR 500.147.

(2) General Requirements

(a) For each research project to be conducted on the Premises, a Marijuana Research Facility Licensee shall have a valid Research Permit issued by the Commission pursuant to 935 CMR 500.147(4) prior to beginning a research project. The Research Permit shall be renewed at least annually, or sooner depending on the nature and duration of the approved research project.

(b) All individuals engaging in research at the Marijuana Research Facility shall be registered with the Commission as Marijuana Establishment Agents under 935 CMR 500.030.

(c) A Marijuana Research Facility Licensee may submit an application for a Research Permit to conduct research in areas including, but not limited to, the following:

1. Chemical potency and composition levels of Marijuana and Marijuana Products;
2. Clinical investigations of Marijuana Products, including dosage forms;
3. Efficacy and safety of administering Marijuana or Marijuana Products as a component of medical treatment under the supervision of a Certifying Healthcare Provider;
4. Genomic research on Marijuana;
5. Horticultural research on Marijuana;
6. Agricultural research on Marijuana; and
7. Other research topics upon the approval of the Commission, provided however that research conducted under the Marijuana Research Facility License may not be a substitute for processes for drug approval established by the U.S. Food and Drug Administration (FDA) pursuant to 21 CFR 312; and the Commission may impose additional standards necessary to ensure the safety and efficacy of Marijuana and Marijuana-derived compounds for their intended research application.

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(d) Marijuana or Marijuana Products used in research conducted under a Marijuana Research Facility License shall be cultivated by, produced by or acquired from a licensed MTC or Marijuana Establishment authorized to cultivate, produce or sell Marijuana or Marijuana Products, which includes a Marijuana Cultivator, Marijuana Product Manufacturer, Marijuana Retailer, a Microbusiness or a Craft Marijuana Cooperative. A Marijuana Research Facility Licensee not authorized to cultivate its own Marijuana may enter into an agreement with a licensed MTC or Marijuana Cultivator, Microbusiness or Craft Marijuana Cooperative to grow Marijuana specifically for research.

(e) Any Marijuana or Marijuana Product cultivated, produced or acquired for use in a Commission-approved research project shall be entered by the Marijuana Establishment providing it to the Marijuana Research Facility Licensee into the Seed-to-sale SOR in a form and manner to be determined by the Commission.

(f) All Marijuana or Marijuana Products used in research and consumed by human or animal subjects shall comply with the following

1. Be adequately described in the Informed Consent Form.
2. Tested in accordance with 935 CMR 500.160 prior to consumption by human or animal subjects.

(g) Any research project where human research subjects are participants shall include one or more licensed physicians in good standing to monitor the participants.

(h) For any research project other than a survey-only research project, human participants in research conducted by a Marijuana Research Facility Licensee where consumption of Marijuana or Marijuana Products is a component of the research project design shall reside in the Commonwealth.

(i) Any research project where animal research subjects are participants shall include one or more licensed veterinary doctors in good standing to monitor the participants.

(j) For any research project other than a survey-only research project, research conducted pursuant to a license granted by the Commission shall be conducted solely within the boundaries of the Commonwealth.

(k) A Marijuana Research Facility Licensee shall supply the Commission with copies of all final reports, findings or documentation regarding the outcomes of approved research projects receiving a Research Permit. Any records received by the Commission may be subject to release pursuant to the Public Records Law, M.G.L. c. 66, § 10 and M.G.L. c. 4, § 7, cl. 26, or other compulsory legal process, or at the Commission's discretion.

(3) Marijuana Research Facility Licensee Activities and Premises.

(a) A Marijuana Research Facility Licensee may conduct research at one or more than one Marijuana Research Facility so long as the facility is approved by the Commission.

(b) A Marijuana Research Facility may be colocated with another Marijuana Establishment provided that the Marijuana Research Facility and other, colocated Marijuana Establishment(s) are commonly owned and physically separated. Physical separation shall include, but may not be limited to, separation by a permanent wall with a secure, locked entrance.

(c) A Marijuana Research Facility Licensee shall only possess for research the amount of Marijuana or Marijuana Products approved by the Commission to be used in each research project receiving a Research Permit.

(d) A Marijuana Research Facility Licensee with more than one Research Permit shall physically separate all Marijuana or Marijuana Products used in the Licensee's approved research projects according to Research Permit and in such a way that it is objectively clear what Marijuana or Marijuana Products are being used for each approved project.

(e) One or more Marijuana Research Facility Licensees may enter into agreements to conduct research jointly on an identified research project, provided that research activities authorized under the Research Permit shall be conducted at one identified, licensed Marijuana Research Facility. The Marijuana Research Facility Licensee shall disclose to the Commission all contracts or agreements entered into with other Marijuana Research Facility Licensees in furtherance of a research project.

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(f) A Marijuana Research Facility Licensee may not permit the consumption of Marijuana or Marijuana Products on its licensed Premises, unless consumption of Marijuana is part of an approved research project holding a valid Research Permit and the Marijuana Research Facility is not co-located with another Marijuana Establishment.

(4) Research Permits

(a) To qualify for a Research Permit to conduct human based research, the research project shall have an Institutional Review Board ("IRB") which shall approve the proposed research project.

(b) Applicants for a Research Permit to conduct research at a Marijuana Research Facility Licensee shall submit for each project the following information to the Commission in a form and manner determined by the Commission:

1. The name and curriculum vitae (CV) of each investigator, including the Principal Investigator who leads the research project and each sub-investigator;
2. The name of each licensed physician in good standing that will lead the project as Principal Investigator, be a sub-investigator, or monitor the participation by human subjects, if any, in the research project;
3. The name of each licensed veterinary doctor in good standing that will lead the project as Principal Investigator, be a sub-investigator, or monitor the participation by animal subjects, if any, in the research project;
4. The IRB Institution, if applicable;
5. A publication-ready summary of the research project to be conducted;
6. A detailed research protocol, including safety protocols;
7. Articulated goals of the research project;
8. Start and end dates of the research project;
9. A description of the project funding or resources, an attestation that the project is adequately funded or resourced, and the sources of funding or resources;
10. Information about the human subject participants, if any, which shall include but not be limited to:
    a. The number of participants;
    b. The number of Registered Qualifying Patients, if any;
    c. Demographic information about the participants;
    d. The ages of the participants;
    e. Any cohort deemed "vulnerable" and applicable safety precautions (*e.g.* pregnant/breastfeeding women, minors, disable veterans, *etc.*);
    f. A copy of the Informed Consent Form or Waiver of Consent, if applicable; and
    g. Documentation that the process of obtaining Informed Consent complied with the Research Licensee's other IRB, institutional, industry, or professional standards.
11. The quantity of Marijuana or Marijuana Products anticipated to be needed over the duration of the research project;
12. The Independent Testing Laboratory where the Marijuana or Marijuana Products will be tested;
13. The name and license number of the Marijuana Research Facility Licensee or facilities where the research project will take place, provided that if a license has not yet been granted to the Marijuana Research Facility, the Research Permit applicant will still identify the facility and provide its application number;
14. The disposal protocol for Marijuana or Marijuana Products that are unused;
15. Disclosures of any actual or apparent conflicts of interest between any Marijuana Research Facility Licensee or Agent and any member of the IRB required by 935 CMR 500.147(4)(b)iv; and
16. Application Fee.

(c) The information required in 935 CMR 500.147(4)(b) to qualify for a Research Permit may, but is not required to, be submitted with an application for licensure as a Marijuana Research Facility.

(d) Prior to receiving a Research Permit for a research project that includes human or animal participants as subjects, the applicant shall submit evidence of approval of the project by the identified IRB. Evidence of IRB approval or exemption may be submitted separately from the information required in 935 CMR 500.147(4)(b), but shall be submitted to receive a Research Permit.

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(e) Materials submitted in support of an application for a permit that are received by the Commission may be subject to release pursuant to the Public Records Law, M.G.L. c. 66, § 10 and M.G.L. c. 4, § 7, cl. 26, or other compulsory legal process, or at the Commission's discretion.

(5) Research Permit Approval.

(a) When evaluating an application for a Research Permit to conduct a research project at a licensed Marijuana Research Facility the Commission or its delegee(s) shall consider:

1. Whether the research project is allowed under 935 CMR 500.147(2)(c);
2. The adequacy of safety protocols detailed in 935 CMR 500.147(3)(b)(vii);
3. The research project design;
4. Whether the research project is adequately funded or resourced and the sources of the funding or resources;
5. Whether the amount of Marijuana or Marijuana Products anticipated to for growth or use during the duration of the research project is consistent with the proposed research project's scope, goals, aims and the protocols for tracking the amount used;
6. Disclosures of agreements between Marijuana Research Facility Licensees and the nature of those agreements; and
7. Whether a required IRB is affiliated with an accredited academic institution, licensed healthcare institution or other licensed research institution and, if not, may require additional information regarding the sufficiency of the IRB as it relates to the proposed research project.
8. Whether sufficient evidence of approval of the research project by the identified IRB has been provided.

(b) Research Permits shall be approved by the Executive Director and shall not require a vote of the Commission prior to issuance.

(c) As set forth in 935 CMR 500.840, the issuance of a Research Permit may not give immunity under federal law or poses an obstacle to federal enforcement of federal law.

(6) Denial of Research Permits.

(a) The Commission or its delegee may deny an application for a Research Permit for any of the following reasons, provided that a written denial including the reason for the denial shall be issued to the applicant(s):

1. No IRB approval;
2. Failure to provide adequate information regarding the IRB;
3. Proposed research poses a danger to public health or safety;
4. Proposed research lacks scientific value or validity;
5. The applicant for the Research Permit is not qualified to do the research;
6. The Research Permit applicant's protocols or funding or other resources are insufficient to perform the research; or
7. Proposed research is otherwise in consistent with the Commission's governing laws.

(b) The applicant shall not be entitled to an administrative hearing under 935 CMR 500.500 for the denial of a research permit.

(7) Inspections and Audits.

(a) The Commission or its delegee(s) may at its discretion inspect a Marijuana Research Facility.

(b) The Commission or its delegee may at its discretion require an audit of a research project granted a Research Permit. Reasons for an audit shall include, but are not limited to:

1. The Commission has reasonable grounds to believe that the Marijuana Research Facility Licensee is in violation of one or more of the requirements set forth in these regulations or present a danger to the public health, safety or welfare;
2. The Commission has reasonable grounds to believe that the activities of the Marijuana Research Facility Licensee or a Marijuana Establishment Agent present a danger to the public health, safety or welfare; or
3. The Commission has reasonable grounds to believe that the Marijuana Research Facility Licensee has been or is engaged in research activities that have not been approved or permitted by the Commission.

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500.150: Edibles

(1) Production of Edibles. Edibles shall be produced in compliance with the following:
(a) Any Edible that is made to resemble a typical food or Beverage product shall be packaged and labeled as required by M.G.L. c. 94G, § 4(a½)(xxiv) and (xxvi), and 935 CMR 500.105(5) and (6).
(b) The Manufacture or sale of Edibles in the following shapes and types is prohibited:
1. The distinct shape of a human, animal, fruit, or sporting-equipment item; or
2. A shape that bears the likeness or contains characteristics of a realistic or fictional human, animal, fruit, or sporting-equipment item including artistic, caricature, or cartoon renderings.
(c) Edibles that are geometric shapes and simply fruit flavored are not considered fruit and are permissible.

(2) Sanitary Requirements. All Edibles shall be prepared, handled, and stored in compliance with the requirements in 935 CMR 500.105(3) and 500.105(11).

(3) Additional Labeling and Packaging Requirements for Edibles.
(a) In addition to the requirements set forth in M.G.L. c. 94G, § 4(a½)(xxiv) and (xxvi), and 935 CMR 500.105(5) and (6), every Marijuana Retailer shall ensure that the following information or statement is Affixed to every container holding an Edible:
1. If the retail Edible is perishable or time and temperature controlled, a statement that the Edible shall be refrigerated.
2. The date on which the Edible was produced.
3. A nutritional fact panel that shall be based on the number of THC servings within the container.
4. Information regarding the size of each serving for the product by milligrams, the total number of servings of Marijuana in the product, and the total amount of active THC in the product by milligrams (mg). For example: "The serving size of active THC in this product is X mg, this product contains Y servings of Marijuana, and the total amount of active THC in this product is (X*Y) mg."
5. A warning that the impairment effects of Edibles may be delayed by two hours or more.
(b) Once a label with a use-by date has been Affixed to a container holding an Edible, a Licensee may not alter that date or affix a new label with a later use-by date.
(c) Each serving of an Edible within a multi-serving package of Edibles shall be easily separable in order to allow an average person 21 years of age or older to physically separate, with minimal effort, individual servings of the product.
(d) Each single serving of an Edible contained in a multi-serving package of Edibles shall be marked, stamped, or otherwise imprinted with the symbol or easily recognizable mark issued by the Commission that indicates the package contains Marijuana consistent with 935 CMR 500.105(5)(b)15. Alternatively, a Licensee may ensure that each single serving of an Edible is individually wrapped and shall mark, stamp, or otherwise imprint each individual wrapper with the symbol or easily recognizable mark issued by the Commission that indicates the serving contains Marijuana consistent with 935 CMR 500.105(5)(b)15.

(e) Each single serving of an Edible contained in a packaged unit of multiple Edible may be marked, stamped, or otherwise imprinted with a symbol or easily recognizable mark issued by the Commission that indicates the package contains Marijuana.

(4) Dosing Limitations. A Marijuana Product Manufacturer may not prepare, and a Marijuana Retailer may not deliver, sell or otherwise distribute an Edible with potency levels exceeding the following limits, which includes the 10% variance allowed by 935 CMR 500.160(12), exceeding the following, as tested by an independent Marijuana testing facility licensed in accordance with M.G.L. c. 94G, § 15:
(a) For a single serving of an Edible, 5.5 milligrams (5.50 mg) of active tetrahydrocannabinol (THC);
(b) In a single package of multiple Edible to be eaten, swallowed, or otherwise ingested, not more than 20 servings or 110 milligrams (110.00mg) of active THC; and
(c) The THC content shall be homogenous, or evenly distributed throughout the Edible. A Retail Marijuana Product shall be considered to not be homogenous if 10% of the infused portion of the Marijuana Product contains more than 20% of the total THC contained within entire Marijuana Product.

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500.160: Testing of Marijuana and Marijuana Products

(1) No Marijuana Product, including Marijuana, may be sold or otherwise marketed for adult use that is not capable of being tested by Independent Testing Laboratories, except as allowed under 935 CMR 500.000. Testing of Marijuana Products shall be performed by an Independent Testing Laboratory in compliance with a protocol(s) established in accordance with M.G.L. c. 94G, § 15 and in a form and manner determined by the Commission including, but not limited to, the Protocol for Sampling and Analysis of Finished Marijuana and Marijuana Products for Marijuana Establishments, Medical Marijuana Treatment Centers and Colocated Marijuana Operations. Testing of environmental media (*e.g.*, soils, solid growing media, and water) shall be performed in compliance with the Protocol for Sampling and Analysis of Environmental Media for Massachusetts Registered Medical Marijuana Dispensaries published by the Commission.

(2) Marijuana shall be tested for the Cannabinoid Profile and for contaminants as specified by the Commission including, but not limited to, mold, mildew, heavy metals, plant growth regulators, and the presence of Pesticides. In addition to these contaminant tests, final ready-to-sell Marijuana Vaporizer Products shall be screened for heavy metals and Vitamin E Acetate (VEA) in accordance with the relevant provisions of the Protocol for Sampling and Analysis of Finished Marijuana and Marijuana Products for Marijuana Establishments, Medical Marijuana Treatment Centers and Colocated Marijuana Operations.

(3) The Commission may, at its discretion, require additional testing where necessitated to safeguard the public health or public safety and so identified by the Commission.

(4) A Marijuana Establishment shall have a written policy for responding to laboratory results that indicate contaminant levels are above acceptable limits established in the protocols identified in 935 CMR 500.160(1).

(a) Any such policy shall include:

1. notifying the Commission within 72 hours of any laboratory testing results indicating that the contamination cannot be remediated and disposing of the Production Batch.

2. notifying the Commission of any information regarding contamination as specified by the Commission or immediately upon request by the Commission.

(b) The notification shall be from both the Marijuana Establishment and the Independent Testing Laboratory, separately and directly.

(c) The notification from the Marijuana Establishment shall describe a proposed plan of action for both the destruction of the contaminated product and the assessment of the source of contamination.

(5) A Marijuana Establishment shall maintain the results of all testing for no less than one year. Testing results shall be valid for a period of one year. Marijuana or Marijuana Products with testing dates in excess of one year shall be deemed expired and may not be dispensed, sold, Transferred or otherwise conveyed until retested.

(6) The sale of seeds is not subject to these testing provisions.

(7) Clones are subject to these testing provisions, but are exempt from testing for metals.

(8) All transportation of Marijuana to and from Independent Testing Laboratories providing Marijuana testing services shall comply with 935 CMR 500.105(13).

(9) All storage of Marijuana at a laboratory providing Marijuana testing services shall comply with 935 CMR 500.105(11).

(10) All excess Marijuana shall be disposed of in compliance with 935 CMR 500.105(12), either by the Independent Testing Laboratory returning excess Marijuana to the source Marijuana Establishment for disposal or by the Independent Testing Laboratory disposing of it directly.

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(11) No Marijuana Product shall be sold or otherwise marketed for adult use that has not first been tested by an Independent Testing Laboratory and deemed to comply with the standards required under 935 CMR 500.160.

(12) Single-servings of Marijuana Products tested for potency in accordance with 935 CMR 500.150(4)(a) shall be subject to a potency variance of no greater than +/- 10%.

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

(a) Reanalysis by a Second ITL. If the Licensee chooses to reanalyze the sample, a sample from the same batch shall be submitted for reanalysis at the ITL that provided the original failed result. If the sample passes all previously failed tests at the initial ITL, a sample from the same batch previously tested shall be submitted to a second ITL other than the initial ITL for a Second Confirmatory Test. To be considered passing and therefore safe for sale, the sample shall have passed the Second Confirmatory Test at a second ITL. Any Marijuana or Marijuana Product that fails the Second Confirmatory Test may not be sold, transferred or otherwise dispensed to Consumers, Patients or Licensees without first being remediated. Otherwise, the Marijuana Establishment shall dispose of any such product.

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

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

500.170: Municipal Requirements

(1) Marijuana Establishments and Marijuana Establishment Agents shall comply with all local rules, regulations, ordinances, and bylaws.

(2) Nothing in 935 CMR 500.000 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 935 CMR 500.000.

500.200: Counties of Dukes County and Nantucket

(1) To the extent permitted by law, Marijuana Establishments operating from locations in the Counties of Dukes County and Nantucket (the "island counties") may operate in full compliance with 935 CMR 500.000.

(2) If Marijuana Establishments operating from locations in the island counties are prevented from operating in full compliance with 935 CMR 500.00 by operation of law, they are not required to utilize Independent Testing Laboratories until such time as a laboratory is located on the island where the Marijuana Establishment is located or the establishment can transport Marijuana Products to the mainland of Massachusetts.

(3) If Marijuana Establishments operating from locations in the island counties are prevented from utilizing Independent Testing Laboratories by operation of law, they are required to test Marijuana Products in a manner that is not Unreasonably Impracticable, but also adequately protects the public health in the opinion of the Commission. Such testing may include:

(a) a modified on-Premises testing system approved by the Commission if the label on any Marijuana or Marijuana Product so tested discloses in capital letters: "WARNING: LIMITED TESTING FOR CONTAMINANTS AND PESTICIDES.";

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(b) a testing facility in the island counties that does not meet the criteria for an Independent Testing Laboratory, but is approved by the Commission for testing by Marijuana Establishments located in the island counties; or
(c) such other testing system approved by the Commission.

(4) A Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement operating in a location in the island counties may only perform deliveries to Residences located in the same county as the Marijuana Establishment which the delivery order originates from until such time as it permitted to deliver to other locations by law.

500.300: Complaints Process

(1) In a time and manner determined by the Commission, a dedicated telephone number, email address or other means shall be provided for members of the public or Consumers to notify the Commission of complaints regarding Marijuana Establishments or Marijuana Establishment Agents.

(2) The Commission may, at its discretion, investigate or decline to investigate any complaint or refer a complaint to another law enforcement or regulatory authority

500.301: Inspections and Compliance

(1) Pursuant to M.G.L. c. 94G, §§ 4(a)(xvii) through (xx), the Commission or a Commission Delegee may inspect a Marijuana Establishment and affiliated vehicles at any time without prior notice to determine the Marijuana Establishment's compliance with M.G.L. c. 94G, and 935 CMR 500.000. All areas, activities and records of a Marijuana Establishment and activities and records of Marijuana Establishment Agents are subject to such inspection. Submission of an application by or issuance of a License to a Marijuana Establishment constitutes consent for such inspection.

(2) A Marijuana Establishment shall allow immediate access to the facility on being presented with photo identification documenting the Commission representative's affiliation with the Commission or a Commission Delegee's affiliation with a state agency with lawful jurisdiction over the operations of a Marijuana Establishment.

(3) A Marijuana Establishment shall immediately on request make available to the Commission or a Commission Delegee all information that may be relevant to an inspection or investigation of an incident or a complaint.

(4) A Marijuana Establishment shall make all reasonable efforts to facilitate the inspection or investigation of an incident or a complaint, including the taking of samples, photographs, video or other evidence or recordings, and complying with demands for examination and inspection in accordance with 935 CMR 500.302.

(5) During an inspection, the Commission or a Commission Delegee may direct a Marijuana Establishment to test Marijuana for contaminants including, but not limited to, mold, mildew, heavy metals, plant-growth regulators, and the presence of Pesticides not approved for use on Marijuana pursuant to 935 CMR 500.120(5).

(6) An inspection or other investigation may be made prior to the issuance of a License or the renewal of a License. Additional inspections may be made whenever the Commission or a Commission Delegee deems it necessary for the enforcement of M.G.L. c. 94G, and 935 CMR 500.000.

(7) The failure to cooperate with an inspection or otherwise comply with 935 CMR 500.301 may result in administrative or disciplinary action against the Licensee.

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500.302: Compliance Examination

(1) After a Marijuana Establishment has been licensed, the Commission or a Commission Delegee, pursuant to M.G.L. c. 94G, § 4(a)(xx), has the authority to demand access to a Marijuana Establishment's papers, books, documents, records, correspondence, electronic communications, and other tangible things to examine and inspect. Such examination and inspection may include interrogatories to parties or *subpoenas* to compel the production of papers, books, documents, records, correspondence, electronic communications, and other tangible things. The examination and inspection of a Marijuana Establishment may also include the interview of material witnesses, registered agents or Close Associates whom the Commission has determined is involved in the financing, management or operation of an establishment.

(2) Administrative *Subpoenas*. The Commission or a Commission Delegee may, during a preliminary investigation prior to a hearing, issue, modify, amend or rescind *subpoenas*. Material witnesses, registered agents, or other Persons whom the Commission has determined are involved in the financing, management or operation of an establishment may petition the Commission to modify, amend or rescind subpoenas.

(3) General Provisions. Administrative subpoenas for compliance examination and inspection shall be issued in the name of the Commission by the Commission or a Commission Delegee. Service may be made in a form and manner determined by the Commission including, but not limited to, by the consent of the parties.

(4) Enforcement of *Subpoenas*. On the failure of a Person to comply with a subpoena, and not subsequently vacated or modified by the Commission or a Commission Delegee, the Commission or a Commission Delegee may apply to the Superior Court for an order to compel compliance with the *subpoena*; an order for costs and fees associated with the issuance and enforcement of the *subpoena;* or an order of contempt for any failure by a party to comply with a court order.

(5) The failure to cooperate with provisions of 935 CMR 500.302 may result in administrative or disciplinary action against the Licensee.

500.303: Unannounced Purchase for Purpose of Investigative Testing (Secret Shopper Program)

(1) Secret Shopper Program Authorized. The Commission or a Commission Delegee may, at any time and without prior notice, authorize an employee or other agent to pose as a customer and purchase any Marijuana or Marijuana Products from any licensed Marijuana Establishment. The Commission or a Commission Delegee may authorize such purchase for any investigative purposes that are consistent with St. 2016, c. 334, as amended by St. 2017, c. 55, M.G.L. c. 94G, M.G.L. c. 94I, 935 CMR 500.000, or 935 CMR 501.000: *Medical Use of Marijuana* including, but not limited to, investigative testing for compliance with laboratory testing standards and identification check requirements. The purchasing employee or agent shall document the purchase, including the date, time, and place of purchase, type and amount of Marijuana or Marijuana Products, and any other information required by the Commission.

(2) Custody and Preservation of Purchases. The Marijuana or Marijuana Products purchased as part of the program shall be securely stored during transport in a manner to prevent contamination or spoilage.

(3) Contamination and Spoilage during Storage or Transport. Any contamination or spoilage of purchases under the Secret Shopper Program during storage or transport while under the control of the purchaser shall be promptly documented by the purchaser in writing and reported to the Commission. The Commission or a Commission Delegee may authorize the disposal of the contaminated or spoiled purchase, pursuant to 935 CMR 500.105(12).

(4) Use of Secret Shopper Investigative Results. Results of investigations conducted under Secret Shopper Program shall be promptly submitted to the Commission.

(a) All investigative results shall be retained as part of the records for the licensed Marijuana Establishment from which the purchase originated.

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(b) The Marijuana Establishment may be notified of any investigative results determined to be noncompliant at a time and manner determined by the Commission.
(c) After the Marijuana Establishment is notified of the investigative results, such results may be used by the Commission to take action on the License of the Marijuana Establishment pursuant to 935 CMR 500.340, 500.450 and 500.500, or assess fines or other civil penalties pursuant to 935 CMR 500.360.
(d) Without notice to the Marijuana Establishment, the Commission may share such investigative results with any other law enforcement or regulatory authorities.
(e) The Commission may elect to conduct further evaluation of the investigative results at any time for verification or for other purposes reasonably related to sanitation, public health or public safety.

(5) The failure to cooperate with provisions of 935 CMR 500.303 may result in administrative or disciplinary action against the Licensee.

500.310: Deficiency Statements

After an inspection in which a violation of St. 2016, c. 334, as amended by St. 2017, c. 55, M.G.L. c. 94G, M.G.L. c. 94I, 935 CMR 500.000, or 935 CMR 501.000: *Medical Use of Marijuana* is observed or a violation is otherwise determined to have occurred, the Commission shall issue a deficiency statement citing every violation identified, a copy of which shall be left with or sent to the Marijuana Establishment.

500.320: Plans of Correction

(1) A Marijuana Establishment shall submit to the Commission a written plan of correction for any violations cited in the deficiency statement issued pursuant to 935 CMR 500.310, within ten business days after receipt of the statement.

(2) A plan 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 will be achieved. The timetable and the compliance dates shall be consistent with achievement of compliance in the most expeditious manner possible.

(3) The Commission shall review the plan of correction and shall notify the Marijuana Establishment of either the acceptance or rejection of the plan or any component of the plan.

(4) An unacceptable plan shall be amended and resubmitted within five business days after receipt of such notice.

(5) The approval of a plan of correction shall not preclude the Commission from issuing an order for further corrective action fixing a reasonable time for correction of the violation, assessing an administrative fine, or taking any other administrative action authorized under the Commission's regulations.

(6) A Marijuana Establishment shall notify the Commission once the plan of correction has been fully implemented and completed.

500.321: Administrative Hold

(1) Pursuant to M.G.L. c. 94G, § 4(a)(xix), the Commission or a Commission Delegee may order an Administrative Hold of Marijuana or Marijuana Products to examine and inspect a Marijuana Establishment to ensure compliance with the provisions of 935 CMR 500.000, prevent the destruction of evidence, prevent the diversion of Marijuana or Marijuana Products, or as otherwise necessary to protect the public health, safety or welfare.

(2) A Marijuana Establishment subject to an Administrative Hold shall retain its inventory pending further investigation by the Commission or a Commission Delegee pursuant to the following procedure:

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(a) If during an investigation or inspection of a Marijuana Establishment, the Commission has reasonable cause to believe certain Marijuana or Marijuana Products are noncompliant under 935 CMR 500.000, or otherwise constitutes a threat to the public health, safety or welfare, the Commission may issue a notice to administratively hold any Marijuana or Marijuana Product. The notice shall identify the Marijuana or Marijuana Product subject to the Administrative Hold and a concise statement stating the reasons relied on in the issuance of the Administrative Hold.

(b) Following the issuance of a notice of Administrative Hold, the Commission will identify and mark the Marijuana or Marijuana Product subject to the Administrative Hold in the Commission's Seed-to-sale SOR. The Marijuana Establishment shall continue to comply with all inventory requirements including, but not limited to, 935 CMR 500.105(8).

(c) The Marijuana Establishment shall completely and physically segregate the Marijuana or Marijuana Product subject to the Administrative Hold in a Limited Access Area, where it shall be safeguarded by the Marijuana Establishment.

(d) While the Administrative Hold is in effect, the Marijuana Establishment shall be prohibited from selling, transporting or otherwise Transferring or destroying the Marijuana or Marijuana Product subject to the Administrative Hold, except as otherwise authorized by the Commission.

(e) While the Administrative Hold is in effect, the Marijuana Establishment shall safeguard the Marijuana or Marijuana Product subject to the Administrative Hold and shall fully comply with all security requirements including, but not limited to, 935 CMR 500.110.

(f) An Administrative Hold may not prevent a Marijuana Establishment from the continued possession, cultivation or harvesting of the Marijuana or Marijuana Product subject to the Administrative Hold, unless otherwise provided by an order of the Commission. All Marijuana or Marijuana Products subject to an Administrative Hold shall be put into separately tracked Production Batches.

(g) An Administrative Hold may not prevent a Marijuana Establishment from voluntarily surrendering Marijuana or Marijuana Products subject to an Administrative Hold, except that the Marijuana Establishment shall comply with the waste disposal requirements in 935 CMR 500.105(12).

(h) At any time after the initiation of the Administrative Hold, the Commission or a Commission Delegee may modify, amend or rescind the Administrative Hold.

(i) The failure to cooperate with provisions of 935 CMR 500.321 may result in administrative or disciplinary action against the Licensee

500.330: Limitation of Sales

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

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

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

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500.335: Removal and Prohibition of Marijuana and Marijuana Products

(1) Pursuant to M.G.L. c. 94G, § 4(a½)(xxxi), the Commission or a Commission Delegee may order the removal or prohibition of sales by more than one Licensee of categories of product types, of specific product types or of specific brands of products after notice and a determination that Marijuana, Marijuana Products, and Marijuana Accessories (for the purposes of 935 CMR 500.335 "Product"), which based on preliminary evidence, pose a substantial risk to the public health, safety or welfare including, but not limited to, that the product is especially appealing to Persons younger than 21 years old.

(a) The Commission may vote to initiate a complaint about a Product and refer that complaint to the Executive Director and Enforcement staff for investigation.

(b) In consultation with the Executive Director, Enforcement staff may conduct an investigation and make a recommendation as to the Removal of Product. The recommendation shall be based on credible and reliable evidence and provide a specific description of the scope of removal and specify whether the removal or prohibition on sales applies to one of the following:

1. Category of Product Type(s). A type of Product including, but not limited to, Marijuana seeds, Marijuana Clones, Marijuana Edibles, Beverages, topical products, ointments, oils, Tinctures, oral dosage forms or any other product identified by the Commission or a Commission Delegee.

2. Specific Product Type(s). A specific type of Product within a category of Products, but not including other types of Product within the same category.

3. Specific Brand of Product(s). One or more specific Product types or category types Manufactured by a Marijuana Product Manufacturer or a specific Product type or category type Manufactured by multiple Marijuana Product Manufacturers subject to an agreement including, but not limited to, a partnership, product licensing, distribution, branding, Advertising, marketing or sales agreement.

(2) After receiving a recommendation from Enforcement staff, the Executive Director may act to address the substantial risk to the public health, safety or welfare including, but not limited to:

(a) Refer the matter to a Hearing Officer with expertise to evaluate scientific evidence to conduct an informal hearing;

(b) If credible and reliable evidence has been evaluated and found to meet the standard of a substantial risk to public health, safety or welfare if one is not yet issued, order the quarantine or Removal of Product or prohibition on sales of a Product pending consideration by a Hearing Officer; or

(c) Refer the matter to the Commission.

(3) When a matter is referred by the Executive Director, the Hearing Officer may conduct an informal hearing.

(a) If necessary and in consultation with the Executive Director, the Hearing Officer may develop a process for the purpose of identifying the Licensees and Registrants that may be impacted by a current or future order including, but not limited to, identifying those Licensees and Registrants to whom providing adequate notice and an opportunity to be heard shall be given.

(b) The Hearing Officer shall exercise discretion in admitting and weighing evidence including, but not limited to, testimony and evidence from:

1. Licensees and Registrants; and

2. Subject-matter experts.

(c) The Hearing Officer shall issue findings of fact and make a recommended decision to the Executive Director.

(d) To the extent that the Hearing Officer recommends that Products be removed or prohibited, this recommendation shall be based on credible and reliable evidence that the Product poses a substantial risk to the public health, safety and welfare.

(4) The Executive Director may refer the matter to the Commission and make a recommendation.

(5) On referral by the Executive Director, prior to issuing any order, the Commission shall deliberate on the Executive Director's recommendation at a public meeting of the Commission.

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(a) If there is a recommendation that the Products be removed and prohibited, this recommendation shall be based on credible and reliable evidence that the Product poses a substantial risk to the public health, safety and welfare.
(b) An order shall require a vote by the Commission.
(c) The Commission or a Commission Designee shall send written notice of the action taken against an identified Licensee or Registrant and the basis for that action. The notice shall include, but not be limited to, the following information:
1. the Commission's statutory and regulatory authority, including its jurisdiction over the subject matter; and its authority to take action with regards to the License or registration;
2. the factual basis for that action;
3. the extent to which the product poses a substantial risk to the public health, safety and welfare; and
4. the current restrictions on the Licensee's or Registrant's operations or sales or other use of Products, if any, including the method and timing of the Removal of Product including, but not limited to, whether the Product shall be destroyed in accordance with 935 CMR 500.105(12).
(d) The Commission or a Commission Designee may modify, amend or rescind a notice on condition(s) just to all the parties.

(6) On receipt of the order, the Licensee and its associated agents will immediately comply with the requirements of the order and, if requested by the Commission, post notice at public entrances to the establishment or other notice in a form and manner determined by the Commission.

(7) The order shall be transmitted immediately to all other Licensee(s) or Registrant(s) that may reasonably be affected by the order by electronic and certified mail.

(8) The order may be posted on the Commission's website.

(9) It shall be a violation of 935 CMR 500.000 for Licensees to produce, sell or otherwise make available the categories of Product Types, Specific Product Types or Specific Brands of Products identified in the order.

(10) A Marijuana Establishment subject to the order shall accept Consumer returns of unused and unopened product for a period of 30 days after the effective date of the order.

(11) The failure to cooperate with provisions of 935 CMR 500.335 may result in further administrative or disciplinary action against the Licensees or Registrants

500.340: Quarantine Order

(1) Pursuant to its authority under M.G.L. c. 94G, § 4(a)(xix) and (a½)(xxxi), a Quarantine Order may be imposed by the Commission or a Commission Delegee to immediately quarantine or otherwise restrict the sale or use of Marijuana or Marijuana Products by a Licensee or Registrant to protect the public health, safety or welfare.

(2) If, based on complaint(s), inspection(s), affidavit(s) or other credible evidence, the Commission or a Commission Delegee determines that a Licensee or Registrant, or the Marijuana or Marijuana Products cultivated, produced or sold by a Licensee or Registrant pose an immediate or serious threat to the public health, safety or welfare, the Commission or a Commission Delegee may issue an order to the Licensee that:
(a) quarantines or otherwise restricts the sale or use of Marijuana or Marijuana Products prepared by or in the possession of the Licensee; or
(b) quarantines or otherwise restricts the sales or use of Marijuana or Marijuana Products to the extent necessary to avert a threat, pending final investigation results.

(3) On receipt of the order, the Licensee and its associated agents will immediately comply with the requirements of the order and, if requested by the Commission, post notice at public entrances to the establishment or other notice in a form and manner determined by the Commission or a Commission Delegee.

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(4) The Commission or a Commission Delegee may modify, amend or rescind the order at any time after its issuance on condition(s) to all the parties.

(5) To the extent that the issuance of a Quarantine Order is to investigate a substantial risk to public safety, health and welfare, a Licensee may not have a right to a hearing, unless and until the order remains in effect beyond 21 calendar days without any further action by the Commission or a Commission Delegee.

(6) The failure to cooperate with provisions of 935 CMR 500.340 may result in administrative or disciplinary action against the Licensees or Registrants.

500.350: Cease and Desist Order and Summary Suspension Order

(1) Pursuant to its authority under M.G.L. c. 94G, § 4(a) and (a½), a Cease and Desist Order or a Summary Suspension Order may be imposed by the Commission or a Commission Delegee prior to a hearing to protect the public health, safety, or welfare.

(2) If based on inspection(s), affidavit(s), or other credible evidence, the Commission or a Commission Delegee determines that a Licensee or Registrant or the Marijuana or Marijuana Products cultivated, produced or sold by a Licensee or Registrant pose an immediate or serious threat to the public health, safety or welfare, the Commission or a Commission Delegee may:

(a) Issue a Cease and Desist Order that requires cessation of any or all operations including, but not limited to, the cultivation, product manufacturing, Transfer, sale, delivery or transportation of Marijuana or Marijuana Products; or

(b) Issue a Summary Suspension Order that requires the immediate suspension of a License and its associated registrations and cessation of all operations.

(3) Notice of Violations.

(a) For a Cease and Desist or Summary Suspension Order issued under 935 CMR 500.350(2), the Commission or a Commission Delegee shall send written notice of the action taken against a Licensee or Registrant and the basis(es) for that action which shall include, but not be limited to, the following information:

1. The Commission's statutory and regulatory authority, including its jurisdiction over the subject matter and its authority to take action with regards to the License or registration;
2. The factual basis(es) of the action;
3. The immediate threat to the public health, safety, and welfare;
4. The alleged violation(s) of law, including the alleged noncompliance with law, regulation, guideline or other applicable requirement;
5. The current restriction(s), if any, on the Licensee's or Registrant's operations;
6. Requirements for the continued maintenance and security of any Marijuana and Marijuana Products;
7. The potential for further disciplinary action(s), sanction(s) or fine(s); and
8. The Licensee's right to a hearing, if any.

(b) The Commission or a Commission Delegee may modify, amend or rescind the order at any time after its issuance on condition(s) just to all the parties.

(4) On receipt of the order issued under 935 CMR 500.350(2), the Licensee and its associated agents will immediately comply with the requirements of the order and, if requested, post notice at public entrances to the establishment or other notice in a form and manner determined by the Commission or a Commission Delegee.

(5) Hearings. Pursuant to its authority under M.G.L. c. 94G, § 4(a)(xxiv) and (g), the Commission has the authority to administer the administrative hearing process and to delegate to a Hearing Officer the authority to conduct an administrative hearing.

(a) Hearing Request. On written request filed with the Commission, a Licensee shall be afforded a hearing on an order issued under 935 CMR 500.350(2). The hearing request shall be submitted in a form and a manner determined by the Commission or a Commission Delegee including, but not limited to, the request shall be made no later than 21 calendar days after the effective date of the order. A request for a hearing is filed on the date the request is received by the Commission.

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1. A timely request for a hearing shall specifically identify each issue and fact in dispute and state the position of the Licensee, the pertinent facts to be adduced at the hearing, and the reasons supporting that position.
2. The failure to timely file a request for a hearing or to state the basis of the hearing request will result in dismissal of the challenge to the findings set forth in the notice of violation(s) or action(s).

(b) Hearing Notice. If a hearing is requested in a timely manner under 935 CMR 500.350(5)(a), the Hearing Officer shall provide notice and a hearing promptly after that request, or as soon as is practicable, or at a time mutually agreed by the parties.

(c) Conduct of the Hearing.

1. The hearing shall be conducted pursuant to Standard Adjudicatory Rules of Practice and Procedure, which includes 801 CMR 1.01: *Formal Rules*, 801 CMR 1.02: *Informal/Fair Hearing Rules*, and/or 801 CMR 1.03: *Miscellaneous Provisions Applicable to All Administrative Proceedings*.
2. The scope of the hearing shall be limited to whether there existed prior to, or at the time of the order(s) issued pursuant to 935 CMR 500.350(2), or an amended or a modified order, an immediate or serious threat to the public health, safety, or welfare.
3. If the Commission proves by a preponderance of the evidence that there existed an immediate or serious threat to the public health, safety, or welfare, the Hearing Officer shall affirm the order.
4. The Hearing Officer shall electronically mail a copy of the recommended decision to each Licensee or Registrant and their attorney(s) of record, and mail a copy on written request.

(6) The requirements of an order issued under 930 CMR 500.350(2) shall remain in effect until one of the following events has occurred:

(a) The Commission modifies, amends or rescinds the order;

(b) There is a Final Decision on the merits of the order, including judicial review of the order, unless the order is vacated or modified by a court of competent jurisdiction or rescinded by the Commission;

(c) There is a Final Decision on the merits of a subsequently issued Order to Show Cause under 935 CMR 500.370, including judicial review of the order, unless the order is vacated or modified by a court of competent jurisdiction or rescinded by the Commission; or until such time as is otherwise established under the procedures set forth in 935 CMR 500.500.

500.360: Fines

The Commission or a Commission Delegee may issue an order to a Licensee to show cause as to why a fine or other financial penalty against a Licensee or Registrant should not be imposed for any acts or omissions determined to be in violation of the state Marijuana laws, including M.G.L. c. 94G, and 935 CMR 500.000.

(1) Notice of Fines. The Commission or a Commission Delegee shall send written notice of the action taken against a Licensee or Registrant and the basis(es) for that action which shall include, but not be limited to, the following information:

(a) The Commission's statutory and regulatory authority, including its jurisdiction over the subject matter and its authority to issue the order with regards to the License or registration;

(b) The factual basis(es) of the order;

(c) The alleged violation(s) of law;

(d) An assessment of an administrative fine of up to $50,000 per violation, or an order for corrective action fixing a reasonable time for correction of the violation or both; and

(e) Notice to the Licensee or Registrant that they may request a hearing in accordance with 935 CMR 500.500.

(2) An administrative fine of up to $50,000 may be assessed for each violation.

(a) The decision to impose any fine or financial penalty shall identify the factors considered by the Commission or a Commission Delegee in setting the amount.

(b) Each day during which a violation continues may constitute a separate violation, and each instance and provision of the state Marijuana laws, including M.G.L. c. 94G, and 935 CMR 500.000, that is violated may constitute a separate violation.

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(3) The Commission or a Commission Delegee, in determining the amount of fine or financial penalty to impose may consider greater or lesser amount depending on aggravating or mitigating circumstances including, but not limited to:

(a) Aggravating Circumstances.

1. Duration and severity of violation;

2. Whether the Licensee has previously been subject to an administrative action against its provisional or final License including, but not limited to, a notice of deficiency;

3. Whether the Licensee knew or had reason to know of the violation including, but not limited to, warning or issuance of a notice of deficiency; and

4. Whether the offense:

a. Constitutes grounds for denial of a renewal application or suspension or revocation of licensure;

b. Involved multiple Persons or Entities Having Direct or Indirect Control or agents of the Licensee;

c. Involved any compensating features associated with a valid waiver issued pursuant to 935 CMR 500.850;

d. Involved a Person younger than 21 years old or a Registered Qualifying Patient or Caregiver;

e. Involved or affected multiple Consumers;

f. Involved or exposed the public to risk of diversion; or

g. Created a risk to the public health, safety or welfare.

(b) Mitigating Circumstances.

1. Whether the Commission learned of the violation or risk of violation from the Licensee or Registrant prior to investigation;

2. The financial impact of corrective measures, if any, which provide safeguards exceeding the minimum requirements of 935 CMR 500.000. However, financial impact may not include any cost associated with loss of economic opportunity due to noncompliance or costs of corrective action necessary to achieve compliance with minimum requirements of 935 CMR 500.000;

3. The Licensee's or Registrant's good faith efforts to avoid a violation;

4. The Licensee's or Registrant's degree of cooperation in the investigation;

5. The Licensee's or Registrant's willingness to accept responsibility;

6. The Licensee's or Registrant's compliance with the training requirements pursuant to 935 CMR 500.105(2)(b); and

7. The Licensee's or Registrant's status as current or past leader pursuant to the Leadership Ratings Program under 935 CMR 500.040.

(4) The fine or financial penalty shall be due and payable within 30 calendar days of the date of one of the following:

(a) The date of the assessment; or

(b) If a hearing is requested pursuant to 935 CMR 500.500, the date of the final agency action.

(5) Failure to timely pay the fine or financial penalty may result in further action being taken by the Commission or a Commission Delegee including, but not limited to, suspension or revocation of a License or registration.

(6) If remaining unpaid at the time of Licensure renewal, the fine or financial penalty shall be added to the fee for renewal of the License. A License may not be renewed without the payment of the renewal fee and if applicable, an unpaid fine or financial penalty.

(7) All fines and financial penalties collected by or on behalf of the Commission, pursuant to 935 CMR 500.360, shall be made payable to the Commission and deposited into the Marijuana Regulation Fund. The failure to cooperate with provisions of 935 CMR 500.360, may result in administrative or disciplinary action against the Licensees or Registrants.

500.370: Order to Show Cause

(1) If, after investigation, the Commission or a Commission Delegee determines that there are grounds to suspend or revoke a License or registration, it may also issue an Order to Show Cause why the Licensee or registration should not be suspended or revoked.

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(2) Notice of Violations. The Commission or a Commission Delegee shall send written notice of the action taken against a Licensee or Registrant and the basis for that action which shall include, but not be limited to, the following information:

(a) The Commission's statutory and regulatory authority, including its jurisdiction over the subject matter and its authority to issue the order with regards to the License or registration;

(b) The factual basis(es) of the order;

(c) The alleged violation(s) of law, including the alleged noncompliance with law, regulation, guideline or other applicable requirement;

(d) The restriction(s) on the Licensee's or Registrant's operations or the sale or use of Marijuana or Marijuana Products, if any;

(e) The potential for further disciplinary action(s), sanction(s) or fine(s); and

(f) The right to a hearing, if any.

(3) The Commission or a Commission Delegee may modify, amend or rescind an order issued pursuant to 935 CMR 500.370 on condition(s) to all the parties.

500.400: Marijuana Establishment: Grounds for Denial of Application for Licensure

Each of the following, in and of itself, constitutes full and adequate grounds for denying an applicant on an applicationfor a Marijuana Establishment License and the associated individuals and entities, but not for the renewal of a License.

(1) The applicant failed to complete the application process within the time required by the Commission.

(2) Information provided by the applicant was deceptive, misleading, false or fraudulent, or that tends to deceive or create a misleading impression, whether directly, or by omission or ambiguity, including lack of disclosure or insufficient disclosure.

(3) The application indicates an inability to maintain and operate a Marijuana Establishment in compliance with the requirements of St. 2016, c. 334, as amended by St. 2017, c. 55, M.G.L. c. 94G, and 935 CMR 500.00 including, but not limited to, 935 CMR 500.105 and 935 CMR 500.110, based on the submission of information required by 935 CMR 500.101(1).

(4) The applicant has been determined to be unsuitable pursuant to any one or more of the factors listed in 935 CMR 500.800 and 935 CMR 500.801.

(5) The applicant failed to comply with the control limitations listed in 935CMR 500.050(1)(b) or would likely fail to comply with such limitations if a License were granted.

(6) An applicant had its License or registration revoked or application denied in the Commonwealth or an Other Jurisdiction.

(7) Any other ground that serves the purposes of St. 2016, c. 334, as amended by St. 2017, c. 55, M.G.L. c. 94G, or 935 CMR 500.0000.

500.415: Void Marijuana Establishment License

A Marijuana Establishment License is void if the Marijuana Establishment Ceases to Operate or transfers its location without Commission approval or adds a Person or Entity Having Direct or Indirect Control to the License without Commission approval.

500.450: Marijuana Establishment License: Grounds for Suspension, Revocation and Denial of Renewal Applications

Each of the following, in and of itself, constitutes full and adequate grounds for suspending or revoking a Marijuana Establishment's License or denying a renewal application for a Marijuana Establishment License.

(1) The Marijuana Establishment is not operational within the time projected in the License application or the time otherwise approved by the Commission.

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(2) Information provided by the Marijuana Establishment was deceptive, misleading, false or fraudulent, or that tends to deceive or create a misleading impression, whether directly, or by omission or ambiguity, including lack of disclosure or insufficient disclosure.

(3) The Marijuana Establishment has failed to comply with any requirement of St. 2016, c. 334, as amended by St. 2017, c. 55, M.G.L. c. 94G, or 935 CMR 500.000, or any applicable law or regulation including, but not limited to, the laws and regulations of the Commonwealth relating to taxes, child support, workers' compensation, and professional and commercial insurance coverage.

(4) The Marijuana Establishment has failed to submit a plan of correction as required or to implement the plan as submitted pursuant to 935 CMR 500.320.

(5) The Marijuana Establishment has assigned or attempted to change ownership or assign its License to another entity without prior approval of the Commission under 935 CMR 500.104.

(6) The Licensee failed to comply with the control limitations listed in 935 CMR 500.050(1)(b) or would likely fail to comply with such limitations if a renewal License were granted.

(7) There has been a lack of responsible operation of the Marijuana Establishment, as shown by, but not limited to, one or more of the following:

(a) Failure to maintain the Marijuana Establishment in a clean, orderly, and sanitary fashion;

(b) Permitting a Marijuana Establishment Agent to use a Registration Card belonging to a different person;

(c) Failure to make substantial progress toward the Marijuana Establishment's submitted diversity plan or positive impact plan;

(d) Repeated sales of Marijuana Products to individuals younger than 21 years old, unless, in each instance, the Marijuana Establishment Agent reasonably relied on validly issued government-issued identification card in compliance with M.G.L. c. 94G, § 9(b);

(e) Repeated failure to verify the age of an individual prior to permitting that individual on the Premises of a Marijuana Establishment or making sales of Marijuana Products to that individual; or

(f) Other incompetent or negligent operation.

(8) The financial management of the Marijuana Establishment has resulted in the filing of a petition for Court Appointee related to the financial solvency of the Marijuana Establishment.

(9) A licensee fails to satisfy the requirements of 935 CMR 500.104(3) or (4), as applicable.

(10) A person on a Marijuana Establishment License has maintained a substandard level of compliance with the statutory and regulatory requirements for the operation of a Marijuana Establishment in an Other Jurisdiction including, but not limited to: a failure to correct deficiencies, a limitation on, or a suspension, revocation or refusal to grant or renew a registration or License to operate.

(11) The conduct or practices of the Marijuana Establishment demonstrate a lack of suitability as specified in 935 CMR 500.800 and 500.801.

(12) An individual or entity on a Marijuana Establishment License or Marijuana Establishment Agent has a history of criminal conduct as evidenced by any criminal proceedings that resulted in conviction, guilty plea, plea of *nolo contendere*, or admission to sufficient facts in the Commonwealth or Other Jurisdictions.

(13) An individual or entity listed on a Marijuana Establishment License has committed, permitted, aided or abetted, or conspired to commit any illegal practice(s) in the operation of any Marijuana Establishment including, but not limited to, engaging in the diversion of Marijuana or Marijuana Products.

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(14) The Marijuana Establishment 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 Marijuana Establishment.

(15) The conduct or practices of the Marijuana Establishment have been detrimental to the safety, health, or welfare of the public.

(16) The conduct or practices of the Marijuana Establishment violate 935 CMR 500.145(1)(g)(3) or 500.146(12).

(17) Any other ground that serves the purposes of St. 2016, c. 334, as amended by St. 2017, c. 55, or 935 CMR 500.000.

500.500: Hearings and Appeals of Actions on Licenses

(1) The Commission has the authority to administer the administrative hearing process under M.G.L. c. 94G, § 4(a)(xxiv) and (g).

(2) A Licensee shall be afforded a hearing on any adverse action taken pursuant to:
(a) 935 CMR 500.360;
(b) 935 CMR 500.370;
(c) 935 CMR 500.450; or
(d) Any other notice of the Commission that specifies that the Licensee or Registrant has a right to challenge the findings of fact and conclusions of law set forth in the Commission's notice using the process set forth in 935 CMR 500.500.

(3) Notice(s).
(a) Notice of Violation(s) includes a notice issued in accordance with 935 CMR 500.360 and 500.370.
(b) Notice of Other Action(s). The Commission or a Commission Delegee shall send written notice of the action including, but not limited to, a denial of a renewal License, taken against a Licensee and the basis(es) for that action which shall include, but not be limited to, the following information:
1. The Commission's statutory and regulatory authority, including its jurisdiction over the subject matter and its authority to take action with regards to the License or registration;
2. The factual basis(es) for that action;
3. The alleged violation(s) of law, including its jurisdiction over the subject matter and its authority to issue the order with regards to the License or registration;
4. The current restriction(s) on the Licensee's operations or the sale or use of Marijuana or Marijuana Products, if any;
5. The potential for further disciplinary action(s), sanction(s) or fine(s); and
6. The Licensee's right to a hearing, if any.
(c) The Commission or a Commission Delegee may modify, amend or rescind a notice issued under 935 CMR 500.500(3)(C).

(4) Hearing Request. The hearing request shall be submitted in a form and a manner determined by the Commission or a Commission Delegee including, but not limited to, the request shall be made no later than 30 days after the effective date of the notice. A request for a hearing is filed on the date the request is received by the Commission.
(a) A timely request for a hearing shall specifically identify each issue and fact in dispute and state the position of the Licensee, the pertinent facts to be adduced at the hearing, and the reasons supporting that position.
(b) The failure to timely file a request for a hearing or to state the basis of the hearing request will result in dismissal of the challenge to the findings set forth in the notice of violation(s) or action(s).

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(c) If a timely request for an hearing is made, the Licensee may also seek to stay any action until there has been a final agency action pursuant to 935 CMR 500.500(7) or (12); provided, however, that if the Commission issues an order or notice on the basis of information that ongoing operations pose an immediate or serious threat to the public health, safety or welfare, and that operations without restrictions during the pendency of the administrative appeal could reasonably be expected to endanger the health, safety or welfare of the public, there will be no stay.

(d) Nothing in 935 CMR 500.500 shall preclude the Commission or a Commission Delegee from issuing a stay.

(5) Hearing Officer. The Commission shall designate a Hearing Officer or delegate this designation to the Executive Director.

(6) Hearing Officer's Authority to Take Action in the Event of Waiver, Default or Summary Decision.

(a) Waiver. If a Licensee fails to request a hearing in a timely manner or otherwise waives their right to a hearing, the Hearing Officer may assume the truth of the allegations set forth in the notice and recommend to the Commission disciplinary action(s), sanction(s) or fine(s) or an informal disposition of the matter.

(b) Default. If a Licensee defaults, the Hearing Officer or other Commission Delegee may assume the truth of the allegations set forth in the notice and recommend to the Commission appropriate disciplinary action(s), sanction(s) or fine(s) or an informal disposition of the matter.

(c) Summary Decision. If there is no genuine issue of fact to be determined by a hearing, the Hearing Officer may assume the truth of the allegations set forth in the notice and recommend to the Commission disciplinary action(s), sanction(s) or fine(s) or an informal disposition of the matter.

(d) For actions without a hearing under 935 CMR 500.500(6)(a) through (c), the Hearing Officer may conduct an evidentiary hearing on the appropriateness of disciplinary action(s), sanction(s) or fine(s).

(7) Commission's Authority to Review, Approve or Reject Informal Dispositions. At any time, the Commission or a Commission Delegee may, in its discretion, review, approve or reject an informal disposition, but only on a showing that the alleged violations have been corrected, and a submission of a written waiver of its right to judicial review.

(8) Hearing Notice. If a hearing is requested in a timely manner under 935 CMR 500.500(4) the Hearing Officer shall provide notice and a hearing within a reasonable time after that request, or as soon as is practicable, or at a time mutually agreed by the parties.

(a) The hearing notice should comply with M.G.L. c. 30A, § 11(1).

(b) Prior to the commencement of a proceeding, a Hearing Officer may conduct conference(s) and refer or require the parties to participate in settlement negotiations. If the parties reach a settlement, the Hearing Officer shall suspend the proceedings pending Commission consideration of the matter under 935 CMR 500.500(7).

(9) Conduct of the Hearing

(a) To the extent that a Hearing Officer conducts a proceeding, it shall be conducted pursuant to M.G.L. c. 30A and the Standard Adjudicatory Rules of Practice and Procedure, which includes 801 CMR 1.01: *Formal Rules*, 801 CMR 1.02: *Informal/Fair Hearing Rules,* and/or 801 CMR 1.03: *Miscellaneous Provisions Applicable to All Administrative Proceedings*.

(b) In the case of an Order to Show Cause why a License should not be suspended or revoked, the hearing shall be conducted pursuant to M.G.L. c. 30A, §§ 10, 11 and 12.

(c) If after the commencement of the hearing, the parties reach a settlement, the Hearing Officer shall suspend the proceedings pending Commission consideration of the matter under 935 CMR 500.500(7).

(10) Reopening of Hearings. At any time before the Commission's Final Decision is issued, on the motion of any party or on their own initiative, the Commission by a majority vote or the Hearing Officer may on good cause shown reopen the hearing for the purpose of receiving new evidence.

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(11) Hearing Officer's Recommended Decision.

(a) Burden of Proof.

1. For a notice of violation(s), the Commission or a Commission Delegee bears the burden of proving the Licensee(s)' violation(s) of law.

2. For a notice of action(s) including, but not limited to, the denial of a renewal License, the Licensee bears the burden of proving the qualifications for licensure.

(b) The Hearing Officer will make a recommended decision to the Commission.

1. The recommended decision may affirm, modify, or overturn the actions proposed in the notice of violation(s) or action(s).

2. The recommended decision shall be in writing to the Commission for its consideration which shall include, but not be limited to, a statement of reasons, including a determination of each issue of fact or law necessary to the decision.

3. The Hearing Officer may recommend disciplinary action(s), sanction(s) or fine(s) or an informal disposition of the matter and provide reasons for the recommendation, including whether the recommendation is consistent with the notice of violation(s) or action(s) and the Commission's prior disciplinary action(s), sanction(s) or fine(s).

4. The Hearing Officer shall electronically mail a copy of the recommended decision to each Licensee or their attorney(s) of record and on request, mail a copy of the recommended decision to each Licensee or their attorney(s) of record.

(c) Within 21 calendar days of the issuance of the recommended decision, the parties may submit to the Commission written objections and arguments regarding the Hearing Officer's recommended decision.

(12) Commission's Final Decision.

(a) The Commission may affirm, adopt, modify, amend, or reverse the recommended decision of the Hearing Officer or remand the matter for further consideration.

(b) The Commission's decision shall be considered the Final Decision, unless its authority to render a Final Decision is delegated.

1. The Final Decision shall be in writing. The drafting of the decision may be delegated to the General Counsel so long as the Commission votes on the substance of the Final Decision.

2. The Final Decision may incorporate by reference the Hearing Officer's recommended decision in whole or in part. The Commission shall consider the parties' written objections and arguments regarding the Hearing Officer's recommended decision under 935 CMR 501.500(11)(c), but is not required to respond to these submissions.

3. The Final Decision shall include, but not be limited to, the following:

a. A statement of reasons including determination of each issue of fact or law necessary to the decision; and

b. Any disciplinary action(s), sanction(s) or fine(s) or an informal disposition of the matter.

(c) The vote on the Final Decision shall be supported and signed by at least three Commissioners. As part of its vote, the Commission may delegate to the General Counsel action(s) needed to finalize the decision including, but not limited to, the stamping of Commissioners' signatures.

(d) The Commission's Final Decision is a final agency action reviewable under M.G.L. c. 30A, § 14.

(e) The Commission or a Commission Delegee shall electronically mail a copy of the recommended decision to each Licensee or their attorney(s) of record and on request, mail a copy of the recommended decision to each Licensee or their attorney(s) of record.

(13) Appeals. Any Person aggrieved by a Final Decision may appeal that decision to the Superior Court in accordance with M.G.L. c. 30A, § 14. The filing of an appeal shall not operate as a stay of enforcement of the Commission's decision, but the Commission may, in its discretion, stay enforcement.

500.800: Suitability Standard for Licensure and Registration

(1) Pursuant to M.G.L. c. 94G, § 4(a)(xii), (xiv), and § 21(a)(ii), the Commission may make, in an exercise of its discretion, a suitability or cure determination based on a factual basis.

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(2) The Commission may also delegate suitability determinations to the Executive Director, who may appoint a Suitability or cure Review Committee (Committee) to advise the Executive Director.

(3) All suitability determinations will be made in accordance with the procedures set forth in 935 CMR 500.800.

(4) Suitability Review Process.

(a) Designated Enforcement staff (staff) shall conduct background checks and gather information and evidence applicable to a subject's suitability and make a recommendation as to suitability and, as appropriate, a cure. Staff may make an adverse suitability recommendation on finding information and evidence that would result in a Mandatory Disqualification, Presumptive Negative Suitability Determination or that would support a Negative Suitability Recommendation.

(b) Before making an adverse suitability recommendation, staff shall consult with the Executive Director or the Executive Director's delegee(s). The Executive Director may dispose of the matter or direct the Committee to institute a review of suitability or take any action consistent with M.G.L. c. 94G.

(c) If the Executive Director institutes a suitability review, the staff shall send the written notice of an adverse suitability recommendation that identifies the Person or entity subject to suitability review, the particular offenses or conduct relied on and whether that the offenses or conduct results in a Mandatory Disqualification or Presumptive Negative Suitability Determination, or supports a Negative Suitability Recommendation, and reasons for that determination.

(d) The notice of an adverse suitability recommendation shall provide an opportunity to cure the suitability issue by removing the subject from its application. To the extent that an applicant can propose a cure, for example, by removing a subject from an application, the cure shall be done in a manner determined by the Commission.

(e) The notice of an adverse suitability recommendation shall provide the subject with the opportunity to request an informal proceeding before the Suitability Review Committee.

(f) A request for an informal proceeding shall be submitted in a form and manner determined by the Commission and no later than 14 business days following the effective date of the adverse suitability recommendation. Requests received after 14 business days may be considered at the discretion of the Executive Director or the Committee.

(g) On notification of an adverse suitability recommendation and receipt of an informal proceeding request, the Committee shall initiate a proceeding, make a recommendation and/or take other action(s) after consultation with the Executive Director.

(h) If an applicant or a subject does not make a timely request for an informal proceeding before the Committee, the Executive Director may forward the adverse suitability recommendation to the Committee for a review, make a suitability determination, or take any action consistent with M.G.L. c. 94G.

(5) The Committee shall:

(a) Consider and review whether offense(s) or information resulting in a Mandatory Disqualification or a Presumptive Negative Suitability Determination under 935 CMR 500.801: *Table A* and 935 CMR 500.802 *Tables B* through D and 935 CMR 500.803: *Table E*, as applied to the subject, renders the subject unsuitable for licensure or registration;

(b) Consider and review whether offense(s) or information not otherwise set forth in 935 CMR 500.801: *Table A* and 935 CMR 500.802: *Tables B through D* and 935 CMR 500.903: *Table E* would result in a Negative Suitability Recommendation and renders the subject unsuitable for licensure or registration; and

(c) Subsequent to its review of a suitability matter, make recommendations to the Executive Director, or the Commission, or a Commission Delegee(s).

(6) When reviewing an adverse suitability recommendation by staff that there is an offense resulting in a Mandatory Disqualification, the Commission shall consider credible and reliable information demonstrating that:

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(a) The disqualifying event was based on erroneous information or evidence; and
(b) The subject can demonstrate that prior to the informal proceeding, the adverse suitability recommendation can no longer be supported because the error was corrected.

(7) When reviewing an offense resulting in a Presumptive Negative Suitability Determination, the committee shall take into consideration the following factors:
(a) Nature and Specific Circumstances of the Offense or Incident:
1. Time since the offense or incident;
2. Number of offenses or incidents;
3. If criminal, sentence imposed and length, if any, of incarceration;
4. If criminal, sentence imposed and length, if any, of parole or probation; and
5. Relationship of offense or incident to nature of work to be performed.
(b) Mitigating Factors:
1. Age of the subject at the time of the offense or incident; and
2. Whether offenses or incidents were committed in association with dependence on drugs or alcohol from which the subject has since recovered.
(c) Conduct Since Time of the Offense or Incident:
1. If criminal, any relevant evidence of rehabilitation or lack thereof, such as information about compliance with conditions of parole or probation, including orders of no contact with victims and witnesses;
2. The subject's conduct and experience since the time of the offense including, but not limited to, professional or educational certifications obtained; and
(d) Any other relevant information, including information submitted by the subject to the Committee or requested by the Commission.

(8) The Committee may make a Negative Suitability Determination in the following circumstances:
(a) On the receipt of the staff's Negative Suitability Recommendation that there is credible and reliable information in the five years immediately preceding the application:
1. The applicant's or Licensee's prior actions posed or would likely pose a risk to the public health, safety, or welfare if a License or registration is granted or renewed; and
2. The risk posed by the applicant's or Licensee's actions relates or would likely relate to the operation of a Marijuana Establishment.
(b) On review of this recommendation, the Committee shall consider whether the staff has carried its burden of demonstrating:
1. The applicant's or Licensee's prior actions posed or would likely pose a risk to the public health, safety, or welfare if a License or registration is granted or renewed; and
2. The risk posed by the applicant's or Licensee's actions relates or would likely relate to the operation of a Marijuana Establishment.

(9) Where a Marijuana Establishment Agent listed on the application for licensure in accordance with 935 CMR 500.101(1), is found to have no suitability issue under 935 CMR 500.801: *Table A*, or to have overcome any suitability issue, the agent shall not be subject to a subsequent suitability review under 935 CMR 500.802: *Tables B through D* and 935 CMR 500.803: *Table E*.
(a) Nothing in 935 CMR 500.800(9) relieves the requirement that the applicant or Licensee conduct background checks on its agents and disclose to the Commission's staff any suitability issue(s) that arise as a result of those checks.
(b) Any subsequent disclosure of background check information for a Marijuana Establishment Agent required to be listed and evaluated pursuant to 935 CMR 500.101(1), will be assessed pursuant to 935 CMR 500.801: *Table A*, or on other grounds for a Negative Suitability Determination only.
(c) Nothing in 935 CMR 500.800(9) precludes the Commission from initiating a suitability review based on background information received after the Commission's initial suitability review.

(10) The Executive Director in consultation with the Committee may determine that a subject's suitability warrants the Commission's consideration. The Executive Director may also remand a matter to staff for further investigation prior to making a determination. The Commission may consider the determination when acting on the application or renewal.

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500.801: Suitability Standard for Licensure

(1) In accordance with M.G.L. c. 94G, § 5, the Commission is prohibited from licensing a Marijuana Establishment where an individual who is a Person Having Direct or Indirect Control has been convicted of a felony or offense in an Other Jurisdiction that would be a felony in the Commonwealth, except a prior conviction solely for a Marijuana offense or solely for a violation of M.G.L. c. 94C, § 34, unless the offense involved distribution of a controlled substance, including Marijuana, to a minor.

(2) For purposes of determining suitability based on background checks in accordance with 935 CMR 500.101(1)(b):

(a) All conditions, offenses, and violations are construed to include Massachusetts law or like or similar law(s) of Other Jurisdictions.

(b) All criminal disqualifying conditions, offenses, and violations include the crimes of attempt, accessory, conspiracy, and solicitation.

(c) Juvenile dispositions shall not be considered as a factor for determining suitability.

(d) Where applicable, all look back periods for criminal conditions, offenses, and violations included in 935 CMR 500.801: *Table A* commence on the date of disposition; provided, however, that if disposition results in incarceration in any institution, the look back period shall commence on release from incarceration.

(e) Unless otherwise specified in 935 CMR 500.801: *Table A*, a criminal condition, offense or violation shall include both convictions, which include guilty pleas and pleas of *nolo contendere*, and dispositions resulting in continuances without a finding or other disposition constituting an admission to sufficient facts, but shall exclude other non-conviction dispositions.

(3) Licensees and Registered Agents shall remain suitable at all times a License or registration remains in effect. An individual subject to this section shall notify the Commission in writing of any charge or conviction of an offense that would result in a presumptive negative suitability determination or mandatory disqualification under 935 CMR 500.801: *Table A*, 935 CMR 500.802: *Tables A through D* and 935 CMR 500.803: *Table E* within ten days of such individual's arrest or summons, and within ten days of the disposition on the merits of the underlying charge. Failure to make proper notification to the Commission may be grounds for disciplinary action. If the Commission lawfully finds a disqualifying event and the individual asserts that the record was sealed, the Commission may require the individual to provide proof from a court evidencing the sealing of the case.

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

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

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

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Time Period	Precipitating Issue	Result
Indefinite	**Multiple Crimes of Operating under the Influence** Two offenses within a ten-year period; or Three or more offenses within any period of time.	Presumptive Negative Suitability Determination
Preceding Five Years	**Multiple Crimes** During the five years immediately preceding the application for licensure that separately may not result in a negative determination of suitability, but may, if taken together and tending to show a pattern of harmful behavior, result in a negative determination of suitability depending on the type and severity of the crimes.	Presumptive Negative Suitability Determination
Preceding Five Years	**Crimes of Domestic Violence Including, but Not Limited to:** Violation of an abuse prevention restraining order under M.G.L. c. 209A Violation of a harassment prevention order under M.G.L. c. 258E	Presumptive Negative Suitability Determination
Preceding Five Years	**Marijuana License or Registration Violations (Massachusetts or Other Jurisdictions)** The applicant or a Licensee held a License that was revoked, a renewal application that was denied, or a similar action taken with relation to their Marijuana business in Massachusetts or Other Jurisdiction, whether by administrative action or stipulated agreement.	Mandatory Disqualification
More than Five and Less than Ten Years	**Marijuana License or Registration Violations (Massachusetts or Other Jurisdictions)** The applicant or a Licensee held a License that was revoked, a renewal application that was denied, or a similar action taken with relation to their Marijuana business in Massachusetts or Other Jurisdiction, whether by administrative action or stipulated agreement.	Presumptive Negative Suitability Determination
Preceding Five Years	The applicant's or Licensee's prior actions posed or would likely pose a risk to the public health, safety, or welfare; and the risk posed by the applicant's or Licensee's actions relates or would likely relate to the operation of a Marijuana Establishment.	May make a Negative Suitability Determination in accordance with 935 CMR 500.800(8)

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500.802: Suitability Standard for Registration as a Marijuana Establishment Agent

(1) In accordance with M.G.L. c. 94G, § 4(a½)(iii), the Commission has established qualifications for licensure and minimum standards for employment that are directly and demonstrably related to the operation of a Marijuana Establishment and similar to qualifications for licensure and employment standards in connection with alcoholic Beverages as regulated under M.G.L. c. 138, provided that a prior conviction solely for a Marijuana-related offense or for a violation of M.G.L. c. 94C, § 34 shall not disqualify an individual or otherwise affect eligibility for employment or licensure in connection with a Marijuana Establishment, unless the offense involved the distribution of a controlled substance, including Marijuana, to a minor.

(2) For purposes of determining suitability based on background checks in accordance with 935 CMR 500.030 and 500.101:

(a) All conditions, offenses, and violations are construed to include Massachusetts law or like or similar law(s) of Other Jurisdictions.

(b) All criminal disqualifying conditions, offenses, and violations include the crimes of attempt, accessory, conspiracy and solicitation.

(c) Juvenile dispositions shall not be considered as a factor for determining suitability.

(d) Where applicable, all look back periods for criminal conditions, offenses, and violations included in 935 CMR 500.801: *Tables B through D* commence on the date of disposition; provided, however, that if disposition results in incarceration in any institution, the look back period shall commence on release from incarceration.

(e) Unless otherwise specified in 935 CMR 500.801: *Tables B through D*, a criminal condition, offense or violation shall include both convictions, which include guilty pleas and pleas of *nolo contendere*, and dispositions resulting in continuances without a finding or other disposition constituting an admission to sufficient facts, but shall exclude other non-conviction dispositions. All suitability determinations will be made in accordance with the procedures set forth in 935 CMR 500.800. In addition to the requirements established in 935 CMR 500.800 shall:

1. Consider whether offense(s) or information that would result in a Presumptive Negative Suitability Determination under 935 CMR 500.801: *Tables B through D* renders the subject unsuitable for registration regardless of the determination of the Licensee; and

2. Consider appeals of determinations of unsuitability based on claims of erroneous information received as part of the background check during the application process in accordance with 803 CMR 2.17: *Requirement to Maintain a Secondary Dissemination Log* and 803 CMR 2.18: *Adverse Employment Decision Based on CORI or Other Types of Criminal History Information Received from a Source Other than the DCJIS*.

(3) Registered Agents shall remain suitable at all times a License or registration remains in effect. An individual subject to 935 CMR 500.802, shall notify the Commission in writing of any charge or conviction of an offense that would result in a presumptive negative suitability determination or mandatory disqualification under 935 CMR 500.801: *Tables B through D* within ten days of such individual's arrest or summons, and within ten days of the disposition on the merits of the underlying charge. Failure to make proper notification to the Commission may be grounds for disciplinary action. If the Commission lawfully finds a disqualifying event and the individual asserts that the record was sealed, the Commission may require the individual to provide proof from a court evidencing the sealing of the case.

Table B*: Retail, Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement, Social Consumption Establishment, and Transporter Marijuana Establishment Agents*. Applies solely to applicants for registration as a Marijuana Establishment Agent at a Marijuana Establishment licensed pursuant to 935 CMR 500.100, as a Marijuana Retailer, Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement, Social Consumption Establishment, or as a Marijuana Transporter, under 935 CMR 500.050.

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Time Period	Precipitating Issue	Result
Present (during time from start of application process through action on application or renewal).	**Open/Unresolved Criminal Proceedings:** Any outstanding or unresolved criminal proceeding, the disposition of which may result in a felony conviction under the laws of the Commonwealth or Other Jurisdictions, but excluding any criminal proceeding based solely on a Marijuana-related offense or a violation of M.G.L. c. 94C, § 32E(a) or § 34.	Presumptive Negative Suitability Determination
Present	**Open Professional or Occupational License Cases**	Presumptive Negative Suitability Determination
Present	**Open/Unresolved Marijuana License or Registration Violations (Massachusetts or Other Jurisdictions):** An outstanding or unresolved violation of the regulations as included in 935 CMR 500.000 or a similar statute or regulations of an Other Jurisdiction, which has either (a) remained unresolved for a period of six months or more; or (b) the nature of which would result in a determination of unsuitability for registration.	Presumptive Negative Suitability Determination
Present	**Submission of Untruthful Information to the Commission Including, but Not Limited to:** Submission of information in connection with an agent application, waiver request or other Commission action that is deceptive, misleading, false or fraudulent, or that tends to deceive or create a misleading impression, whether directly, or by omission or ambiguity including lack of disclosure or insufficient disclosure; or making statements during or in connection with a Commission inspection or investigation that are deceptive, misleading, false or fraudulent, or that tend to deceive or create a misleading impression, whether directly, or by omission or ambiguity, including lack of disclosure or insufficient disclosure.	Presumptive Negative Suitability Determination
Indefinite	**Sex Offense:** Felony conviction for a "sex offense" as defined in M.G.L. c. 6, § 178C and M.G. L. c. 127, § 133E or like offenses in Other Jurisdictions.	Mandatory Disqualification
Indefinite	**Felony Convictions in Massachusetts or Other Jurisdictions:** For trafficking crimes under M.G.L. c. 94C, § 32E, or like crimes in Other Jurisdictions, except convictions for solely Marijuana-related crimes under M.G.L. c. 94C, § 32E (a), or like crimes in Other Jurisdictions.	Mandatory Disqualification
Indefinite	**Conviction or Continuance without a Finding (CWOF) for Any Distribution of a Controlled Substance to a Minor**	Mandatory Disqualification
Indefinite	**Failure to Register as a Sex Offender in Any Jurisdiction**	Mandatory Disqualification

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Time Period	Precipitating Issue	Result
Preceding Five Years	**Crimes of Domestic Violence Including, but Not Limited to**: Violation of an abuse prevention restraining order under M.G.L. c. 209A; and Violation of a harassment prevention order under M.G.L. c. 258E.	Presumptive Negative Suitability Determination
Indefinite	**(For Agents Working for a Transporter and Delivery)** Licensee or a Marijuana Establishment with a Delivery **Endorsement Multiple Crimes of Operating under the Influence:** Two offenses within a ten-year period; or three or more offenses within any period of time.	Presumptive Negative Suitability Determination
Preceding Five Years	**Felony Convictions in Massachusetts or Other Jurisdictions**: For crimes of violence against a person or crimes of dishonesty or fraud, "violent crime" to be defined the same way as under M.G.L. c. 140, § 121 and M.G.L. c. 127, § 133E.	Mandatory Disqualification
Preceding Five Years	The applicant's or Licensee's prior actions posed or would likely pose a risk to the public health, safety, or welfare; and the risk posed by the applicant's or Licensee's actions relates or would likely relate to the operation of a Marijuana Establishment.	May make a Negative Suitability Determination in accordance with 935 CMR 500.800(8)

Table C: *Marijuana Product Manufacturer Marijuana Establishment Agents*. Applies solely to applicants for registration as an agent at a Marijuana Establishment licensed pursuant to 935 CMR 500.100 as a Marijuana Product Manufacturer under 935 CMR 500.050.

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

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Time Period	Precipitating Issue	Result
Present	**Open/Unresolved Marijuana License or Registration Violations (Massachusetts or Other Jurisdictions):** An outstanding or unresolved violation of the regulations as included in 935 CMR 500.000 or a similar statute or regulations in an Other Jurisdiction, that has either (a) remained unresolved for a period of six months or more; or (b) the nature of which would result in a determination of unsuitability for registration.	Presumptive Negative Suitability Determination
Present	**Submission of Untruthful Information to the Commission Including, but Not Limited to:** Submission of information in connection with an agent application, waiver request or other Commission action that is deceptive, misleading, false or fraudulent, or that tends to deceive or create a misleading impression, whether directly, or by omission or ambiguity, including lack of disclosure or insufficient disclosure; or making statements during or in connection with a Commission inspection or investigation that are deceptive, misleading, false or fraudulent, or that tend to deceive or create a misleading impression, whether directly, or by omission or ambiguity, including lack of disclosure or insufficient disclosure.	Presumptive Negative Suitability Determination
Present	**Felony Convictions in Massachusetts or Other Jurisdictions:** For trafficking crimes under M.G.L. c. 94C, § 32E, or like crimes in Other Jurisdictions, except convictions for solely Marijuana-related crimes under § 32E (a), or like crimes in Other Jurisdictions.	Mandatory Disqualification
Indefinite	**Conviction or Continuance without a Finding (CWOF) for Any Distribution of a Controlled Substance to a Minor**	Mandatory Disqualification
	Failure to Register as a Sex Offender in Massachusetts or an Other Jurisdiction	
	Felony Convictions in Massachusetts or Other Jurisdictions for Crimes of Violence Against a Person or Crimes of Dishonesty or Fraud, "Violent Crime" to Be Defined the Same Way as under M.G.L. c. 140, § 121 and M.G.L. c. 127, § 133E.	

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Time Period	Precipitating Issue	Result
	Sex Offense:	
Preceding Ten Years	Felony conviction for a "sex offense" as defined in M.G.L. c. 6, § 178C and M.G. L. c. 127, § 133E or like offenses in Other Jurisdictions.	Mandatory Disqualification
Preceding Five Years	The applicant's or Licensee's prior actions posed or would likely pose a risk to the public health, safety, or welfare; and the risk posed by the applicant's or Licensee's actions relates or would likely relate to the operation of a Marijuana Establishment.	May make a Negative Suitability Determination in accordance with 935 CMR 500.800(8)

Table D*: Cultivation Marijuana Establishment Agents*. Applies solely to applicants for registration as an agent at a Marijuana Establishment licensed pursuant to 935 CMR 500.100 as a Marijuana Cultivator or Craft Marijuana Cooperative under 935 CMR 500.050.

Time Period	Precipitating Issue	Result
	Open/Unresolved Criminal Proceedings:	
Present (during time from start of application process through action on application or renewal).	Any outstanding or unresolved criminal proceeding, the disposition of which may result in a felony conviction under the laws of the Commonwealth or a similar law in an Other Jurisdiction, but excluding any criminal proceeding based solely on a Marijuana-related offense or a violation of M.G.L. c. 94C, § 32E (a) or § 34.	Presumptive Negative Suitability Determination
Present	**Open Professional or Occupational License Cases**	Presumptive Negative Suitability Determination
	Open/Unresolved Marijuana License or Registration Violations (Massachusetts or Other Jurisdictions):	
Present	An outstanding or unresolved violation of the regulations as included in 935 CMR 500.000 or a similar statute or regulations in an Other Jurisdiction, that has either (a) remained unresolved for a period of six months or more; or (b) the nature of which would result in a determination of unsuitability for registration	Presumptive Negative Suitability Determination

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500.802: continued

Time Period	Precipitating Issue	Result
Present	**Submission of Information to the Commission Including, but Not Limited to**: Submission of information in connection with an agent application, waiver request or other Commission action that is deceptive, misleading, false or fraudulent, or that tends to deceive or create a misleading impression, whether directly, or by omission or ambiguity, including lack of disclosure or insufficient disclosure; or making statements during or in connection with a Commission inspection or investigation that are deceptive, misleading, false or fraudulent, or that tend to deceive or create a misleading impression, whether directly, or by omission or ambiguity, including lack of disclosure or insufficient disclosure.	Presumptive Negative Suitability Determination
Indefinite	**Conviction or Continuance without a Finding (CWOF) for Any Distribution of a Controlled Substance to a Minor**	Mandatory Disqualification
Indefinite	**Felony Convictions in Massachusetts or Other Jurisdictions** For crimes of violence against a person, "violent crime" to be defined the same way as under M.G.L. c. 140, § 121 and M.G.L. c. 127, § 133E	Presumptive Negative Suitability Determination
Preceding Three Years	**Felony Convictions in Massachusetts or Other Jurisdictions**: For crimes of dishonesty or fraud.	Mandatory Disqualification
Preceding Five Years	The applicant's or Licensee's prior actions posed or would likely pose a risk to the public health, safety, or welfare; and the risk posed by the applicant's or Licensee's actions relates or would likely relate to the operation of a Marijuana Establishment.	May make a Negative Suitability Determination in accordance with 935 CMR 500.800(8)

500.803: Suitability Standard for Registration as a Laboratory Agent

(1) 935 CMR 500.803 shall apply to Laboratory Agents in their capacity as employees or volunteers for an Independent Testing Laboratory licensed pursuant to 935 CMR 500.029 and shall be used by the Independent Testing Laboratory Executive registered with the DCJIS pursuant to 803 CMR 2.04: *iCORI Registration* and the Commission for purposes of determining suitability for registration as a Laboratory Agent with the Licensee.

(2) In accordance with M.G.L. c. 94G, § 15(b)(5), the Commission is prohibited from issuing a registration to a Laboratory Agent who has been convicted of a felony drug offense in the Commonwealth or Other Jurisdictions that would be a felony drug offense in the Commonwealth.

(3) For purposes of determining suitability based on background checks performed in accordance with 935 CMR 500.803:

(a) All conditions, offenses, and violations are construed to include Massachusetts law or similar law(s) of Other Jurisdictions.

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500.803: continued

(b) All criminal disqualifying conditions, offenses, and violations include the crimes of attempt, accessory, conspiracy, and solicitation.
(c) Juvenile dispositions shall not be considered as a factor for determining suitability.
(d) Where applicable, all look back periods for criminal conditions, offenses, and violations included in 935 CMR 500.803: *Table E* commence on the date of disposition; provided however, that if disposition results in incarceration in any institution, the look back period shall commence on release from incarceration.
(e) Unless otherwise specified in 935 CMR 500.803: *Table E*, a criminal condition, offense or violation shall include both convictions, which include guilty pleas and pleas of *nolo contendere*, and dispositions resulting in continuances without a finding or other disposition constituting an admission to sufficient facts, but shall exclude other non-conviction dispositions.
(f) All suitability determinations will be made in accordance with the procedures set forth in 935 CMR 500.800. In addition to the requirements established in 935 CMR 500.800: shall:

1. Consider whether offense(s) or information that would result in a Presumptive Negative Suitability Determination under 935 CMR 500.803: *Table E* renders the subject unsuitable for registration, regardless of the determination of the Licensee; and
2. Consider appeals of determinations of unsuitability based on claims of erroneous information received as part of the background check during the application process in accordance with 803 CMR 2.17: *Requirement to Maintain a Secondary Dissemination Log* and 803 CMR 2.18: *Adverse Employment Decision Based on CORI or Other Types of Criminal History Information Received from a Source Other than the DCJIS*.

Table E: *Registration as a Laboratory Agent*. Applies solely to applicants for registration as a Laboratory Agent in accordance with 935 CMR 500.803 at Marijuana establishment licensed pursuant to 935 CMR 500.050.

Time Period	Precipitating Issue	Result
Present (during time from start of application process through action on application or renewal).	**Open/Unresolved Criminal Proceedings**: Any outstanding or unresolved criminal proceeding, the disposition of which may result in a felony conviction under the laws of the Commonwealth or a similar law in Other Jurisdictions.	Mandatory Disqualification
Present	**Open/Unresolved Marijuana Business-Related License Violations (Massachusetts or Other Jurisdictions)**: An outstanding or unresolved violation of the regulations as included in 935 CMR 500.000 or a similar statute or regulations in Other Jurisdictions that has either (a) remained unresolved for a period of six months or more; or (b) the nature of which would result in a determination of unsuitability for registration.	Presumptive Negative Suitability Determination

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500.801: continued

Time Period	Precipitating Issue	Result
Present	**Submission of False or Misleading Information to the Commission Including, but Not Limited to**: Submission of information in connection with an agent application, waiver request or other Commission action that is deceptive, misleading, false or fraudulent, or that tends to deceive or create a misleading impression, whether directly, or by omission or ambiguity, including lack of disclosure or insufficient disclosure; or making statements during or in connection with a Commission inspection or investigation that are deceptive, misleading, false or fraudulent, or that tend to deceive or create a misleading impression, whether directly, or by omission or ambiguity, including lack of disclosure or insufficient disclosure; or	Presumptive Negative Suitability Determination
Present	**Open Professional or Occupational License Cases**	Mandatory Disqualification
Indefinite	**Felony Convictions in Massachusetts or Other Jurisdictions**: For drug offenses or trafficking crimes under M.G.L. c. 94C, § 32E, or like crimes in Other Jurisdictions.	Mandatory Disqualification
Preceding Five Years	**Felony Convictions or CWOF in Massachusetts or Other Jurisdictions**: For crimes of violence against a person, "violent crime" to be defined the same way as under M.G.L. c. 140, § 121 and M.G.L. c. 127, § 133E.	Presumptive Negative Suitability Determination
Preceding Seven Years	**Felony Convictions or CWOF in Massachusetts or Other Jurisdictions**: For crimes of dishonesty or fraud.	Presumptive Negative Suitability Determination
Preceding Five Years	The applicant's or Licensee's prior actions posed or would likely pose a risk to the public health, safety, or welfare; and the risk posed by the applicant's or Licensee's actions relates or would likely relate to the operation of a Marijuana Establishment.	May make a Negative Suitability Determination in accordance with 935 CMR 500.800(8)

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500.820: Confidentiality

(1) All records made or received by the Commission shall be public records and shall be available for disclosure on request pursuant to this section and 950 CMR 32.00: *Public Records Access*, except the following, which shall be exempt from disclosure to the extent permitted by law:

(a) All records exempt from disclosure pursuant to M.G.L. c. 4, § 7, cl. 26;
(b) All records to the extent that they contain "personal data" pursuant to M.G.L. c. 66, § 1;
(c) All records to the extent that they contain "personal information" pursuant to M.G.L.c. 93H, § 1;
(d) All records which contain CORI as defined by 803 CMR 2.02: *Definitions*;
(e) All records which contain CHRI as defined by 803 CMR 7.02: *Definitions*; and
(f) All Confidential Records as defined in 935 CMR 500.002.

(2) All records protected from disclosure under 935 CMR 500.820(1) or pursuant to the laws of any Other Jurisdiction may be disclosed by the Commission:

(a) If disclosure is required pursuant to a state or federal law;
(b) To the individual or the individual's authorized representative, if the individual executes a written release in a form and manner determined by the Commission;
(c) To the Commission staff for the purpose of carrying out their official duties;
(d) To the Commission Delegee(s) as authorized by the Commission;
(e) To other government officials and agencies acting within their lawful jurisdiction which includes, but is not limited to, law enforcement personnel;
(f) To a healthcare professional who has a Bona Fide Healthcare Professional-Patient Relationship with the Qualifying Patient to facilitate dispensing of Medical-use Marijuana;
(g) To an MTC or any state agency to facilitate the dispensing of Medical-use Marijuana;
(h) To the Commission staff if required in the course of an administrative or a judicial proceeding; or
(i) If an individual or entity obtains an order from a court of competent jurisdiction.

(3) Nothing in 935 CMR 500.820 shall prevent the Commission from acting in accordance with its authority.

500.830: Petitions for the Adoption, Amendment or Repeal of Regulations

(1) Any interested Person may file a petition with the Commission pursuant to M.G.L. c. 30A, § 4, for the adoption, amendment or repeal of any regulation. Such petition shall be submitted in written and electronic form, be signed by the petitioner or petitioner's representative, and include the following information:

(a) The name, address, and relevant contact information for the petitioner or the petitioner's representative;
(b) The petitioner's specific interest in the regulation;
(c) The petitioner's request for the adoption, amendment or repeal of a regulation, including proposed regulatory language;
(d) If the request is to amend an existing regulation, a copy of the existing regulation with changes clearly marked on paper and electronic copies; and
(e) The reasons for the request including, but not limited to, citation to any relevant legal authority, arguments and evidence, including data, that supports the request.

(2) After receipt of a petition for submitted in accordance with 935 CMR 500.830, the Commission may consider the petition at an open meeting pursuant to M.G.L. c. 30A, § 20, and determine, in its discretion, whether to take any action on or as a result of the petition. The Commission may also delegate the review of petitions to its Executive Director.

(3) Within a reasonable time, the Commission or a Commission Delegee will notify the petitioner as to its determination, if any, concerning the petition.

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500.830: continued

(4) The submission of a petition for the adoption, amendment or repeal of any regulation pursuant to 935 CMR 500.830(1), and any action, inaction, determination or notice by the Commission pursuant to 935 CMR 500.830(2) with respect thereto, shall not constitute the adoption, amendment or repeal of a regulation, unless or until regulations are duly promulgated by the Commission in accordance with M.G.L. c. 30A, State Administrative Procedure Act, and 950 CMR 20.00: *Preparing and Filing Regulations*, and the regulatory process requirements of the Secretary of the Commonwealth.

500.840: Non-conflict with Other Laws

(1) Nothing in 935 CMR 500.000 shall be construed to limit the applicability of any other law as it pertains to the rights of landlords, employers, Law Enforcement Authorities, or regulatory agencies, except as otherwise provided in 935 CMR 500.000.

(2) Nothing in 935 CMR 500.000.
(a) Allows the operation of a motor vehicle, boat, or aircraft while under the influence of Marijuana;
(b) Requires the violation of federal law or purports to give immunity under federal law; or
(c) Poses an obstacle to federal enforcement of federal law.

500.850: Waivers

(1) The Commission may delegate its authority to the Executive Director to waive a regulatory requirement promulgated under M.G.L. c. 94G, § 4 and M.G.L. c. 94I, § 7. The Executive Director may determine the form and manner of the waiver process. There can be no waiver of statutory requirements.

(2) The Commission may waive applicability of one or more of the requirements imposed by 935 CMR 500.000 on the submission of written documentation and a finding that:
(a) Compliance would cause undue hardship to the requestor;
(b) If applicable, the implementation of compensating features acceptable to the Commission;
(c) The noncompliance with the regulatory requirement would not jeopardize the health, safety, or welfare of any Registered Qualifying Patient or the public; and
(d) The granting of the waiver would not constitute a waiver of any statutory requirements.

(3) Waiver of Security Requirements. Any waiver of security requirements under 935 CMR 500.850, shall be requested under 935 CMR 500.110(2)(b).

(4) An adverse decision on a waiver request does not entitle an applicant or Licensee to a hearing or judicial review.

500.860: Notice

(1) The Commission shall maintain a list of individuals or entities that request notice.

(2) Notice shall be provided, in a time and manner to be determined by the Commission, to those individuals or entities on the list in advance for:
(a) Meetings of the Cannabis Control Commission;
(b) Meetings of the Cannabis Advisory Board; and
(c) Other events determined by the Commission, in its discretion.

(3) The individual or entity is responsible for ensuring that the information provided to the Commission for the purpose of receiving notice remains current.

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500.900: Severability

The provisions of 935 CMR 500.000 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

935 CMR 500.000: St. 2016, c. 334, as amended by St. 2017, c. 55, and M.G.L. c. 94G.

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Docket # 7

THE COMMONWEALTH OF MASSACHUSETTS
William Francis Galvin
Secretary of the Commonwealth

Regulation Filing *To be completed by filing agency*

CHAPTER NUMBER: **935 CMR 501.000**

CHAPTER TITLE: **Medical Use of Marijuana**

AGENCY: **Cannabis Control Commission**

SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*

These final regulations revise the legal and regulatory framework governing the medical use of marijuana program, which is implemented by the Commission.

REGULATORY AUTHORITY: **St. 2016, c. 334, as amended by St. 2017, c. 55; M.G.L. c. 94G; and M.G.L. c. 94I.**

AGENCY CONTACT: **Christine Baily, General Counsel** PHONE: **617-620-1181**

ADDRESS: **2 Washington Square Union Station, 2nd Floor, Worcester, MA 01604**

Compliance with M.G.L. c. 30A

EMERGENCY ADOPTION - *if this regulation is adopted as an emergency, state the nature of the emergency.*

PRIOR NOTIFICATION AND/OR APPROVAL - *If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.*

On June 19, 2020, notification was sent to the Department of Housing and Community Development and to the Massachusetts Municipal Association. After the filing of the draft regulations, notification was also sent to interested stakeholders.

PUBLIC REVIEW - *M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period, including a small business impact statement, be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.*

Date of public hearing or comment period: **Comment period 7/24/20-8/14/20; Hearing 8/3/20**

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FISCAL EFFECT - *Estimate the fiscal effect of the public and private sectors.*

For the first and second year: **The net fiscal impact is $483K in the first year. Second year effect to be determined.**

For the first five years: **The Commission will continue to seek operational efficiencies to minimize the impact on revenue collections.**

No fiscal effect:

SMALL BUSINESS IMPACT - *M.G.L. c. 30A section 5 requires each agency to file an amended small business impact statement with the Secretary of the Commonwealth prior to the adoption of a proposed regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.*

Date amended small business impact statement was filed: **December 18, 2020**

CODE OF MASSACHUSETTS REGULATIONS INDEX - *List key subjects that are relevant to this regulation:*

Cannabis Control Commission
Medical Use of Marijuana
Registered Marijuana Dispensaries
Medical Marijuana Treatment Center

PROMULGATION - *State the action taken by this regulation and its effect on existing provisions of the Code of Massachusetts Regulations (CMR) or repeal, replace or amend. List by CMR number:*

Chapter 935 CMR 501.000: Medical Use of Marijuana, effective January 8, 2021.

ATTESTATION - *The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency.* ATTEST:

SIGNATURE: SIGNATURE ON FILE DATE: **Dec 21 2020**

Publication - *To be completed by the Regulations Division*

MASSACHUSETTS REGISTER NUMBER: **1434** DATE: **01/08/2021**

EFFECTIVE DATE: **01/08/2021**

CODE OF MASSACHUSETTS REGULATIONS

Remove these pages:	*Insert these pages:*
213 - 222.96	**251 - 374**

A TRUE COPY ATTEST
WILLIAM FRANCIS GALVIN
SECRETARY OF THE COMMONWEALTH
DATE 12/21/2020 CLERK mrs

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935 CMR 501.000: MEDICAL USE OF MARIJUANA

Section

501.001: Purpose
501.002: Definitions
501.003: Colocated Marijuana Operations (CMOs)
501.005: Fees
501.006: Registration of Certifying Physicians
501.007: Registration of Certifying Certified Nurse Practitioners
501.008: Registration of Certifying Physician Assistants
501.010: Written Certification of a Debilitating Medical Condition for a Qualifying Patient
501.015: Temporary and Annual Registration of Qualifying Patients
501.020: Temporary and Annual Registration of Personal Caregivers
501.021: Registration of Caregiving Institutions
501.022: Registration of Institutional Caregivers
501.025: Responsibilities of Caregivers
501.027: Hardship Cultivation Registration
501.029: Registration and Conduct of Independent Testing Laboratory Agents
501.030: Registration of Medical Marijuana Treatment Center Agents
501.031: Denial of a Registration Card or Hardship Cultivation Registration
501.032: Revocation of a Registration Card or Hardship Cultivation Registration
501.033: Void Registration Cards
501.034: Revocation of a Certifying Healthcare Provider Registration
501.035: Void Certifying Physician Registration
501.040: Leadership Rating Program for Medical Marijuana Treatment Centers
501.050: Medical Marijuana Treatment Centers (MTCs)
501.052: Independent Testing Laboratories
501.100: Application for Licensing of Medical Marijuana Treatment Centers (MTCs)
501.101: Application Requirements
501.102: Action on Applications
501.103: Licensure and Renewal
501.104: Notification and Approval of Changes
501.105: General Operational Requirements for Medical Marijuana Treatment Centers
501.110: Security Requirements for Medical Marijuana Treatment Centers
501.120: Additional Operational Requirements for the Cultivation, Acquisition, and Distribution of Marijuana.
501.130: Additional Operational Requirements for Handling and Testing Marijuana and for Production of MIPs
501.140: Additional Operational Requirements for Patient Sales
501.145: Home Delivery
501.150: Edibles
501.160: Testing of Marijuana and Marijuana Products
501.170: Municipal Requirements
501.200: Counties of Dukes County and Nantucket
501.300: Complaints Process
501.301: Inspection and Compliance
501.302: Compliance Examination
501.303: Unannounced Purchase for Purpose of Investigative Testing (Secret Shopper Program)
501.310: Deficiency Statements
501.320: Plans of Correction
501.321: Administrative Hold
501.330: Limitation of Sales
501.335: Removal and Prohibition of Marijuana and Marijuana Products
501.340: Quarantine Order
501.350: Cease and Desist Order and Summary Suspension Order
501.360: Fines
501.370: Orders to Show Cause
501.400: Medical Marijuana Treatment Center License: Grounds for Denial of Application for Licensure
501.415: Void Medical Marijuana Treatment Center License
501.450: Medical Marijuana Treatment Center Registration or License: Grounds for Suspension, Revocation, and Denial of Renewal Applications

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Section: continued

501.500: Hearings and Appeals of Actions on Registrations or Licenses
501.800: Suitability Standard for Licensure and Registration
501.801: Suitability Standard for Licensure
501.802: Suitability Standard for Registration as a Medical Marijuana Treatment Center Agent
501.803: Suitability Standard for Registration as a Laboratory Agent
501.820: Confidentiality
501.830: Petitions for the Adoption, Amendment or Repeal of Regulations
501.840: Nonconflict with Other Laws
501.850: Waivers
501.860: Notice
501.900: Severability

501.001: Purpose

The purpose of 935 CMR 501.000 is to implement St. 2017, c. 55: *An Act to Ensure Safe Access to Marijuana*; M.G.L. c. 94G and M.G.L. c. 94I.

501.002: Definitions

For the purposes of 935 CMR 501.000, the following terms shall have the following meanings:

Administrative Hold means a hold requiring temporary isolation of Marijuana, Marijuana Products, or Marijuana-infused Products (MIPs), by a Licensee or Registrant pending further investigation.

Adult-use Cannabis or Marijuana means Marijuana that is cultivated, Processed, Transferred, tested or sold to adults 21 years of age or older pursuant to M.G.L. c. 94G.

Adult-use Cannabis or Marijuana Products means Marijuana Products that are Processed Manufactured, Transferred, tested or sold to adults 21 years of age or older pursuant to M.G.L. c. 94G.

Advanced Core Curriculum means the advanced training curriculum taught by a Responsible Vendor Trainer that may be taken by MTC Agents after completing the Basic Core Curriculum under 935 CMR 501.105(2)(b).

Advertising means a form of marketing communication that employs a sponsored, nonpersonal message to sell or promote an MTC' Brand Name, MTC Branded Good, service, product or idea.

Affixed means the attachment of a label or other packaging material so that it is not easily removed or lost.

Agent Registration Card means an identification card currently and validly issued by the Commission to a Marijuana Establishment, MTC or Laboratory Agent. The Agent Registration Card allows access into Commission supported databases. The registration card facilitates verification of an individual Registrant's status including, but not limited to, identification by the Commission and Law Enforcement Authorities of those individuals exempt from Massachusetts criminal and civil penalties under M.G.L. c. 94G and 94I, and 935 CMR 500.000: *Adult Use of Marijuana* and 935 CMR 501.000.

Area of Disproportionate Impact means a geographic area identified by the Commission for the purposes identified in M.G.L. c. 94G, § 4(a½)(iv), and 935 CMR 500.040: *Leadership Rating Program for Marijuana Establishments* and *Marijuana-related Businesses* and 500.101: *Application Requirements*, and which has had historically high rates of arrest, conviction, and incarceration related to Marijuana crimes.

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

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501.002: continued

Assignment for the Benefit of Creditors means a contractual agreement with a third-party by which the Licensee assigns all of its assets and liabilities to such third-party in order to satisfy the Licensee's obligations to its creditors by liquidating the assets.

Basic Core Curriculum means the foundational training curriculum required of all MTC Agents taught by a Responsible Vendor Trainer under 935 CMR 501.105(2)(b).

Beverage means a liquid intended for drinking.

Bona Fide Healthcare Provider – Patient Relationship means a relationship between a Certifying Healthcare Provider, acting in the usual course of their professional practice, and a Patient in which the healthcare provider 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.

Brand Name means a brand name (alone or in conjunction with any other word), registered trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other identifiable marker associated with an MTC.

Brand Name Sponsorship means the payment by an MTC in exchange for use of a Brand Name:
(a) to sponsor an athletic, musical, artistic, or other social or cultural event; or
(b) to identify, advertise, or promote such event or an entrant or participant of such an event.

Cannabinoid means any of several compounds produced by Marijuana plants that have medical and psychotropic effects.

Cannabinoid Profile means the amounts, expressed as the dry-weight percentages, of delta-nine-tetrahydrocannabinol, cannabidiol, tetrahydrocannabinolic acid and cannabidiolic acid in a Marijuana Product. Amounts of other Cannabinoids may be required by the Commission.

Cannabis means Marijuana as defined in 935 CMR 501.002.

Canopy means an area to be calculated in square feet and measured using clearly identifiable boundaries of all areas(s) that will contain Flowering and/or Vegetative plants larger than eight inches tall and eight inches wide at any point in time, including all of the space(s) within the boundaries. Canopy may be noncontiguous, but each unique area included in the total Canopy calculations shall be separated by an identifiable boundary which includes, but is not limited to: interior walls, shelves, Greenhouse walls, hoop house walls, garden benches, hedge rows, fencing, garden beds, or garden plots. If Flowering and/or Vegetative plants larger than eight inches tall and eight inches wide are being cultivated using a shelving system, the surface area of each level shall be included in the total Canopy calculation.

Card Holder means a Registered Qualifying Patient, Personal Caregiver, Marijuana Establishment Agent, Medical Marijuana Treatment Center (MTC) Agent, or Laboratory Agent who holds a valid Patient or Agent Registration Card.

Caregiver means a Personal Caregiver or Institutional Caregiver.

Caregiving Institution means a hospice program, long-term care facility, or hospital duly registered currently and validly by the Commission, providing care to a Registered Qualifying Patient on the premises of the facility or through a hospice program.

Cease and Desist Order means an order to stop or restrict operations including, but not limited to, cultivation, product manufacturing, Transfer, sale, delivery, or testing, of Marijuana, Marijuana Products, or Marijuana-infused Products (MIPs) by a Licensee or Registrant to protect the public health, safety or welfare.

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501.002: continued

Ceases to Operate means a Marijuana Establishment, Medical Marijuana Treatment Center (MTC) or Independent Testing Laboratory that closes and does not transact business for a period greater than 60 days with no substantial action taken to reopen. The Commission may determine that an establishment has Ceased to Operate based on its actual or apparent termination of operations.

Certificate of Licensure means the certificate issued by the Commission that confirms that an MTC or Independent Testing Laboratory has met all applicable requirements pursuant to M.G.L. c. 94I, and 935 CMR 501.000 and is currently and validly licensed by the Commission. An MTC or Independent Testing Laboratory may be eligible for a provisional or final Certificate of Licensure.

Certificate of Registration means a certificate currently and validly issued by the Commission, that confirms an individual or entity has met all applicable requirements pursuant to M.G.L. c. 94I, and 935 CMR 501.000 and is registered by the Commission.

Certifying Certified Nurse Practitioner (CNP) means a Massachusetts licensed certified nurse practitioner licensed pursuant to 244 CMR 4.00: *Advanced Practice Registered Nursing*, who certifies that in their professional opinion, the potential benefits of the medical use of Marijuana would likely outweigh the health risks for a Qualifying Patient.

Certifying Healthcare Provider means a Certifying CNP, a Certifying Physician or a Certifying Physician Assistant.

Certifying Physician means a Massachusetts licensed physician (Medical Doctor or Doctor of Osteopathy), who certifies that in their professional opinion, the potential benefits of the medical use of Marijuana would likely outweigh the health risks for a Qualifying Patient.

Certifying Physician Assistant means a Massachusetts physician assistant licensed pursuant to 263 CMR 3.00: *Licensure of Individual Physician Assistants*, who certifies that in their professional opinion, the potential benefits of the medical use of Marijuana would likely outweigh the health risks for a Qualifying Patient.

Clinical Visit means an in-person or telehealth visit during which a Certifying Healthcare Provider establishes a *Bona Fide* Healthcare Provider Patient Relationship and conducts a full assessment of the Patient's medical history and current medical condition, including the Debilitating Medical Condition, and explains the potential benefits and risks of Marijuana use. A Clinical Visit for an initial Certificate of Registration shall be performed in-person.

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

Close Associate means a Person who holds a relevant managerial, operational or financial interest in the business of an applicant or Licensee and, by virtue of that interest or power, is able to exercise a significant influence over the corporate governance of a Marijuana Establishment, an MTC or Independent Testing Laboratory licensed under 935 CMR 500.000: *Adult Use of Marijuana*. A Close Associate is deemed to be a Person or Entity Having Direct or Indirect Control.

Colocated Marijuana Operations (CMO) means an MTC operating under a License pursuant to 935 CMR 501.000 and a Marijuana Establishment operating under at least one License pursuant to 935 CMR 500.000: *Adult Use of Marijuana*, on the same Premises. Colocated Marijuana Operations pertain to cultivation, product manufacturing, and retail licenses, but not any other adult-use License.

Commission means the Massachusetts Cannabis Control Commission, as established by M.G.L c. 10, § 76, or its representatives. The Commission has authority to implement the state Marijuana laws, which include, but are not limited to, St. 2016, c. 334: *The Regulation and Taxation of Marijuana Act*, as amended by St. 2017, c. 55: *An Act to Ensure Safe Access to Marijuana*; M.G.L. 10, § 76; M.G.L. c. 94G; M.G.L. c. 94I; 935 CMR 500.000: *Adult Use of Marijuana* and 935 CMR 501.000.

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501.002: continued

Commission Delegee(s) means other state or local officials or agencies working in cooperation with the Commission by agreement, to carry out the Commission's responsibilities and to ensure compliance with the adult-use and medical-use laws, and any other applicable federal or state laws.

Confidential Application Materials means any electronic or written document, communication or other record pertaining to an application for licensure or registration that is required to be confidential or protected from disclosure by law, which includes, but is not limited to, personally identifiable information concerning an applicant, Registrant, or Licensee; background check information or Criminal Offender Record Information (CORI) as defined by 803 CMR 2.02: *Definitions, or Criminal History Record Information (CHRI)* as defined by 803 CMR 7.02: *Definitions*; and information that implicates security concerns.

Confidential Database means the Commission database that holds data concerning:

(a) Qualifying Patients issued a Registration Card for medical use of Marijuana;
(b) healthcare professionals registered to issue Written Certifications;
(c) MTCs;
(d) quantity of medical-use Marijuana dispensed to a Card Holder; and
(e) any other pertinent information.

Confidential Information means information that is legally required to be kept confidential, or that is protected from disclosure by a legally recognized privilege. This includes, but is not limited to, M.G.L. c. 4, § 7, cl. 26 and M.G.L. c. 94I, §§ 2(e) and 3.

Confidential Investigatory Materials means any electronic or written document, communication or other record pertaining to an investigation which concerns:

(a) a possible violation of a statute, regulation, rule, practice or procedure, or professional or industry standard, administered or enforced by the Commission;
(b) an ongoing investigation that could alert subjects to the activities of an investigation;
(c) any details in witness statements, which if released create a grave risk of directly or indirectly identifying a private citizen who volunteers as a witness;
(d) investigative techniques the disclosure of which would prejudice the Commission's future investigative efforts or pose a risk to the public health, safety or welfare; or
(e) the background of any person the disclosure of which would constitute an unwarranted invasion of personal privacy.

Confidential Records means any electronic or written record required to be kept confidential or protected from disclosure by law which includes, but is not limited to, Confidential Application Materials, Confidential Social Equity Application Materials, Confidential Investigatory Materials, and Protected Patient Records (as defined in 935 CMR 501.002: Protected Patient Records).

Confidential Social Equity Application Materials means any electronic or written document, communication or other record pertaining to an application for the Social Equity Program that is required to be confidential or protected from disclosure by law which includes, but is not limited to, CORI as defined by 803 CMR 2.02: *Definitions*, or CHRI as defined in 803 CMR 7.02: *Definitions*.

Consumer means a person who is 21 years of age or older.

Court Appointee shall mean a person or entity appointed by a court of competent jurisdiction to exercise court oversight with respect to the property, assets, management, or operations of a Licensee or Person or Entity Having Direct or Indirect Control over a Licensee including, without limitation, a receiver, custodian, guardian, trustee, and executor or administrator of estate. This could include a person or entity preapproved or recommended by the Commission or its delegee appointed by the court.

Court Supervised Proceeding shall mean a proceeding where a court of competent jurisdiction supervises the property, assets, management, or operations of a Licensee or Person or Entity Having Direct or Indirect Control over a Licensee through a Court Appointee.

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501.002: continued

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

Criminal Offender Record Information (CORI) shall have the same meaning as defined by 803 CMR 2.02: *Definitions*.

Cultivation Batch means a collection of Cannabis or Marijuana plants from the same seed or plant stock that are cultivated and harvested together, and receive an identical Propagation and cultivation treatment including, but not limited to: growing media, ambient conditions, watering and light regimes and agricultural or hydroponic inputs. Clones that come from the same plant are one batch. The Licensee shall assign and record a unique, sequential alphanumeric identifier to each Cultivation Batch for the purposes of production tracking, product labeling and product recalls.

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.

Delivery Agreement means a contract between a licensed Marijuana Establishment and a Delivery Licensee or Marijuana Establishment with a Delivery Endorsement to deliver Marijuana or Marijuana Products from the Marijuana Establishment directly to Consumers and as permitted, Marijuana Couriers to Patients and Caregivers, under the provisions of a Delivery License.

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

Delivery Items means Finished Marijuana Products, Marijuana Accessories, and Marijuana Establishment Branded Goods.

Delivery Licensee means an entity that is authorized to deliver Marijuana and Marijuana Products directly to Consumers and as permitted, Marijuana Couriers to Patients and Caregivers.

Department of Agricultural Resources (MDAR) means the Massachusetts Department of Agricultural Resources, unless otherwise specified. MDAR has jurisdiction over Hemp and Pesticides.

Department of Criminal Justice Information Services (DCJIS) means the Massachusetts Department of Criminal Justice Information Services, unless otherwise specified. DCJIS shall have the same meaning as defined in 803 CMR 2.02: *Definitions*.

Department of Public Health (DPH) means the Massachusetts Department of Public Health, unless otherwise specified. DPH is the agency that administered the Medical Use of Marijuana Program prior to 2019.

Department of Revenue (DOR) means the Massachusetts Department of Revenue, unless otherwise specified.

Department of Unemployment Assistance (DUA) means the Massachusetts Department of Unemployment Assistance, unless otherwise specified.

Duress Alarm means a silent security alarm signal generated by the entry of a designated code into an Arming Station that signals an alarm user is under duress and turns off the system.

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501.002: continued

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

(a) Majority-equity-ownership Criteria:

1. A majority (more than 50%) of ownership belongs to people who have lived for five of the preceding ten years in an Area of Disproportionate Impact, as determined by the Commission.

2. A majority (more than 50%) of ownership has held one or more previous positions where the primary population served were disproportionately impacted, or where primary responsibilities included economic education, resource provision or empowerment to disproportionately impacted individuals or communities.

3. A majority (more than 50%) of the ownership is made up of individuals from Black, African American, Hispanic or Latino descent.

(b) Additional Criteria:

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

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

3. Other significant articulable demonstration of past experience in, or business practices that promote, economic empowerment in Areas of Disproportionate Impact. This applicant has priority for the purposes of the review of its license application.

Edibles means a Marijuana Product that is to be consumed by humans by eating or drinking. These products, when created or sold by a Marijuana Establishment or an MTC, shall not be considered a food or a drug as defined in M.G.L. c. 94, § 1.

Electronic Certification means a document signed or executed electronically by a Certifying Healthcare Provider, stating that in the healthcare professional'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* Healthcare Provider Patient Relationship and shall specify the Qualifying Patient's Debilitating Medical Condition. Electronic Certifications, on submission by a Certifying Healthcare Provider to the Commission, shall automatically generate a temporary registration.

Enclosed Area means an indoor or outdoor area equipped with locks or other security devices, which is accessible only to Qualifying Patients, MTC Agents, Registered Qualifying Patients, or Caregivers.

Equity Holder means a person or entity that holds, or may hold as a result of one or more of the following including, without limitation, vesting, conversion, exercising an option, a right of first refusal, or any agreement that would trigger an automatic transfer of or conversion to equity, any amount of equity in a Marijuana Establishment or an MTC.

Executive means members of the board of directors, executive officers, executive director, manager, or their equivalent, of a Marijuana Establishment, MTC, or Independent Testing Laboratory.

Executive Office of Energy and Environmental Affairs (EOEEA) means the Massachusetts Executive Office of Energy and Environmental Affairs, unless otherwise specified.

Existing Licensee Transporter means an entity that is otherwise licensed by the Commission and also licensed to purchase, obtain, and possess Marijuana or Marijuana Products solely for the purpose of transporting, temporary storage, sale and distribution on behalf of other Marijuana Establishments or MTCs to other establishments, but not to Consumers.

Expedited Applicant means an applicant for a Marijuana Microbusiness, Marijuana Craft Cooperative, Independent Testing Laboratory, or Outdoor Marijuana Cultivator license; a Social Equity Participant; a minority -, woman -, and/or veteran-owned business; eligible for expedited review prior to other General Applicants.

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501.002: continued

Fingerprint-based Background Check Trust Fund means a fund established under M.G.L. c. 29, § 2HHH, in which fees for fingerprint background checks are deposited.

Finished Marijuana means Usable Marijuana, Cannabis resin or Cannabis concentrate.

Finished Marijuana Product means a Marijuana Product that is completely manufactured and ready for retail sale and shall include Finished Marijuana that has been separated into individual packages or containers for sale.

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

Food and Drug Administration (FDA) means the United States Food and Drug Administration.

General Applicant means an applicant that has not been certified as an Economic Empowerment Priority Applicant or an MTC Priority Applicant; and is not eligible to be an Expedited Applicant.

Greenhouse means a structure or thermally isolated Enclosed Area of a building that maintains a specialized sunlit environment used for and essential to the cultivation, protection or maintenance of plants.

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

Having Direct Control means any person or entity having direct control over the operations of an MTC, which satisfies one or more of the following criteria:

(a) An Owner that possesses a financial interest in the form of equity of 10% or greater in an MTC;

(b) A Person or Entity that possesses a voting interest of 10% or greater in an MTC or a right to veto significant events;

(c) A Close Associate;

(d) A Person or Entity that has the right to control, or authority through contract, or otherwise including, but not limited to:

1. To make decisions regarding operations and strategic planning, capital allocations, acquisitions and divestments;
2. To appoint more than 50% of the directors or their equivalent;
3. To appoint or remove Corporate-level officers or their equivalent;
4. To make major marketing, production, and financial decisions;
6. To earn 10% or more of the profits or collect more than 10% of the dividends.
5. To execute significant (in aggregate of $10,000 or greater) or exclusive contracts; or

(e) A Court Appointee or assignee pursuant to an agreement for a general assignment or Assignment for the Benefit of Creditors; or

(f) A Third-party Technology Platform Provider that possesses any financial interest in a Delivery Licensee including, but not limited to, a Delivery Agreement or other agreement for services.

Healthcare Clinician or Provider means a Certifying Physician, Certifying Certified Nurse Practitioner or Certifying Physician Assistant qualified under 935 CMR 501.000 to issue Written Certifications for the medical-use of Marijuana.

Hemp means the plant of the genus Cannabis or any part of the plant, whether growing or not, with a delta-9-tetrahydrocannabinol concentration that does not exceed 0.3% on a dry weight basis of any part of the plant of the genus Cannabis, or per volume or weight of Marijuana Product, or the combined percent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus Cannabis, regardless of moisture content. MDAR has jurisdiction over Hemp.

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

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502.002: continued

Horticultural Lighting Equipment (HLE) means any lighting equipment (*e.g.*, fixtures, bulbs, ballasts, controls, *etc.*) that uses energy for the cultivation of plants, at any stage of growth (*e.g.*, germination, cloning/Mother Plants, Propagation, Vegetation, Flowering, and harvest).

Horticulture Lighting Square Footage (HLSF) means an area to be calculated in square feet and measured using clearly identifiable boundaries of all areas(s) that will contain plants at any point in time, at any stage of growth, including all of the space(s) within the boundaries, HLSF may be noncontiguous, but each unique area included in the total HLSF calculations shall be separated by an identifiable boundary which includes, but is not limited to: interior walls, shelves, Greenhouse walls, hoop house walls, garden benches, hedge rows, fencing, garden beds, or garden plots. If plants are being cultivated using a shelving system, the surface area of each level shall be included in the total HLSF calculation.

Host Community means a municipality in which a Marijuana Establishment, MTC or Independent Testing Laboratory is located or in which an applicant has proposed locating an establishment.

Immature Plant means a rooted plant in the Vegetation stage of development that is no taller than eight inches, no wider than eight inches, and is in a growing/cultivating container.

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

Impassible Barrier means, for the purposes of determining the 500 feet buffer zone, a highway, public or private way or path, inaccessible structure, body of water, or other obstruction that renders any part of the 500-foot straight-line distance between an MTC Entrance and a School Entrance inaccessible by a pedestrian or automobile.

Independent Testing Laboratory means a laboratory that is licensed or registered by the Commission and is:

(a) Currently and validly licensed under 935 CMR 500.101: *Application Requirements*, or formerly and validly registered by the Commission;

(b) Accredited to ISO 17025:2017 or the International Organization for Standardization 17025 by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Accrediting Cooperation mutual recognition arrangement or that is otherwise approved by the Commission;

(c) Independent financially from any MTC, Marijuana Establishment or Licensee; and

(d) Qualified to test Marijuana and Marijuana Products, including MIPs, in compliance with M.G.L. c. 94C, § 34; M.G.L c. 94G, § 15; 935 CMR 500.000: *Adult Use of Marijuana*; 935 CMR 501.000; and Commission protocol(s).

Individual Order means a delineated amount of Finished Marijuana Products to be delivered by a Delivery Licensee or a Marijuana Establishment with a Delivery Endorsement to an individual Consumer and as permitted, a Marijuana Courier to a Patient or Caregiver, and not to exceed the individual possession amount limits as determined by statute.

Inducement means money or any other thing of substantial value intended to persuade or influence a person or entity to take an action or refrain from taking an action.

Informed Consent means the consent obtained by a Research Licensee from potential participants in a research project that explains to potential participants the risks and potential benefits of a study, and the rights and responsibilities of the parties involved.

Informed Consent Form means the document provided to potential participants in a research project that explains to potential participants the risks and potential benefits of a study, and the rights and responsibilities of the parties involved.

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

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501.002: continued

Institutional Review Board means a specifically constituted administrative body established or designated by a Marijuana Research Facility Licensee to review and oversee the design and methods of a research project and, where human or animal subject are a component of the research, to protect the rights and welfare of persons recruited to participate in research.

Known Allergen means milk, egg, fish, crustacean shellfish, tree nuts, wheat, peanuts, and soybeans, or such other allergen identified by the U.S. Food and Drug Administration (FDA).

Laboratory Agent means an employee of an Independent Testing Laboratory who transports, possesses or tests medical-use Marijuana or MIPs in compliance with 935 CMR 501.000. For the purposes of testing for the medical-use program, a Laboratory Agent may register under 935 CMR 501.029 or 935 CMR 500.029: *Registration and Conduct of Laboratory Agents*.

Law Enforcement Authorities means local law enforcement including, but not limited to, the local police and fire departments within the municipality where the Licensee is sited, unless otherwise indicated.

License means the certificate issued by the Commission that confirms that an MTC or Independent Testing Laboratory has met all applicable requirements pursuant to St. 2016, c. 334, as amended by St. 2017, c. 55, M.G.L. c. 94I, and 935 CMR 501.000. An MTC or Independent Testing Laboratory may hold a provisional or final License.

Licensee means a person or entity on the application and licensed by the Commission to operate an MTC or Independent Testing Laboratory under St. 2016, c. 334, as amended by St. 2017, c. 55, M.G.L. c. 94I, and 935 CMR 501.000. Any person or entity that solely provides initial capital to establish or operate the establishment and to whom, in return for the initial capital, requires only repayment of the loan and does not have any ownership or direct or indirect authority to control the MTC or Independent Testing Laboratory, will not be a Licensee.

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.

Lighting Power Density (HLPD) means a measure of total watts of Horticultural Lighting Equipment per total Horticulture Lighting Square Footage, (HLE/HLSF = HLPD) expressed as number of watts per square foot.

Limitation on Sales means a limitation on the sales of Marijuana, Marijuana Products, or MIPs by a Licensee or Registrant arising from the regulations and until substantial compliance by a Licensee or Registrant with a law, regulation, guidance or other requirement for licensure or registration.

Limited Access Area means an indoor or outdoor area on the Premises of an MTC where Marijuana or MIPs, or their byproducts are cultivated, stored, weighed, packaged, Processed, or disposed, under the control of an MTC, with access limited to only to those MTC Agents and Laboratory Agents designated by the MTC after receipt of a Final License.

Local Authorities means local municipal authorities unless otherwise indicated.

Manufacture means to compound, blend, extract, infuse or otherwise make or prepare a Marijuana Product.

Marijuana (or Cannabis) means all parts of any plant of the genus Cannabis, not excepted in 935 CMR 501.002: Marijuana(a) through (c) and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; Clones of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin, including tetrahydrocannabinol as defined in M.G.L. c. 94G, § 1; provided that Cannabis shall not include:

(a) 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, fiber, oil, or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination;

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(b) Hemp; or
(c) The weight of any other ingredient combined with Cannabis or Marijuana to prepare topical or oral administrations, food, drink or other products.

Marijuana Accessories (or Cannabis Accessories) means equipment, products, devices or materials of any kind that are intended or designed for use in planting, Propagating, cultivating, growing, harvesting, Manufacturing, compounding, converting, producing, Processing, preparing, testing, analyzing, packaging, Repackaging, storing, containing, ingesting, inhaling or otherwise introducing Cannabis or Marijuana into the human body.

Marijuana Courier means an entity licensed to deliver Finished Marijuana Products, Marijuana Accessories and Branded Goods directly to Consumers from a Marijuana Retailer, or directly to Registered Qualifying Patients or Caregivers from an MTC, but is not authorized to sell Marijuana or Marijuana Products directly to Consumers, Registered Qualifying Patients or Caregivers and is not authorized to Wholesale, Warehouse, Process, Repackage, or White Label. A Marijuana Courier is an additional license type under M.G.L. c. 94G, § 4(b)(1) that allows for limited delivery of Marijuana or Marijuana Products to Consumers; and shall not be considered to be a Marijuana Retailer under 935 CMR 500.002: *Definitions* or 935 CMR 500.050: *Marijuana Establishments* and shall be subject to 935 CMR 500.050(1)(b): *Control Limitations*.

Marijuana Cultivator means an entity licensed to cultivate, Process and package Marijuana, and to Transfer Marijuana to other Marijuana Establishments, but not to Consumers. A Craft Marijuana Cooperative is a type of Marijuana Cultivator.

Marijuana Establishment means a Marijuana Cultivator (Indoor or Outdoor), Craft Marijuana Cooperative, Marijuana Product Manufacturer, Marijuana Microbusiness, Independent Testing Laboratory, Marijuana Retailer, Marijuana Transporter, Delivery Licensee, Marijuana Research Facility Licensee (as defined in 935 CMR 501.002: Marijuana Research Facility Licensee), Social Consumption Establishment (as defined in 935 CMR 501.002: Social Consumption Establishment), or any other type of licensed Marijuana-related business, except a Medical Marijuana Treatment Center (MTC).

Marijuana Establishment Agent means any Owner, employee, Executive, or volunteer of a Marijuana Establishment, who shall be 21 years of age or older. Employee includes a consultant or contractor who provides on-site services to a Marijuana Establishment related to the cultivation, harvesting, preparation, packaging, storage, testing, or dispensing of Marijuana.

Marijuana-infused Product (MIP) means a Marijuana Product infused with Marijuana that is intended for use or consumption including, but not limited to, Edibles, ointments, aerosols, oils, and Tinctures. A Marijuana-infused Product (MIP), when created or sold by a Marijuana Establishment or an MTC, shall not be considered a food or a drug as defined in M.G.L. c. 94, § 1. MIPs are a type of Marijuana Product.

Marijuana Products (or Cannabis Products) means Marijuana and its products, unless otherwise indicated Marijuana Products includes products that have been Manufactured and contain Cannabis, Marijuana or an extract from Cannabis or Marijuana, including concentrated forms of Marijuana and products composed of Marijuana and other ingredients that are intended for use or consumption, including Edibles, Beverages, topical products, ointments, oils and Tinctures. Marijuana Products include Marijuana-infused Products (MIPs) defined in 935 CMR 501.002: Marijuana-infused Products.

Marijuana Product Manufacturer means an entity licensed to obtain, Manufacture, Process and package Marijuana or Marijuana Products and to Transfer these products to other Marijuana Establishments, but not to Consumers.

Marijuana Regulation Fund means the fund established under M.G.L. c. 94G, § 14, in which fees, fines, and other monies collected by the Commission are deposited, except for fees collected by the Commission on behalf of other state agencies.

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Marijuana Research Facility means the Premises at which a Marijuana Research Facility Licensee is approved to conduct research.

Marijuana Research Facility Licensee or Research Licensee means an academic institution, nonprofit corporation or domestic corporation or entity authorized to do business in the Commonwealth, including a licensed Marijuana Establishment or MTC, that is licensed to conduct research.

Marijuana Retailer means an entity licensed to purchase, Repackage, White Label, and transport Marijuana or Marijuana Product from Marijuana Establishments and to Transfer or otherwise Transfer this product to Marijuana Establishments and to sell to Consumers. Unless licensed, retailers are prohibited from offering Marijuana or Marijuana Products for the purposes of on-site social consumption on the Premises of a Marijuana Establishment.

Marijuana Transporter means an entity, not otherwise licensed by the Commission, that is licensed to possess Marijuana Products solely for the purpose of transporting, temporary storage, sale and distribution to Marijuana Establishments or MTCs, but not to Consumers. Marijuana Transporters may be an Existing Licensee Transporter or Third-party Transporter.

Marijuana Vaporizer Device means a product containing concentrated marijuana oil that is converted into inhalable marijuana aerosolized vapors.

Massachusetts Resident means a person whose primary Residence is in Massachusetts.

Medical Marijuana Treatment Center (MTC), formerly known as a Registered Marijuana Dispensary (RMD)), means an entity licensed under 935 CMR 501.101 that acquires, cultivates, possesses, Processes (including development of related products such as Edibles, MIPs, Tinctures, aerosols, oils, or ointments), Repackages, transports, sells, distributes, delivers, dispenses, or administers Marijuana, products containing Marijuana, related supplies, or educational materials to Registered Qualifying Patients or their Personal Caregivers for medical use. Unless otherwise specified, MTC refers to the site(s) of dispensing, cultivation, and preparation of Marijuana for medical use.

Medical-use Marijuana (or Medical-use Cannabis) means Marijuana that is cultivated, Processed, Transferred, tested or sold in compliance with M.G.L. c. 94I, and 935 CMR 501.000.

Medical-use Marijuana or Marijuana Products means Marijuana Products that are Manufactured, Transferred, tested or sold in compliance with M.G.L. c. 94I, and 935 CMR 501.000.

Member means a member of a nonprofit entity incorporated pursuant to M.G.L. c. 180.

Microbusiness means an entity that can be either a Tier 1 Marijuana Cultivator or Marijuana Product Manufacturer or both, in compliance with the operating procedures for each License and, if in receipt of a Delivery Endorsement issued by the Commission, may deliver Marijuana or Marijuana Products produced at the licensed location directly to Consumers in compliance with established regulatory requirements for retail sale as it relates to delivery. A Microbusiness that is a Marijuana Product Manufacturer may purchase no more than 2,000 pounds of Marijuana per year from other Marijuana Establishments for the purpose of Marijuana Product manufacturing by the Licensee.

Mother Plant means a marijuana plant that is grown or maintained for the purpose of generating Clones, and that will not be used to produce plant material for sale to another Marijuana Establishment or Medical Marijuana Treatment Center.

MTC Agent means any Owner, employee, Executive, or volunteer of an MTC, who shall be 21 years of age or older. Employee includes a consultant or contractor who provides on-site services to an MTC related to the cultivation, harvesting, preparation, packaging, storage, testing, or dispensing of Marijuana or Marijuana Products for medical purposes.

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501.002: continued

MTC Branded Good means a merchandise item offered for sale by an MTC, and identifiable as being of a particular MTC, distinct from those of other entities, by having the MTC's Brand Name. An MTC Branded Good does not include Marijuana, Marijuana Products, or Marijuana Accessories. It may include apparel, water bottles or other similar non-Edible merchandise.

MTC Entrance means the entrance or entrances that provides ingress and egress to Consumers, Registered Qualifying Patients and Caregivers, to the MTC.

MTC Priority Applicant means a Medical Marijuana Treatment Center (MTC) (previously, Registered Marijuana Dispensary (RMD)) certified by the Commission as an MTC Priority Applicant in 2018 upon demonstrating that it had at least a provisional Certification of Registration prior to April 1, 2018. This applicant has priority for the purposes of the review of its license application.

Mycotoxin means a secondary metabolite of a microfungus that is capable of causing death or illness in humans and other animals. For purposes of 935 CMR 500.000: *Adult Use of Marijuana* and 935 CMR 501.000, Mycotoxin shall include aflatoxin B1, aflatoxin B2, aflatoxin G1, aflatoxin G2, and ochratoxin A.

Order to Show Cause means an order issued by the Commission or a Commission Delegee on a determination that there are grounds to suspend or revoke a License or registration.

Other Jurisdiction means the United States, another state, or foreign jurisdiction, or a military, territorial or Native American tribal authority.

Outdoor Cultivation shall mean the cultivation of mature Cannabis without the use of artificial lighting in the Canopy area at any point in time. Artificial lighting is permissible only to maintain Immature or Vegetative Mother Plants.

Owner means any Equity Holder that possesses 10% equity or more in a Marijuana Establishment, MTC or Independent Testing Laboratory.

Panic Alarm means an audible security alarm signal generated by the manual activation of a device that signals a life threatening or emergency situation and calls for a law enforcement response.

Paraphernalia means "drug paraphernalia" as defined in M.G.L. c. 94C, § 1.

Patient Registration Card means a temporary or an annual Registration Card currently and validly issued by the Commission to a Registered Qualifying Patient. The Patient Registration Card facilitates verification of an individual Registrant's status including, but not limited to, identification by the Commission and Law Enforcement Authorities, of those individuals who are exempt from Massachusetts criminal and civil penalties under M.G.L. c. 94I, and 935 CMR 501.000 through Commission-supported databases. A Temporary Patient Registration issued to a Qualifying Patient shall be deemed a Registration Card.

Person means an individual or entity under the laws of the Commonwealth.

Person or Entity Having Indirect Control means any person or entity having indirect control over operations of MTC. It specifically includes any Person or Entity Having Direct Control over an indirect holding or parent company of the applicant, and the chief executive officer and executive director of those companies, or any person or entity in a position indirectly to control the decision-making of MTC.

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

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501.002: continued

Personal Caregiver Registration Card means a temporary or an annual Registration Card currently and validly issued by the Commission to a Personal Caregiver. The Registration Card allows access into Commission supported databases. The Registration Card facilitates verification of an individual Registrant's status including, but not limited to, identification by the Commission and Law Enforcement Authorities of those individuals who are exempt from Massachusetts criminal and civil penalties under M.G.L. c. 94I, and 935 CMR 501.000. A temporary registration issued to a Personal Caregiver shall be deemed a Registration Card.

Pesticide means a substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant; provided that Pesticide shall not include any article that is a "new animal drug" within the meaning of § 201(v) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. § 321(v)), or that has been determined by the Secretary of the United States Department of Health and Human Services not to be a new animal drug by a regulation establishing conditions of use for the article, or that is an "animal feed" within the meaning of § 201(w) of such act (21 U.S.C. § 321 (w)).

Preapproved Court Appointee means a person or entity preapproved by the Commission pursuant to 935 CMR 500.104(3)(c) to serve as a Court Appointee over a Licensee or its delegee which may be recommended to a court of competent jurisdiction.

Pre-certification Application means an application reviewed by the Commission for pre-certification prior to provisional licensure. The Pre-certification Application may be available in a form and manner determined by the Commission.

Pre-verification means the process of an MTC examining the identification presented by an individual Registered Qualifying Patient to confirm that the identification is valid and matches the individual presenting it and collecting the information required by 935 CMR 501.000 prior to that Registered Qualifying Patient being able to receive deliveries of Marijuana or Marijuana Products to the Registered Qualifying Patient or Caregiver's Residence.

Premises means any indoor or outdoor location over which an MTC or Independent Testing Laboratory or its agents may lawfully exert substantial supervision or control over entry or access to the property or the conduct of persons.

Priority Applicant means an MTC Priority Applicant (formerly a Registered Marijuana Dispensary or RMD Priority Applicant) or an Economic Empowerment Priority Applicant.

Process or Processing means to harvest, dry, cure, trim and separate parts of the Cannabis or Marijuana plant by manual or mechanical means, except it shall not include Manufacture as defined in 935 CMR 501.002: Manufacture.

Product Database means a Commission-operated technology platform displaying information about Marijuana Products produced by licensed Marijuana Product Manufacturers and sold by a licensed Marijuana Retailer or Delivery Operator pursuant to 935 CMR 500.000: *Adult Use of Marijuana* or an MTC pursuant to 935 CMR 501.000.

Production Area means a Limited Access Area within the MTC where Cannabis or Marijuana is handled or produced in preparation for sale.

Production Batch means a batch of finished plant material, Cannabis resin, Cannabis concentrate, or Marijuana-infused Product made at the same time, using the same methods, equipment and ingredients. The Licensee shall assign and record a unique, sequential alphanumeric identifier to each Production Batch for the purposes of production tracking, product labeling and product recalls. All Production Batches shall be traceable to one or more Cannabis or Marijuana Cultivation Batches.

Program Transfer means the transfer of the medical use of Marijuana program pursuant to St. 2017, c. 55, §§ 64 through 71, and 82, and M.G.L. c. 94I.

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

Protected Patient Records means any document, record or electronic or written communication related to their care provided by a medical-use Marijuana Licensee or establishment or by a Certifying Healthcare Provider that is required to be confidential or protected from disclosure by law.

Provisional Medical Marijuana Treatment Center License means a License issued by the Commission confirming that an MTC has completed the application process and satisfied the qualifications for initial licensure.

Qualifying Patient means:

(a) a Massachusetts Resident or a non-Massachusetts Resident receiving end-of-life or palliative care or cancer treatment in Massachusetts as determined by a Certifying Healthcare Provider, who is 18 years of age or older who has been diagnosed by a Certifying Healthcare Provider as having a Debilitating Medical Condition; or

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

Quality Control Sample means a sample of Marijuana or Marijuana Product developed by a Marijuana Cultivator, a Marijuana Product Manufacturer, a Microbusiness, or a Craft Marijuana Cooperative that is provided internally to employees for purposes of ensuring product quality and making determinations about whether to sell the Marijuana or Marijuana Product.

Quarantine Order means an order to quarantine or otherwise restrict the sales or use of Marijuana, Marijuana Products, or MIPs by a Licensee or Registrant to protect the public health, safety, or welfare.

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

Registrant means the holder of a Registration Card currently and validly registered with the Commission.

Registration Card means an identification card currently and validly issued by the Commission, to a Registered Qualifying Patient, Personal Caregiver, Institutional Caregiver, MTC or Laboratory Agent. The Registration Card allows access into Commission supported databases. The Registration Card facilitates verification of an individual Registrant's status including, but not limited to, the identification by the Commission and Law Enforcement Authorities of those individuals who are exempt from Massachusetts criminal and civil penalties under St. 2016, c. 334, as amended by St. 2017, c. 55, M.G.L. c. 94I, and 935 CMR 501.000.

Removal of Product means an order issued against an MTC to remove and prohibit sales of categories of products, product types, specific product types or specific brands of products after notice and on a determination that the Marijuana or Marijuana Product poses a substantial risk to the public health, safety or welfare including, but not limited to, when the product is especially appealing to persons younger than 21 years old.

Repackage means to uniformly wrap or seal Marijuana that has already been wrapped or sealed, into a ready-made product for retail sale, without combining, infusing, or changing the chemical composition of the Marijuana.

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Research Permit means a certificate indicating Commission approval to conduct a specified research project over a specified and finite period. To the extent that a Research Licensee is subject to other IRB, institutional, industry, or professional standards, they shall demonstrate compliance with those standards.

Residence means a house, condominium or apartment, and excludes, unless otherwise authorized by law, dormitories or other on-campus college or university housing; bed-and-breakfast establishments, hotels, motels or other commercial hospitality operations; and federal public housing identified at https://resources.hud.gov/, shelters or residential programs.

Residual Solvent means a volatile organic chemical used in the Manufacture of a Marijuana Product that is not completely removed by practical manufacturing techniques.

Responsible Vendor means an MTC that the Commission has determined to have completed the initial training requirements and has maintained its training requirement under 935 CMR 501.105(2).

Responsible Vendor Trainer means an independent business entity certified by the Commission to provide Responsible Vendor Training Program courses. No owner, manager, or employee of a Responsible Vendor Trainer may be a Person or Entity Having Direct or Indirect Control of an MTC.

Responsible Vendor Training (RVT) Program means a mandatory program that provides training courses taught by a Responsible Vendor Trainer for MTC Agents in order to satisfy the minimum training hours required under 935 CMR 501.105(2).

School Entrance means the entrance(s) that provide ingress and egress to students of the pre-existing public or private or private school providing education in kindergarten or any grades 1 through 12 at the time of the newspaper publication of the proposed MTC's community outreach meeting under 935 CMR 501.101(1)(a)9.a.

SDO means the Supplier Diversity Office of the Massachusetts Operational Services Division (OSD).

Second Confirmatory Test means a second full panel of tests performed for reanalysis of a sample of Marijuana or Marijuana Products that failed an initial test for contaminants.

Seed-to-sale Electronic Tracking System means a system designated by the Commission as the system of record (Seed-to-sale SOR) or a secondary electronic tracking system used by a Marijuana Establishment or an MTC or an Independent Testing Laboratory. This system shall capture everything that happens to an individual Marijuana plant, from seed and cultivation, through growth, harvest and Manufacture of Marijuana Products and MIPs, including transportation, if any, to final sale of finished products. Seed-to-sale Electronic Tracking System shall utilize a unique-plant identification and unique-batch identification. It will also be able to track agents' and Registrants' involvement with the Marijuana Product. Any secondary system used by the Marijuana Establishment or an MTC or an Independent Testing Laboratory shall integrate with the SOR in a form and manner determined by the Commission.

Seed-to-sale-System of Record (Seed-to-sale SOR) means the electronic tracking system designated and required by the Commission to perform a process.

Shelf-stable means able to be safely stored at room temperature in a sealed container. Shelf-stable does not include "Time/Temperature Controlled for Safety Food" as it is defined in the 2013 *Food Code* as adopted under 105 CMR 590.001(A).

Small Business means, for the purposes of 935 CMR 500.005(1)(b), an applicant or Licensee that:

(a) currently employs a combined total of 50 or fewer full-time equivalent employees in all locations or employees work less than a combined total of 2,600 hours per quarter; and

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(b) has gross revenues of $5 million or less, as reported to the Massachusetts Department of Revenue the year prior to the date of the Licensee's renewal application or as otherwise demonstrated in a form and manner determined by the Commission.

Social Consumption Establishment means an entity licensed to sell Marijuana or Marijuana Products and allow Consumers to consume Marijuana or Marijuana Products solely on its Premises.

Social Consumption Pilot Program means a limited number of Social Consumption Establishments, specifically Social Consumption Establishments, in certified municipalities.

Social Equity Program Participant means an individual who qualified to participate in the Social Equity Program and is designated as a program participant by the Commission.

Substantial Modification means a material change to a term of a contract that a reasonable person would understand alters the relationship between the parties. A Substantial Modification shall include, but is not limited to, shifting responsibility for the performance of a contract term or increasing or decreasing the amount of consideration being paid for performance of the contract above an amount that is *de minimis*.

Summary Suspension means the suspension of any License or registration issued under 935 CMR 501.000 and the cessation of all operations in order to protect the public health, safety and welfare.

Temporary Patient Registration means an interim registration document for patients and their Personal Caregivers generated automatically upon the Commission's receipt of a Certifying Healthcare Provider's Electronic Certification. The temporary registration document shall constitute a Registration Card for patients and their Personal Caregivers to access an MTC. Temporary registration shall expire 14 days after the Commission issues the Registration Card or on the issuance and receipt of an annual Registration Card, whichever occurs first.

Third-party Technology Platform Provider means an individual or entity that provides or hosts an internet-based application or group of applications developed for the facilitation of ordering and delivering Finished Marijuana Products, Marijuana Accessories and Branded Goods for sale or delivery by a Marijuana Courier or an MTC to a Registered Qualifying Patient or Caregiver. A proprietary application developed by a Licensee exclusively for that Licensee's use shall not be considered to be a Third-party Technology Platform Provider. A Third-party Technology Platform Provider may not be an investor in a Delivery Licensee.

Tincture means a Cannabis-infused alcohol or oils concentrate administered orally in small amounts using a dropper or measuring spoon. Tinctures are not considered an Edibles under 935 CMR 501.000.

Transfer means the sale of Marijuana or Marijuana Products from a Marijuana Establishment to a separate Marijuana Establishment, Independent Testing Laboratory or MTC (but not to Consumers) subject to entry of the transaction in the Commission's Seed-to-sale SOR.

United States (US) means the United States of America.

Unreasonably Impracticable means that the measures necessary to comply with the regulations, ordinances or bylaws adopted pursuant to St. 2016, c. 334, as amended by St. 2017, c. 55, M.G.L. c. 94G, M.G.L. c. 94I, 935 CMR 500.000: *Adult Use of Marijuana* or 935 CMR 501.000 subject Licensees to unreasonable risk or require such a high investment of risk, money, time or any other resource or asset that a reasonably prudent businessperson would not operate a Marijuana Establishment.

Usable Marijuana means the fresh or dried leaves and flowers of the female Marijuana plant and any mixture or preparation thereof, including Marijuana, Marijuana Products or MIPs, but does not include the seedlings, seeds, stalks, roots of the plant, or Marijuana rendered unusable in accordance with 935 CMR 501.105(12).

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Vault means a secured, limited access storage room within an MTC that is outfitted with adequate security features for the purposes of storing Marijuana or Marijuana Products or cash. A vault must be adequately sized to store inventory that is not being actively handled for purposes of dispensing, packaging, processing or transportation.

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

Vegetative Plant means a plant in a stage of Vegetation.

Vendor Sample means a sample of Marijuana or Marijuana Product developed by a Marijuana Cultivator or a Marijuana Product Manufacturer licensed under the provisions of 935 CMR 500.000: *Adult Use of Marijuana*, that is provided to a Marijuana Product Manufacturer, a Marijuana Retailer or a Delivery Operator to promote product awareness.

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.

Veteran means a person who served in the active military, naval, air, or space service of the United States and who was discharged or released under conditions other than dishonorable.

Visitor means an individual, other than an MTC Agent or Laboratory Agent, authorized by the MTC or Independent Testing Laboratory to be on the Premises of an MTC for a purpose related to its operations and consistent with the objectives of M.G.L. c. 94I, and 935 CMR 501.000.

Visitor Identification Badge means a badge issued by an MTC, Marijuana Establishment or the Commission to be used at all times while on the Premises of a Marijuana Establishment or an MTC or Independent Testing Laboratory. These identification badges shall be issued in a form and manner determined by the Commission.

Waiver of Consent means the document signed by potential participants or the legal guardians of potential participants that waives one or more elements of consent.

Written Certification means a form submitted to the Commission by a Massachusetts licensed Certifying Healthcare Provider 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.

14-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 14 calendar days for the Patient's personal medical use, which is 2.5 ounces, subject to 935 CMR 501.010(9), unless otherwise determined by a Certifying Healthcare Provider.

60-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 935 CMR 501.010(9), unless otherwise determined by a Certifying Healthcare Provider.

501.003: Colocated Marijuana Operations (CMOs)

An MTC may also be licensed to conduct adult use operations as a Cultivator, Product Manufacturer and Retailer, as defined in 935 CMR 500.002: Cultivator, Product Manufacturer, and Retailer. Unless otherwise specified, a CMO shall comply with the requirements of each the adult-use and medical-use license located on the Premises of the CMO.

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501.005: Fees

(1) Each Qualifying Patient is subject to the following nonrefundable fees. 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 Commission.

Patients	Fee
Medical Use ID Card Replacement	$10

(2) Each of the individuals and entities identified below is subject to the following nonrefundable fees.

Medical Marijuana Treatment Center (MTC):

MTC Agent Registration, Annual	$500
MTC Application Fee	$3,500
MTC Initial and Annual License Fee	$50,000

Caregiving and Caregiving Institutions:

Registration of Caregiving Institutions	None
Registration of Institutional Caregivers	None

(3) Other Fees (Cost per License).

Change in Name Fee	$1,000
Change in Location Fee	$10,000
Change in Building Structure Fee	$1,000
Change in Ownership or Control Fee (involving at least one entity gaining ownership/control)	$5000 per entity, per License
Change in Ownership or Control Fee (involving individuals, *e.g.*, change of Board Member)	$500 per person
Architectural Review Request Fee	$1,500
Packaging and Labeling Preapproval Application Fee	$50 per product

(4) These fees do not include the costs associated with the Seed-to-sale SOR, which includes a monthly program fee and fees for plant and package tags. These fees do not include the costs associated with criminal background checks as required under 935 CMR 501.000. These fees do not include the costs associated with packaging and label approval.

(5) All persons required to complete a background check pursuant to 935 CMR 501.101(1)(b) shall be responsible for reimbursement and/or payment of fees relating to criminal and background investigations as necessary for the purpose of evaluating Licensees, agents and applicants for licensure in accordance with 935 CMR 501.101(1)(b).

(6) For CMOs, an applicant or Licensee shall pay the applicable fees for each Marijuana Establishment set forth in 935 CMR 500.005: *Fees* and MTC set forth in 935 CMR 501.005.

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(7) Preapproved Court Appointees.
(a) Each applicant seeking to be Preapproved Court Appointee shall pay a nonrefundable application fee of $500 with any such application.
(b) A Preapproved Court Appointee seeking to renew its designation shall pay a renewal fee of $400.

501.006: Registration of Certifying Physicians

(1) 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:
(a) An active full license, with no prescribing restriction, to practice medicine in Massachusetts; and
(b) A Massachusetts Controlled Substances Registration from the DPH.

(2) To register as a Certifying Physician, a physician shall submit, in a form and manner determined by the Commission, the physician's:
(a) Full name and business address;
(b) License number issued by the Massachusetts Board of Registration in Medicine;
(c) Massachusetts Controlled Substances Registration number; and
(d) Any other information required by the Commission.

(3) Once registered by the Commission, a Certifying Physician will retain indefinitely a registration to certify a Debilitating Medical Condition for a Qualifying Patient, unless:
(a) 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;
(b) The physician's Massachusetts Controlled Substances Registration is suspended or revoked;
(c) The physician has fraudulently issued a Written Certification of a Debilitating Medical Condition;
(d) The physician has certified a Qualifying Patient for a Debilitating Medical Condition without appropriate completion of continuing professional development credits pursuant to 935 CMR 501.010(1); or
(e) The physician surrenders his or her registration.

(4) After registering, a Certifying Physician is responsible for notifying the Commission, in a form and manner determined by the Commission, within five business days after any changes to the physician's information.

501.007: Registration of Certifying Certified Nurse Practitioners

(1) A Certifying CNP 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:
(a) An active full license, with no prescribing restriction, to practice nursing in Massachusetts;
(b) A board authorization by the Massachusetts Board of Registration in Nursing to practice as a CNP; and
(c) A Massachusetts Controlled Substances Registration from the DPH.

(2) To register as a Certifying CNP, a CNP shall submit, in a form and manner determined by the Commission, the Certifying CNP's:
(a) Full name and business address;
(b) License number issued by the Massachusetts Board of Registration in Nursing;
(c) Board Authorization by the Massachusetts Board of Registration in Nursing;
(d) Massachusetts Controlled Substances Registration number;
(e) An attestation by the supervising physician for the CNP that the CNP is certifying patients for medical use of Marijuana pursuant to the mutually agreed upon guidelines between the CNP and physician supervising the CNP's prescriptive practice; and
(f) Any other information required by the Commission.

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(3) Once registered by the Commission, a Certifying CNP will retain indefinitely a registration to certify a Debilitating Medical Condition for a Qualifying Patient, unless:

(a) The CNP's license to practice nursing in Massachusetts is suspended, revoked, or restricted with regard to prescribing, or the CNP has voluntarily agreed not to practice nursing in Massachusetts;

(b) The CNP's Board Authorization to practice as an advanced practice nurse in Massachusetts is suspended, revoked or restricted with regard to prescribing;

(c) The CNP's Massachusetts Controlled Substances Registration is suspended or revoked;

(d) The CNP has fraudulently issued a Written Certification of a Debilitating Medical Condition;

(e) The CNP has certified a Qualifying Patient for a Debilitating Medical Condition without appropriate completion of continuing professional development credits pursuant to 935 CMR 501.010(1); or

(f) The CNP surrenders his or her registration.

(4) After registering, a Certifying CNP is responsible for notifying the Commission, in a form and manner determined by the Commission, within five business days after any changes to the CNP's information including, but not limited to, changes to his or her supervising physician.

501.008: Registration of Certifying Physician Assistants

(1) A Certifying Physician Assistant 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:

(a) An active full license, with no prescribing restriction, to practice as a physician assistant in Massachusetts;

(b) A board authorization by the Massachusetts Board of Registration of Physician Assistants to practice as a physician assistant; and

(c) A Massachusetts Controlled Substances Registration from the DPH.

(2) To register as a Certifying Physician Assistant, a physician assistant shall submit, in a form and manner determined by the Commission, the Certifying Physician Assistant's:

(a) Full name and business address;

(b) License number issued by the Massachusetts Board of Registration of Physician Assistants;

(c) Board Authorization by the Massachusetts Board of Registration of Physician Assistants;

(d) Massachusetts Controlled Substances Registration number;

(e) An attestation by the supervising physician for the physician assistant that the physician assistant is certifying patients for medical use of Marijuana pursuant to the mutually agreed upon guidelines between the physician assistant and physician supervising the physician assistant's prescriptive practice; and

(f) Any other information required by the Commission.

(3) Once registered by the Commission, a Certifying Physician Assistant will retain indefinitely a registration to certify a Debilitating Medical Condition for a Qualifying Patient, unless:

(a) The physician assistant's license to practice as a physician assistant in Massachusetts is suspended, revoked, or restricted with regard to prescribing, or the physician assistant has voluntarily agreed not to practice medicine in Massachusetts;

(b) The physician assistant's Board Authorization to practice as a physician assistant in Massachusetts is suspended, revoked or restricted with regard to prescribing;

(c) The physician assistant's Massachusetts Controlled Substances Registration is suspended or revoked;

(d) The physician assistant has fraudulently issued a Written Certification of a Debilitating Medical Condition;

(e) The physician assistant has certified a Qualifying Patient for a Debilitating Medical Condition on or after the effective date of the transfer of the program, without appropriate completion of continuing professional development credits pursuant to 935 CMR 501.010(1); or

(f) The physician assistant surrenders his or her registration.

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(4) After registering, a Certifying Physician Assistant is responsible for notifying the Commission, in a form and manner determined by the Commission, within five business days after any changes to the physician assistant's information including, but not limited to, changes to the Certifying Physician Assistant's license to practice or to his or her supervising physician.

501.010: Written Certification of a Debilitating Medical Condition for a Qualifying Patient

(1) A Certifying Healthcare Provider shall complete a program that explains 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, which includes, but is not limited to, the following:

(a) A Certifying Physician issuing a Written Certification shall have completed a minimum of 2.0 Category 1 continuing professional development credits as defined in 243 CMR 2.06(6)(a)1.

(b) A Certifying CNP issuing a Written Certification shall have completed a minimum of one program meeting the requirements of 244 CMR 5.00: *Continuing Education* and 244 CMR 6.00: *Approval of Nursing Education Programs and the General Conduct Thereof.*

(c) A Certifying Physician Assistant issuing a Written Certification shall have completed a minimum of one program meeting the requirements of 263 CMR 3.05(3).

(2) A Certifying Healthcare Provider shall issue a Written Certification that complies with generally accepted standards of medical practice including, but not limited to, the following:

(a) 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 through 3.00, pursuant to M.G.L. c. 112, § 5, and M.G.L. c. 111, § 203.

(b) A Certifying CNP issuing a Written Certification shall comply with generally accepted standards of nursing practice, including the regulations of the Board of Registration in Nursing at 244 CMR 9.00: *Standards of Conduct for Nurses*.

(c) A Certifying Physician Assistant issuing a Written Certification shall comply with generally accepted standards of practice for physician assistants, including regulations of the Board of Registration of Physician Assistants at 263 CMR 5.09: *Standards of Conduct for Physician Assistants*.

(3) A Certifying Healthcare Provider may not delegate to any other healthcare professional or any other person, authority to diagnose a patient as having a Debilitating Medical Condition.

(4) A Certifying Healthcare Provider shall have a program to provide a discount to patients with documented Verified Financial Hardship. The plan shall outline the goals, programs, and measurements the Certifying Healthcare Provider will pursue as part of the plan. A Certifying Healthcare Provider may apply for a waiver under 935 CMR 501.850 to waive this requirement by demonstrating that the Certifying Healthcare Provider does not have control over the costs to its patients.

(5) A Certifying Healthcare Provider may issue a Written Certification only for a Qualifying Patient with whom the healthcare provider has a *Bona Fide* Healthcare Provider Patient Relationship.

(6) Before issuing a Written Certification, a Certifying Healthcare Provider shall utilize the Massachusetts Prescription Monitoring Program, unless otherwise specified by the Commission, to review the Qualifying Patient's prescription history.

(7) 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 suffering from a Debilitating Medical Condition for which the medical use of Marijuana is authorized.

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(8) An initial or renewal Written Certification submitted before a Clinical Visit is prohibited.
(a) A Clinical Visit may occur in-person or by telehealth means, provided that a Clinical Visit for issuing an initial Certificate of Registration must be conducted in-person.
(b) If a Clinical Visit is conducted by telehealth means, the Certifying Healthcare Provider shall ensure that there is an ability to deliver the service using telehealth with the same standard of care and in compliance with licensure and registration requirements as is applicable to in-person services to patients and shall comply with any additional requirements established by the Commission.

(9) A certification shall indicate the time period for which the certification is valid, and may not be less than 15 calendar days or longer than one year, except that in the following circumstances, the certification may be valid for two years:
(a) A Certifying Healthcare Provider verifies and represents to the Commission that a Qualifying Patient is receiving Social Security Disability Insurance or Supplemental Security Income; or
(b) A Certifying Healthcare Provider diagnoses a Qualifying Patient after an in-person Clinical Visit with a terminal illness, or permanent disability and certifies the patient for two years.

(10) A Certifying Healthcare Provider may determine and certify that a Qualifying Patient requires an amount of Marijuana other than 2.5 ounces as a 14-day Supply or ten 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 14-day Supply or 60-day Supply.

(11) A Qualifying Patient who is younger than 18 years old and has been diagnosed by two Massachusetts licensed Certifying Physicians, at least one of whom is a board certified pediatrician, pediatric subspecialist, oncologist, neurologist, or family physician, with a debilitating Life-limiting Illness, may receive a Written Certification; provided however, that the physicians may certify a Qualifying Patient who is younger than 18 years old 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 shall 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.

(12) A Certifying Healthcare Provider, and such healthcare provider's co-worker, employee, or Immediate Family Member, may not:
(a) Have ever directly or indirectly accepted or solicited from, or offered to an MTC, a board member or Executive of an MTC, any MTC personnel, or any other individual associated with an MTC, or a Personal Caregiver, anything of value;
(b) 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 MTC;
(c) Examine or counsel a patient, or issue a Written Certification, at an MTC;
(d) Be a Person or Entity Having Direct or Indirect Control for an MTC; or
(e) Directly or indirectly benefit from a patient obtaining a Written Certification, which may not prohibit the healthcare provider from charging an appropriate fee for the Clinical Visit.

(13) A Certifying Healthcare Provider may not issue a Written Certification for himself or herself or for his or her Immediate Family Members.

(14) A Certifying Healthcare Provider issuing a Written Certification for their employees or coworkers shall do so in accordance with 935 CMR 501.010 of a Debilitating Medial Condition for a Qualifying Patient, 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.

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501.015: Temporary and Annual Registration of Qualifying Patients

(1) A Qualifying Patient shall apply for a temporary or annual registration according to the procedures set out in 935 CMR 501.015, unless otherwise provided by the Commission.

(2) To obtain a temporary or an annual Registration Card, a Qualifying Patient shall first obtain electronic or Written Certification(s) from the Qualifying Patient's Certifying Healthcare Provider(s).

(3) Temporary Registration Card. A patient's Certifying Healthcare Provider(s) shall provide a Qualifying Patient who has not been issued a temporary Patient Registration Card in the 365-day period preceding the date of certification, a temporary registration in a form and a manner determined by the Commission, which will include, but not be limited to, the following:

(a) To generate a temporary Registration Card, a Certifying Healthcare Provider shall obtain from a Qualifying Patient, and electronically submit the information required by the Commission as part of the temporary electronic certification process;

(b) At a minimum, a Certifying Healthcare Provider shall submit the information required in 935 CMR 501.015(5)(a) through (d) and (f);

(c) On submission of the requisite information, the provider shall provide a packet of information for the patient, which includes:

1. A temporary Patient Registration Card;
2. A caregiver authorization form and instructions;
3. Guidance on patient confidentiality;
4. Written instructions in a form and manner determined by the Commission that the patient needs to complete the registration process with the Commission in order to obtain an annual Registration card; and
5. If requested, a paper copy of the Commission registration form for an annual Registration Card.

(d) The temporary Registration Card shall constitute a Registration Card for patients for the purposes of accessing MTCs and purchasing medical-use Marijuana and MIPs;

(e) A temporary Registration Card shall expire either 14 days after the issuance of the temporary Registration Card or on the issuance and receipt of an annual Registration Card, whichever occurs first;

(f) A patient is limited to one 14-day temporary registration during any 365-day period, unless otherwise approved by the Commission;

(g) No more than 2.5 ounces of Marijuana may be dispensed by an MTC to a Qualifying Patient with a 14-day temporary registration except a Certifying Healthcare Provider may determine and certify that a Qualifying Patient requires an amount of Marijuana other than 2.5 ounces as a 14-day Supply and shall document the amount and the rationale in the medical record and in the Written Certification;

(h) It is the obligation of the MTC to track and dispense only the amount allowed for a 14-day Supply; and

(i) To obtain an annual Registration Card after receiving a temporary Registration Card, a Qualifying Patient shall comply with 935 CMR 501.015(5): Annual Patient Registration Card and complete the registration process for review by the Commission.

(4) To access MTCs and obtain medical-use Marijuana and MIPs, the patient shall present their temporary Registration Card in addition to a government-issued identification card. MTCs are responsible for ensuring that patients present proper documentation and verifying that the temporary Registration Card is valid, before the patient accesses the MTC and purchases Marijuana, Marijuana Products, or MIPs.

(5) Annual Patient Registration Card. To obtain an annual Registration Card, a Qualifying Patient shall submit or verify, in a form and manner determined by the Commission, the following information:

(a) 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:

1. If the Qualifying Patient is younger than 18 years old, an attestation from a parent or legal guardian granting permission for the child to register with the Commission; and
2. If the Qualifying Patient is younger than 18 years old, that Qualifying Patient shall have a designated Personal Caregiver, who shall be his or her parent or legal guardian.

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(b) Electronic or Written Certification(s) for the Qualifying Patient from the Qualifying Patient's Certifying Healthcare Provider(s);
(c) name, address, and telephone number of the Qualifying Patient's Certifying Healthcare Provider(s);
(d) Full name, date of birth, and address of the Qualifying Patient's Personal Caregiver(s), if any;
(e) A copy of the Qualifying Patient's government-issued identification card or other verifiable identity document acceptable to the Commission, except in the case of a Qualifying Patient younger than 18 years old who does not have to comply with such requirement;
(f) Written acknowledgement of the limitations on his or her authorization to cultivate, possess, and use Marijuana for medical purposes in the Commonwealth;
(g) An attestation that the Registered Qualifying Patient shall not engage in the diversion of Marijuana and that the patient understands that protections conferred by M.G.L. c. 94I, for possession of Marijuana for medical use are applicable only within Massachusetts; and
(h) Any other information required by the Commission.

(6) After obtaining a Registration Card, a Qualifying Patient is responsible for notifying the Commission, in a form and manner determined by the Commission, within five business days after any change to the information that he or she was previously required to submit to the Commission, or after he or she discovers that his or her Registration Card has been lost or stolen.

(7) A Registered Qualifying Patient shall carry his or her Registration Card at all times while in possession of medical-use Marijuana or MIPs.

501.020: Temporary and Annual Registration of Personal Caregivers

(1) A Personal Caregiver shall apply for a temporary or annual Registration Card according to the procedures set out in 935 CMR 501.020, unless otherwise provided by the Commission. An individual shall be granted a temporary or an annual Registration Card prior to serving as a Personal Caregiver for any Registered Qualifying Patient.

(2) Temporary Caregiver Registration Authorization.
(a) A temporary caregiver authorization will allow the Caregiver, during the interim period during which the patient has an effective and valid temporary Patient Registration Card, to serve as a caregiver to a Qualifying Patient and access MTCs and obtain medical-use Marijuana, Marijuana Products and MIPs on behalf of a patient before the patient and Caregiver are issued annual Registration Cards by the Commission.
(b) During the time a Qualifying Patient has a temporary Patient Registration Card pursuant to 935 CMR 501.015(3), the patient may authorize a Personal Caregiver, who is 21 years of age or older, as their temporary caregiver. To authorize an individual as a temporary caregiver, the patient shall complete the temporary caregiver authorization form, generated by the patient's healthcare provider or printed from the electronic patient portal by the patient, sign the form, and provide the authorization form to the designated caregiver.
(c) To access MTCs and obtain medical-use Marijuana, Marijuana Products and MIPs on behalf of a patient, the Caregiver shall present the patient's temporary Registration Card, a completed and signed temporary caregiver authorization form, and a government-issued identification document.
(d) MTCs are responsible for ensuring that Caregivers present proper documentation and verifying that the temporary Registration Card is valid, before the Caregiver accesses the MTC and purchases Marijuana, Marijuana Products or MIPs.
(e) It is the obligation of the MTC to track and dispense only the amount allowed for a 14-day Supply.
(f) To obtain an annual Registration Card after receiving a temporary Registration Card, a caregiver shall comply with 935 CMR 501.020(3) and complete the electronic registration process for review by the Commission.

(3) Annual Caregiver Registration Card. To obtain an annual Registration Card for a Personal Caregiver, a Registered Qualifying Patient shall submit, in a form and manner determined by the Commission, the following:

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(a) The Personal Caregiver's full name, date of birth, address, telephone number, and email address if any, and a statement that the individual is 21 years of age or older;
(b) Full name, date of birth, and address of the Registered Qualifying Patient for whom the Personal Caregiver will be providing assistance with the use of Marijuana for medical purposes;
(c) A copy of the Personal Caregiver's driver's license, government issued identification card, or other verifiable identity document acceptable to the Commission;
(d) A statement of whether the Caregiver will be cultivating Marijuana for the patient, and at what address;
(e) Written acknowledgment 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;
(f) An attestation by the Personal Caregiver that he or she shall not engage in the diversion of Marijuana and that he or she understands that protections conferred by M.G.L. c. 94I, for possession of Marijuana for medical use are applicable only within Massachusetts; and
(g) Any other information required by the Commission.

(4) An annual Registration Card will be valid for one year from the date of issue of the temporary Registration Card, unless otherwise specified by the Commission, and may be renewed, in a form and manner determined by the Commission, which includes, but is not limited to, meeting the requirements in 935 CMR 501.020(3). The Commission will accept Registration Cards validly issued prior to the Program Transfer. This Registration Card will remain valid until its one year anniversary date or until a new Registration Card is issued by the Commission, whichever occurs first. On the issuance of a new Registration Card, the holder of the Registration Card shall destroy any previously issued Registration Card(s) in a responsible manner that would prevent it from being used as an identification or Registration Card.

(5) Except in the case of a visiting nurse, home health aide, personal care attendant, or Immediate Family Member of more than one Registered Qualifying Patient, an individual may not serve as a Personal Caregiver for more than five Registered Qualifying Patient at one time. If a Personal Caregiver wants to serve more than five patients, the Personal Caregiver must seek a waiver pursuant to 935 CMR 501.850.

(6) A Registered Qualifying Patient may designate up to two Personal Caregivers. A Personal Caregiver(s) may cultivate Marijuana on behalf of the Registered Qualifying Patient at only one location. Cultivation pursuant to a Hardship Cultivation Registration by a Personal Caregiver constitutes agreement to comply with the requirements of Hardship Cultivation Registration under 935 CMR 501.027.

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

(8) 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 Commission, and providing the information required in 935 CMR 501.020(3) for registration of Personal Caregivers.

(9) After obtaining a Registration Card, the Personal Caregiver is responsible for notifying the Commission, in a form and manner determined by the Commission, within five business days after any change to the information that his or her Registered Qualifying Patient was previously required to submit to the Commission, or after the Personal Caregiver discovers that their Registration Card has been lost or stolen.

(10) A Personal Caregiver shall carry his or her temporary or annual Registration Card at all times while in possession of Marijuana.

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501.021: Registration of Caregiving Institutions

(1) Prior to facilitating the medical use of Marijuana to a Registered Qualifying Patient, a hospice program, long term care facility, or hospital shall obtain a Certificate of Registration as a Caregiving Institution. To obtain a Certificate of Registration as a Caregiving Institution, the institution shall submit, in a form and manner determined by the Commission, the following:

(a) The name, address and telephone number of the institution, as well as the telephone number and email address for the primary contact for that Caregiving Institution;

(b) A copy of the Caregiving Institution's current facility licensure or certification from the Commonwealth of Massachusetts;

(c) Written acknowledgement by the authorized signatory of the Caregiving Institution of the limitations on the institution's authorization to cultivate, possess, and dispense to Registered Qualifying Patients, Marijuana for medical purposes in the Commonwealth;

(d) An attestation by the authorized signatory of the Caregiving Institution that employees of the Caregiving Institution shall not engage in the diversion of Marijuana and that he or she understands that protections conferred by M.G.L. c. 94I, for possession of Marijuana for medical use are applicable only within Massachusetts; and

(f) Any other information required by the Commission.

(2) A Caregiving Institution shall be granted a Certificate of Registration by the Commission prior to serving as a Caregiving Institution for any Registered Qualifying Patient. The Commission will accept certificates of registration validly issued prior to the Program Transfer. This certificate will remain valid until a new certificate is issued by the Commission. On the issuance of a new certificate, the holder of the certificate shall destroy any previously issued certificate in a responsible manner that would prevent it from being used as a certificate.

(3) An employee of the Caregiving Institution may serve as a Caregiver for more than one Registered Qualifying Patient at one time.

(4) An employee of the Caregiving Institution may not cultivate Marijuana for a Registered Qualifying Patient under the care of the Caregiving Institution.

(5) A Caregiving Institution shall maintain records on all Marijuana received by the institution on behalf of a Registered Qualifying Patient and the administration of such Marijuana to the Registered Qualifying Patient, and such records should be produced to the Commission upon request as permitted by law.

(6) A Certificate of Registration for a Caregiving Institution will remain valid, unless and until the Caregiving Institution's current facility licensure or certification from the Commonwealth of Massachusetts is no longer active, or is suspended, revoked, or restricted.

501.022: Registration of Institutional Caregivers

(1) A Caregiving Institution shall apply for an Institutional Caregiver registration for all employees that will be facilitating a Registered Qualifying Patient's use of Marijuana for medical purposes. All such individuals shall be 21 years of age or older.

(2) A Caregiving Institution seeking registration of an Institutional Caregiver shall file an application, in a form and manner determined by the Commission, which shall include:

(a) The full name, date of birth and address of the individual;

(b) Written acknowledgment by the individual of the limitations on his or her authorization to possess, transport, and facilitate the use of Marijuana for medical purposes in the Commonwealth;

(c) Written acknowledgment by the individual of the prohibition against cultivation in his or her role as an Institutional Caregiver;

(d) A copy of the Institutional Caregiver's driver's license, government issued identification card, or other verifiable identity document acceptable to the Commission;

(e) An attestation that the individual shall not engage in the diversion of Marijuana;

(f) A nonrefundable application fee, as required by the Commission; and

(g) Any other information required by the Commission.

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(3) A Caregiving Institution shall notify the Commission no more than one business day after an Institutional Caregiver ceases to be associated with the Caregiving Institution. The Institutional Caregiver's registration shall be immediately void when he or she is no longer associated with the Caregiving Institution.

(4) A Registration Card for an Institutional Caregiver will be valid for one year from the date of issue, and may be renewed, in a form and manner determined by the Commission, on an annual basis by meeting the requirements in 935 CMR 501.022(1) and (2). The Commission will accept Registration Cards validly issued prior to the Program Transfer. This Registration Card will remain valid until its one year anniversary date or until a new Registration Card is issued by the Commission, whichever occurs first. On the issuance of a new Registration Card, the holder of the Registration Card shall destroy any previously issued Registration Card(s) in a responsible manner that would prevent it from being used as a registration or identification card.

(5) An Institutional Caregiver shall apply for registration according to the procedures set out in 935 CMR 501.022, unless otherwise provided by the Commission.

(6) After obtaining a Registration Card for an Institutional Caregiver, a Caregiving Institution is responsible for notifying the Commission, in a form and manner determined by the Commission, as soon as possible, but in any event, within five business days after any changes to the information that the Caregiving Institution was previously required to submit to the Commission, or after discovery that a Registration Card has been lost or stolen.

(7) An Institutional Caregiver shall carry his or her Registration Card at all times while in possession of Marijuana.

(8) An Institutional Caregiver affiliated with multiple Caregiving Institutions shall be registered as an Institutional Caregiver by each Caregiving Institution.

501.025: Responsibilities of Caregivers

(1) Personal Caregivers.

(a) A Personal Caregiver may:

1. Transport a Registered Qualifying Patient to and from an MTC;
2. Obtain and transport Marijuana from an MTC on behalf of a Registered Qualifying Patient;
3. Cultivate Marijuana, subject to the plant limitations of 935 CMR 501.027(8), on behalf of a maximum of one Registered Qualifying Patient who has not obtained a Hardship Cultivation Registration, unless the Personal Caregiver is a visiting nurse, personal care attendant, or home health aide serving as a Personal Caregiver;
4. Cultivate Marijuana on behalf of one or more Registered Qualifying Patients who have obtained a Hardship Cultivation Registration, unless the Personal Caregiver is a visiting nurse, personal care attendant, or home health aide serving as a Personal Caregiver;
5. Prepare Marijuana for consumption by a Registered Qualifying Patient; and
6. Administer Marijuana to a Registered Qualifying Patient.
7. Receive reimbursement for reasonable expenses incurred in the provision of services as a Caregiver, including transportation and cultivation expenses directly related to the care of a Registered Qualifying Patient, so long as the expenses are documented and available for inspection by the Commission on request. A Caregiver may not receive reimbursement or payment for the Caregiver's time. In the case of an individual who serves as a Personal Caregiver for more than one Registered Qualifying Patient, the individual may receive partial reimbursement from multiple patients so long as the total reimbursement received does not exceed the Caregiver's total documented expenses.

(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 or otherwise divert Marijuana that has been dispensed to or cultivated on behalf of a Registered Qualifying Patient;

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3. Unless otherwise authorized by law or by the Commission, cultivate Marijuana for the Personal Caregiver's own use;
4. Unless otherwise authorized by law, cultivate Marijuana for purposes of selling or providing Marijuana to anyone other than the Registered Qualifying Patient;
5. Allow a Registered Qualifying Patient who is younger than 18 years old to possess Marijuana at any time when not in the presence of the Personal Caregiver;
6. Cultivate Marijuana for Registered Qualifying Patient if the Personal Caregiver is a visiting nurse, personal care attendant, or home health aide serving as a Personal Caregiver;
7. Offer a discount or any other thing of value to a Registered Qualifying Patient based on the representation that a patient will use a particular product or MTC;
8. Directly or indirectly accept or solicit from an MTC, a board member or Executive of an MTC, any MTC personnel, or any other individual associated with an MTC, anything of value based on the representation that a Registered Qualifying Patient will use a particular product or MTC;
9. 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 a visiting nurse, personal care attendant, or home health aide serving as a Personal Caregiver, such individual may not receive payment or compensation above and beyond their regular wages; or
10. Participate in paid advertising.

(c) A Personal Caregiver shall notify the Commission within five calendar days upon the death of a Personal Caregiver's Registered Qualifying Patient.

(d) A Personal Caregiver engaging in cultivation for a Registered Qualifying Patient shall
1. Maintain a log of the costs associated with growing and make that log available to the Commission upon request;
2. Provide annual written notice of the Personal Caregiver's cultivation conditions to the Registered Qualifying Patient and additional written notice of any change to those conditions.

(e) A Personal Caregiver engaging in Hardship Cultivation shall comply with all applicable municipal or state requirements for electrical usage and fire safety, and shall document its fire safety plan and electrical and fire inspections.

(2) Institutional Caregivers.

(a) An Institutional Caregiver may:
1. Receive Marijuana delivered to the Caregiving Institution for a Registered Qualifying Patient;
2. Prepare Marijuana for consumption by a Registered Qualifying Patient; and
3. Administer Marijuana to a Registered Qualifying Patient or facilitate consumption of Marijuana for medical use by the Qualifying Patient.

(b) An Institutional 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 a Registered Qualifying Patient;
4. Allow a Registered Qualifying Patient who is younger than 18 years old to possess Marijuana at any time when not in the presence of a Caregiver;
5. Receive payment or compensation above and beyond his or her regular wages; or
6. Participate in paid advertising

(c) An Institutional Caregiver shall notify their employing Caregiving Institution of any changes in his or her registration information within 24 hours of the change.

501.027: Hardship Cultivation Registration

(1) A Qualifying Patient registered with the Commission pursuant to 935 CMR 501.015 may apply for a Hardship Cultivation Registration if such patient can demonstrate that his or her access to an MTC is limited by:

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(a) Verified financial hardship;
(b) Physical incapacity to access reasonable transportation, as demonstrated by an inability to use public transportation or drive oneself, lack of a Personal Caregiver with a reliable source of transportation, and lack of an MTC that will deliver Marijuana to the patient's or Personal Caregiver's primary address; or
(c) Lack of an MTC within a reasonable distance of the patient's primary residence and lack of an MTC that will deliver Marijuana to the patient's or Personal Caregiver's primary address.
(d) Lack of access to a medicine essential for the Qualifying Patient's treatment plan.

(2) To obtain a Hardship Cultivation Registration, a Registered Qualifying Patient shall, in a form and manner determined by the Commission, submit the following:
(a) Information supporting a claim that access is limited due to one or more of the circumstances listed in 935 CMR 501.027(1);
(b) An explanation, including lack of feasible alternatives, to mitigate the limitation claimed under 935 CMR 501.027(1);
(c) 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;
(d) A written explanation of how the Registered Qualifying Patient will cultivate Marijuana in accordance with the requirements of 935 CMR 501.027;
(e) A description of the device or system that will be used to ensure security and prevent diversion of the Marijuana plants being cultivated;
(f) Written acknowledgment of the limitations on their authorization to cultivate, possess, and use Marijuana for medical purposes in the Commonwealth; and
(g) Any other information required by the Commission.

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

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

(5) A Hardship Cultivation Registration will be valid for one year from the date of issue. On the issuance of a new certificate, the holder of the certificate shall destroy any previously issued certificate in a responsible manner that would prevent it from being used as a certificate.

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

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

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

(9) Cultivation and storage of Marijuana shall be in an enclosed, locked area accessible only to the Registered Qualifying Patient or their Personal Caregiver(s), subject to 935 CMR 501.840. Marijuana may not be visible from the street or other public areas.

(10) A Registered Qualifying Patient engaging in Hardship Cultivation shall comply with all applicable municipal or state requirements for electrical usage and fire safety, and shall document its fire safety plan and electrical and fire inspections.

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(11) A Registered Qualifying Patient or their Personal Caregiver(s) cultivating Marijuana pursuant to a Hardship Cultivation Registration shall adhere to any standards specified by the Commission.

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

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

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

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

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

501.029: Registration and Conduct of Independent Testing Laboratory Agents

(1) An Independent Testing Laboratory providing testing services for an MTC or Marijuana Establishment in compliance with 935 CMR 501.000, or 935 CMR 500.000: *Adult Use of Marijuana*, shall apply for Laboratory Agent registration for any of its employees, consultants or volunteers that will be in possession of Marijuana for medical use on behalf the Independent Testing Laboratory.

(2) An application for registration of a Laboratory Agent, submitted to the Commission by an Independent Testing Laboratory, shall include:

(a) The full name, date of birth and address of the individual;

(b) All aliases used previously or currently in use by the individual, including maiden name, if any;

(c) Written acknowledgment signed by the applicant of the limitations on his or her authorization to possess, test, Transfer, or Process Marijuana or Marijuana Products in the Commonwealth;

(d) A copy of the applicant's driver's license, government issued identification card, or other verifiable identity document acceptable to the Commission;

(e) An attestation signed by the applicant that the applicant will not engage in the diversion of Marijuana and Marijuana Products;

(f) A nonrefundable application fee, as required by the Commission; and

(g) Any other information required by the Commission.

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(3) An Independent Testing Laboratory Person Having Direct Control registered with the Massachusetts DCJIS pursuant to 803 CMR 2.04: *iCORI Registration* shall submit to the Commission a CORI report and any other background check information required by the Commission for each individual for whom the Independent Testing Laboratory seeks a Laboratory Agent registration, obtained within 30 calendar days prior to submission.

(4) An Independent Testing Laboratory shall notify the Commission no more than one business day after a Laboratory Agent ceases to be associated with the Independent Testing Laboratory. The Laboratory Agent's registration shall be immediately void when the agent is no longer associated with the Independent Testing Laboratory.

(5) A Registration Card shall be valid for one year from the date of issue. The Commission will accept Registration Cards validly issued prior to the Program Transfer. A Registration Card will remain valid until its one-year anniversary date or until a new Registration Card is issued by the Commission, whichever occurs first. On the issuance of a new Registration Card, the holder of the Registration Card shall be destroyed any previously issued Registration Card(s) in a responsible manner that would prevent it from being used as an identification or Registration Card.

(6) A Registration Card may be renewed on an annual basis on a determination by the Commission that the applicant for renewal continues to be suitable for registration based on satisfaction of the requirements included in 935 CMR 501.800 and 501.801 or 935 CMR 501.803.

(7) After obtaining a Registration Card for a Laboratory Agent, an Independent Testing Laboratory is responsible for notifying the Commission, in a form and manner determined by the Commission, as soon as possible, but in any event, within five business days of any changes to the information that the Independent Testing Laboratory was previously required to submit to the Commission or after discovery that a Registration Card has been lost or stolen.

(8) A Laboratory Agent shall always carry the Registration Card associated with the appropriate Independent Testing Laboratory while in possession of Marijuana Products, including at all times while at an Independent Testing Laboratory, or while transporting Marijuana or Marijuana Products.

501.030: Registration of Medical Marijuana Treatment Center Agents

(1) An MTC shall apply for MTC agent registration for all its, employees, Executives, Owners, and volunteers who are associated with that MTC. The Commission shall issue an Agent Registration Card to each individual determined to be suitable for registration. All such individuals shall:

(a) Be 21 years of age or older;

(b) Have not been convicted of an offense in the Commonwealth involving the distribution of controlled substances to minors, or a like violation of the laws of other jurisdictions; and

(c) Be determined suitable for registration consistent with the provisions of 935 CMR 500.800: *Suitability Standard for Licensure and Registration* and 935 CMR 500.801: *Suitability Standard for Licensure* or 935 CMR 500.802: *Suitability Standard for Registration as a Marijuana Establishment Agent*.

(2) An application for registration of an MTC agent shall include:

(a) The full name, date of birth and address of the individual;

(b) All aliases used previously or currently in use by the individual, including maiden name, if any;

(c) A copy of the applicant's driver's license, government-issued identification card, liquor purchase identification card issued pursuant to M.G.L. c. 138, § 34B, or other verifiable identity document acceptable to the Commission;

(d) An attestation that the individual will not engage in the diversion of Marijuana or Marijuana Products;

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(e) Written acknowledgment by the individual of the limitations on their authorization to cultivate, harvest, prepare, package, possess, transport, and dispense marijuana for medical purposes in the Commonwealth;

(f) background information including, as applicable:

1. A description and the relevant dates of any criminal action under the laws of the Commonwealth, or an Other Jurisdiction, whether for a felony or misdemeanor and which resulted in conviction, or guilty plea, or plea of *nolo contendere*, or admission of sufficient facts;

2. A description and the relevant dates of any civil or administrative action under the laws of the Commonwealth, or an Other Jurisdiction, relating to any professional or occupational or fraudulent practices;

3. A description and relevant dates 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;

4. A description and relevant dates of any past discipline by, or a pending disciplinary action or unresolved complaint by, the Commonwealth, or an Other Jurisdiction, with regard to any professional license or registration held by the applicant; and

(g) A nonrefundable application fee paid by the MTC with which the MTC Agent will be associated; and

(h) Any other information required by the Commission

(3) An MTC Executive registered with DCJIS pursuant to 803 CMR 2.04: *iCORI Registration*, shall submit to the Commission a CORI report and any other background check information required by the Commission for each individual for whom the MTC seeks an MTC agent registration, obtained within 30 calendar days prior to submission.

(a) The CORI report obtained by the MTC shall provide information authorized under Required Access Level 2 pursuant to 803 CMR 2.05(3)(a)2.

(b) The MTC's collection, storage, dissemination and usage of any CORI report or background check information obtained for MTC Agent registrations shall comply with 803 CMR 2.00: *Criminal Offender Record Information (CORI).*

(4) An MTC shall notify the Commission no more than one business day after an MTC agent ceases to be associated with the MTC. The registration shall be immediately void when the agent is no longer associated with the MTC.

(5) An Agent Registration Card shall be valid for one year from the date of issue and may be renewed thereafter on a tri-annual basis on a determination by the Commission that the applicant for renewal continues to be suitable for registration.

(6) After obtaining a Registration Card for an MTC agent, an MTC is responsible for notifying the Commission, in a form and manner determined by the Commission, as soon as possible, but in any event, within five business days of any changes to the information that the MTC was previously required to submit to the Commission, or after discovery that a Registration Card has been lost or stolen.

(7) An MTC agent shall always carry a Registration Card associated with the appropriate Marijuana Establishment while in possession of Marijuana or Marijuana Products, including at all times while at an MTC or while transporting Marijuana or Marijuana Products.

(8) An Agent working in a CMO may only perform tasks and duties permitted by the license under which they are registered and may only perform both medical- and adult-use tasks and duties if registered under both 935 CMR 500.000: *Adult Use of Marijuana* and 935 CMR 501.000.

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501.031: 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 temporary or an annual Registration Card for a Registered Qualifying Patient or Personal Caregiver, or a Registration Card for an MTC agent, including Laboratory Agents, or a Hardship Cultivation Registration:

(1) Failure to provide the information required in 935 CMR 501.029 or 935 CMR 501.030 for an Agent Registration Card or Hardship Cultivation Registration;

(2) Provision of information on the application that is deceptive, misleading, false, or fraudulent, or that tends to deceive or create a misleading impression, whether directly, or by omission or ambiguity, including lack of disclosure or insufficient disclosure;

(3) Failure to meet the requirements set forth in 935 CMR 501.029 or 501.030 for an Agent Registration Card or Hardship Cultivation Registration;

(4) Revocation or suspension of an Agent Registration Card or Hardship Cultivation Registration in the previous six months;

(5) Failure by the MTC to pay all applicable fees; or

(6) Other grounds, as the Commission may determine in the exercise of its discretion, that are directly related to the applicant's ability to serve as an MTC agent, or that make the applicant unsuitable for registration; however, the Commission will provide notice to the applicant of the grounds prior to the denial of the Agent Registration Card and a reasonable opportunity to correct these grounds.

(a) The Commission may delegate Registrants' suitability determinations to the Executive Director, who may appoint a Suitability Review Committee, in accordance with 935 CMR 501.800. Suitability determinations shall be based on credible and reliable information.

(b) The Executive Director may institute a suitability review based on a recommendation from Enforcement staff that background check information would result in or could support an adverse suitability determination. All suitability determinations will be made in accordance with the procedures set forth in 935 CMR 501.800.

501.032: Revocation of a Registration Card or Hardship Cultivation Registration

(1) Each of the following, in and of itself, constitutes full and adequate grounds for revocation of a temporary or an annual Registration Card issued to a Registered Qualifying Patient or Personal Caregiver or a Registration Card issued to an MTC agent, Laboratory Agent or a Hardship Cultivation Registration:

(a) Submission of information in the application or renewal application that is deceptive, misleading, false or fraudulent, or that tends to deceive or create a misleading impression, whether directly, or by omission or ambiguity, including lack of disclosure or insufficient disclosure;

(b) Violation of the requirements of the state Marijuana laws, including 935 CMR 501.000;

(c) Fraudulent use of a Registration Card including, but not limited to, tampering, falsifying, altering, modifying, duplicating, or allowing another person to use, tamper, falsify, alter, modify, or duplicate an Agent Registration Card or Hardship Cultivation Registration;

(d) Selling, Transferring, distributing, or giving Marijuana to any unauthorized person;

(e) Failure to notify the Commission within five business days after becoming aware that the Agent Registration Card has been lost, stolen, or destroyed;

(f) Failure to notify the Commission within five business days after a change in the registration information contained in the application or required by the Commission to have been submitted in connection with the application an Agent Registration Card, including open investigations or pending actions as delineated in 935 CMR 501.802, as applicable, that may otherwise affect the status of the suitability for registration of the MTC agent;

(g) Conviction, guilty plea, plea of *nolo contendere*, or admission to sufficient facts of a felony drug offense involving distribution to a minor in the Commonwealth, or a like violation of the laws of an Other Jurisdiction; or

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(h) Conviction, guilty plea, plea of *nolo contendere* or admission to sufficient facts in the Commonwealth, or a like violation of the laws of another state, to an offense as delineated in 935 CMR 501.802 or 501.803, as applicable, that may otherwise affect the status of the suitability for registration of the MTC agent.

(2) In addition to the grounds in 935 CMR 501.032(1), each of the following, in and of itself, shall be adequate grounds for the revocation of a Patient Registration Card:

(a) The Qualifying Patient is no longer a resident of the Commonwealth;

(b) The Qualifying Patient, taking into account the amounts of Marijuana, Marijuana Products or MIPs obtained by his or her Personal Caregiver, if applicable, knowingly and intends to subvert, seeks to obtain or obtains more of such amounts than is allowable under 935 CMR 501.105; or

(c) The Qualifying Patient has used Marijuana in a manner that puts at risk the health, safety, or welfare of others, or has failed to take reasonable precautions to avoid putting others at such risk.

(3) In addition to the grounds in 935 CMR 501.032(1), a conviction of a felony drug offense in the Commonwealth, or a like violation of the laws of an Other Jurisdictions shall be adequate grounds for the revocation of an MTC Agent Registration Card.

(4) In addition to the grounds in 935 CMR 501.032(1), the purchase of Marijuana from an MTC 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.

(5) In addition to the applicable grounds in 935 CMR 501.032(1) through (3), any other ground that serves the purposes of M.G.L. c. 94I, or 935 CMR 501.000 shall be sufficient to revoke a Registration Card or Hardship Cultivation Registration.

(6) Other grounds as the Commission may determine in the exercise of its discretion, that are directly related to the applicant's ability to serve as an MTC agent, that make the Registrant unsuitable for registration. The Commission will provide notice to the Registrant of the grounds prior to the revocation of an Agent Registration Card and a reasonable opportunity to correct these grounds.

(a) The Commission may delegate Registrants' suitability determinations to the Executive Director, who may appoint a Suitability Review Committee, in accordance with 935 CMR 500.801. Suitability determinations shall be based on credible and reliable information.

(b) The Executive Director may institute a suitability review based on a recommendation from Enforcement staff that background check information would result in or could support an adverse suitability determination. All suitability determinations will be made in accordance with the procedures set forth in 935 CMR 501.800.

501.033: Void Registration Cards

(1) A Registration Card validly issued prior to the Program Transfer shall be void on the issuance of a new Registration Card.

(2) A Registration Card issued to an MTC agent shall be void when:

(a) The agent has ceased to be associated with the MTC or Independent Testing Laboratory that applied for and received the agent's Registration Card;

(b) The card has not been surrendered on the issuance of a new Registration Card based on new information; or

(c) The MTC agent is deceased.

(3) A Patient Registration Card, including a Hardship Cultivation Registration, shall be void when:

(a) The card has not been surrendered upon the issuance of a new Registration Card;

(b) The Qualifying Patient is no longer a resident of Massachusetts; or

(c) The Patient is deceased.

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(4) A Personal Caregiver Registration Card is void:
(a) When the Registered Qualifying Patient has notified the Commission that the individual registered as the Personal Caregiver is no longer the Personal Caregiver for that Patient;
(b) When the sole Registered Qualifying Patient for whom the Personal Caregiver serves as such is no longer registered with the Commission; or
(c) Five days after the death of the Registered Qualifying Patient, to allow for appropriate disposal of Marijuana pursuant to 935 CMR 501.105.

(5) A void temporary or annual Registration Card is inactive and invalid.

501.034: Revocation of a Certifying Healthcare Provider Registration

(1) Each of the following, in and of itself, constitutes full and adequate grounds for revoking a Certifying Healthcare Provider registration:
(a) The Certifying Healthcare Provider fraudulently issued a Written Certification;
(b) The Certifying Healthcare Provider failed to comply with the requirements of M.G.L. c 94I, or any applicable provisions of 935 CMR 501.000;
(c) The Certifying Healthcare Provider issued a Written Certification without completion of continuing professional development credits pursuant to 935 CMR 501.010(1); or
(d) Any other ground that serves the purposes of M.G.L. c. 94I, or 935 CMR 501.000.

501.035: Void Certifying Physician Registration

(1) When a Certifying Healthcare Provider's license to practice medicine or nursing, as applicable, in Massachusetts is no longer active, or is summarily suspended, suspended, revoked, or restricted with regard to prescribing, or the Certifying Healthcare Provider has voluntarily agreed not to practice medicine, or nursing, in Massachusetts, as applicable, or the Certifying Healthcare Provider's Massachusetts controlled substances registration is suspended or revoked, the Certifying Healthcare Provider's registration to certify a Debilitating Medical Condition for a Qualifying Patient is immediately void.

(2) When a Certifying Healthcare Provider surrenders his or her registration, the registration is void.

(3) A void Certifying Healthcare Provider registration is inactive and invalid.

501.040: Leadership Rating Program for Medical Marijuana Treatment Centers

(1) Leadership Rating Categories. In a time and manner to be determined by the Commission, Licensees will be eligible to earn leadership ratings in the following categories:
(a) Social Justice Leader;
(b) Local Employment Leader;
(c) Energy and Environmental Leader;
(d) Compliance Leader; and
(e) Medical Treatment Center Leader.

(2) Leadership Rating Application.
(a) MTCs annually submit information, in a time and manner determined by the Commission, demonstrating their eligibility for the applicable leadership rating.
(b) All information submitted is subject to verification and audit by the Commission prior to the award of a leadership rating.
(c) Award of a leadership rating in one year does not entitle the applicant to a leadership rating for any other year.

(3) Leadership Rating Criteria.
(a) Social Justice Leader. In the year preceding the date of application for a leadership rating, a licensee satisfies at least two of the following:
1. Upon the Legislature's establishment of a dedicated Social Equity or Technical Assistance Fund (Fund) or a similar fund, 1% of the MTC's gross revenue is donated to the Fund. This requirement will not go into effect until such a Fund is created; and

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2. The Licensee has conducted 50 hours of educational seminars targeted to residents of Areas of Disproportionate Impact in one or more of the following: Marijuana cultivation, Marijuana Product manufacturing, Marijuana retailing, or Marijuana business training;

3. The Licensee can demonstrate that a majority of employees have a conviction or continuance without a finding for an offense under M.G.L. c. 94C or an equivalent conviction in Other Jurisdictions;

4. 66% or more of the Licensees employees are people of color, women, Veterans, persons with disabilities, and LGBTQ+ people;

5. The Licensee has developed, and can demonstrate execution of, a Diversity Plan or Positive Impact Plan recognized as exemplary by the Commission in its discretion; and

6. The Licensee can demonstrate that in a year, at least one percent of its gross revenue or a minimum of 20 hours of each staff member's paid time is contributed to supporting Qualifying Patients and Caregivers.

A Social Justice Leader may use a logo or symbol created by the Commission to indicate its leadership status.

(b) Local Employment Leader. In the year preceding the date of application for a leadership rating:

1. 51% or more of the Licensee's employees have been a Massachusetts Resident for 12 months or more, as determined by the Commission; and

2. 51% or more of the Licensee's Executives have been a Massachusetts Resident for 12 months or more, as determined by the Commission.

3. 51% or more of ancillary business service expenditures purchased by the Licensee have been from businesses with its primary place of businesses within Massachusetts.

(c) Energy and Environmental Leader. In the year preceding the date of application for a leadership rating, the licensee has met the energy and environmental goals in one or more subcategories in compliance with criteria published as Appendix B in the Energy & Environment Compiled Guidance:

1. Energy;
2. Recycling and Waste Disposal;
3. Transportation;
4. Water Usage; and
5. Soil Sampling;

(d) Compliance Leader. In the year preceding the date of application for a leadership rating:

1. All Licensee employees have completed all required trainings for their positions within 90 days of hire;

2. The Licensee has no unresolved written deficiency statements;

3. The Licensee has not been the subject of a Cease and Desist Order or a Quarantine Order;

4. The Licensee has not had its license suspended; and

5. The Licensee has met all timelines required by the Commission.

(e) Medical Marijuana Treatment Center Leader. In the year preceding the date of application for a leadership rating:

1. The MTC has met or exceeded their goals outlined in their submitted verified financial hardship program according to 935 CMR 501.050(1)(h).

2. Demonstrated a consistent availability of Marijuana-infused Products in serving sizes above 5mg of THC and greater than 100mg of THC per package.

3. Maintained a consistent Patient supply as per 935 CMR 501.140(12) and reserved a quantity and variety of Marijuana and Marijuana Products beyond what is required.

4. Demonstrated accessibility in multiple forms including foreign languages, developmental disabilities, Patients with mental and/or physical disabilities, homebound Patients, pediatric Patients, and Patients on hospice.

5. Conducted community outreach to Qualifying Patient communities to educate those communities on the benefits of registering with the medical program.

6. Has no disciplinary actions related to treatment of Qualifying Patients.

7. Offers meaningful pediatric Patient programs or specializes in collaboratively working with families/Patients that need specialized Marijuana and Marijuana Products.

(f) Leadership ratings will be taken into consideration by the Commission in assessing fines pursuant to 935 CMR 501.360 and disciplinary action pursuant to 935 CMR 501.450.

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501.050: Medical Marijuana Treatment Centers (MTCs)

(1) General Requirements.

(a) An MTC is required to be registered to do business in the Commonwealth as a domestic business corporation or another domestic business entity in compliance with 935 CMR 501.000 and to maintain the corporation or entity in good standing with the Secretary of the Commonwealth, DOR, and DUA.

(b) Control Limitations.

1. No Person or Entity Having Direct or Indirect Control shall be granted, or hold, more than three MTC Licenses.

2. An Independent Testing Laboratory or Standards Laboratory Licensee, or any associated Person or Entity Having Direct or Indirect Control, may not have a License in any other class.

3. To the extent that persons or entities seek to operate a testing facility in the Counties of Dukes County and Nantucket, 935 CMR 501.200 applies.

4. The Commission shall receive notice of any such interests as part of the application pursuant to 935 CMR 501.101.

5. Any Person or Entity Having Direct or Indirect Control, or Licensee, shall be limited to a total of 100,000 square feet of Canopy distributed across no more than three cultivation Licenses under 935 CMR 500.000: *Adult Use of Marijuana* and three MTC Licenses.

(c) At least one Executive of the entity seeking licensure as an MTC shall register with DCJIS on behalf of the entity as an organization user of iCORI.

(d) An MTC applicant shall demonstrate initial capital resources of $500,000 for its first application for licensure as an MTC. An MTC applicant shall demonstrate initial capital resources of $400,000 for its subsequent application(s) for licensure as an MTC.

(e) Under a single License, an MTC may not operate more than two locations in Massachusetts at which Marijuana is cultivated, MIPs are prepared, and Marijuana is dispensed.

(f) An MTC shall operate all activities authorized by the License only at the address(es) reported to the Commission for that license.

(g) All agents of the MTC shall be registered with the Commission pursuant to 935 CMR 501.030.

(h) An MTC shall have a program to provide reduced cost or free Marijuana to Patients with documented Verified Financial Hardship. The plan shall outline the goals, programs, and measurements the MTC will pursue as part of the plan.

(2) Cultivation Operations.

(a) An MTC may perform cultivation operations only at the address approved to do so by the Commission. At the cultivation location, MTCs may cultivate, Process, and package Marijuana, to transport Marijuana to MTCs and to Transfer Marijuana to other MTCs, but not to Patients.

(b) MTCs shall select a cultivation tier in their initial application for licensure, or if one has not been previously selected, shall do so in their next application for License renewal. Cultivation tiers are based on the square footage of Canopy:

1. Tier 1: up to 5,000;
2. Tier 2: 5,001 to 10,000;
3. Tier 3: 10,001 to 20,000;
4. Tier 4: 20,001 to 30,000;
5. Tier 5: 30,001 to 40,000;
6. Tier 6: 40,001 to 50,000;
7. Tier 7: 50,001 to 60,000;
8. Tier 8: 60,001 to 70,000;
9. Tier 9: 70,001 to 80,000;
10. Tier 10: 80,001 to 90,000; or
11. Tier 11: 90,001 to 100,000.

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(c) Tier Expansion. An MTC may submit an application, in a time and manner determined by the Commission, to change the tier in which it is classified. An MTC may change tiers to either expand or reduce production. If an MTC is applying to expand production, it shall demonstrate that while cultivating at the top of its production tier, it has sold 85% of its product consistently over the six months preceding the application for expanded production for an indoor cultivator, or during the harvest season, prior to the application for expanded production for an outdoor cultivator.

(d) Tier Relegation. In connection with the License renewal process for MTC, the Commission will review the records of the MTC during the six months prior to the application for renewal for an indoor cultivator or during the harvest season prior to the application for renewal for an outdoor cultivator. The Commission may reduce the Licensee's maximum Canopy to a lower tier if the Licensee sold less than 70% of what it produced during the six months prior to the application for renewal for an indoor cultivator or during the harvest season prior to the application for renewal for an outdoor cultivator.

(e) Tier Factors. When determining whether to allow expansion or relegate a Licensee to a different tier, the Commission may consider factors including, but not limited to:

1. Cultivation and production history, including whether the plants/inventory suffered a catastrophic event during the licensing period;
2. Transfer, sales, and excise tax payment history;
3. Existing inventory and inventory history;
4. Sales contracts; and
5. Any other factors relevant to ensuring responsible cultivation, production, and inventory management.

(3) Product Manufacturing Operations. An MTC may perform manufacturing operations only at the address approved to do so by the Commission. At the Processing location, MTCs may obtain, Manufacture, Process and package Marijuana Products, to transport Marijuana Products to MTCs and to Transfer Marijuana Products to other MTCs, but not to Patients.

(4) Dispensing Operations.

(a) An MTC may perform dispensing operations only at the address approved to do so by the Commission. At the dispensing location, the MTC may purchase and transport Marijuana Products from MTCs and transport, sell, Repackage or otherwise transfer Marijuana Products to MTCs and to Registered Qualifying Patients.

(b) MTCs may perform home deliveries to Registered Qualifying Patients or Personal Caregivers from their dispensing location if approved by the Commission to do so. An MTC shall only deliver to an Institutional Caregiver at their Caregiving Institution.

501.052: Independent Testing Laboratories

(1) An Independent Testing Laboratory shall apply for licensure in the manner prescribed in 935 CMR 500.101: *Application Requirements*.

(2) The Commission will accept certificates of registration for Independent Testing Laboratories validly issued prior to the Program Transfer. A certificate will remain valid until the certificate expires or the laboratory is licensed pursuant to 935 CMR 500.101: *Application Requirements*, whichever occurs first.

(3) An Independent Testing Laboratory may not cultivate Marijuana.

(4) An Independent Testing Laboratory may not possess, transport or Process Marijuana other than that necessary for the purposes of testing in compliance with 935 CMR 500.000: *Adult Use of Marijuana* and 935 CMR 501.000. Laboratories registered prior to the Program Transfer and that have not been licensed pursuant to 935 CMR 500.101: *Application Requirements*, are limited to possessing, transporting or Processing Marijuana for the purposes of testing in compliance with 935 CMR 501.000.

(5) An Executive or Member of an MTC is prohibited from being a Person or Entity Having Direct or Indirect Control in an Independent Testing Laboratory providing testing services for any MTC, except as otherwise provided in 935 CMR 501.200.

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(6) No individual employee of a laboratory providing testing services for MTCs may receive direct or indirect financial compensation from any MTC, except as otherwise provided in 935 CMR 501.200.

501.100: Application for Licensing of Medical Marijuana Treatment Centers (MTCs)

501.101: Application Requirements

(1) New Applicants. An MTC applicant shall file, in a form and manner specified by the Commission, an application for licensure as an MTC. The application requirements outlined in 935 CMR 501.101(1) will apply to all MTC applications submitted on or after November 1, 2019. The application shall consist of three sections: Application of Intent; Background Check; and Management and Operations Profile, except as otherwise provided. The applicant may complete any section of the application in any order. Once all sections of the application have been completed, the application may be submitted. Application materials, including attachments, may be subject to release pursuant to M.G.L. c. 66, § 10 and M.G.L. c. 4, § 7, cl. 26.

(a) Application of Intent. An applicant for licensure as an MTC shall submit the following as part of the Application of Intent:

1. Documentation that the MTC is an entity registered to do business in Massachusetts and a list of all Persons or Entities Having Direct or Indirect Control. In addition, the applicant shall submit any contractual, management, or other written document that explicitly or implicitly conveys direct or indirect control over the MTC to the listed person or entity pursuant to 935 CMR 501.050(1)(b);

2. A disclosure of an interest of each individual named in the application in any Marijuana Establishment or MTC application for licensure or Licensee in Massachusetts;

3. Documentation disclosing whether any individual named in the application have past or present business interests in Other Jurisdictions;

4. Documentation detailing the amounts and sources of capital resources available to the applicant from any individual or entity that will be contributing capital resources to the applicant for purposes of establishing or operating the identified MTC for each License applied for. If any person or entity contributing initial capital, either in cash or in kind, would be classified as a Person or Entity Having Direct or Indirect Control, in exchange for the initial capital, they shall also be listed pursuant to 935 CMR 501.101(1)(a)1. Information submitted shall be subject to review and verification by the Commission as a component of the application process. Required documentation shall include:

a. The proper name of any individual or registered business name of any entity;

b. The street address; provided however, that the address may not be a post office box;

c. The primary telephone number;

d. Electronic mail;

e. The amount and source of capital provided or promised;

f. A bank record dated within 60 days of the application submission date verifying the existence of capital;

g. Certification that funds used to invest in or finance the MTC were lawfully earned or obtained; and

h. Any contractual or written agreement pertaining to a loan of initial capital, if applicable.

5. Documentation of a bond or an escrow account in an amount set by 935 CMR 501.105(16);

6. Identification of the proposed address for the License;

7. Documentation of a property interest in the proposed address. The proposed MTC shall be identified in the documentation as the entity that has the property interest. Interest may be demonstrated by one of the following:

a. Clear legal title to the proposed site;

b. An option to purchase the proposed site;

c. A legally enforceable agreement to give such title; or

d. Documentation evidencing permission to use the Premises.

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8. Documentation in the form of a single-page certification signed by the contracting authorities for the municipality (or municipalities) and applicant evidencing that the applicant for licensure and host municipality in which the address of the MTC is located have executed a Host Community agreement;

9. Documentation that the applicant has conducted a community outreach meeting consistent with the Commission's *Guidance for License Applicants on Community Outreach* within the six months prior to the application submission date. If the MTC will be located in two locations under this License, the applicant shall hold separate and distinct community outreach meetings in each municipality. Documentation shall include:

a. Copy of a notice of the time, place and subject matter of the meeting, including the proposed address of the MTC, that was published in a newspaper of general circulation in the city or town at least 14 calendar days prior to the meeting;

b. Copy of the meeting notice filed with the city or town clerk, the planning board, the contracting authority for the municipality and local cannabis licensing authority, if applicable;

c. Attestation that at least one meeting was held within the municipality where the MTC is proposed to be located;

d. Attestation that at least one meeting was held after normal business hours;

e. Attestation that notice of the time, place and subject matter of the meeting, including the proposed address of the MTC, was mailed at least seven calendar days prior to the community outreach meeting to abutters of the proposed address of the MTC, and residents within 300 feet of the property line of the petitioner as they appear on the most recent applicable tax list, notwithstanding that the land of any such Owner is located in another city or town;

f. Information presented at the community outreach meeting, which shall include, but not be limited to:

i. The proposed address of the MTC with the declaration that the proposed MTC is a "Medical Marijuana Treatment Center";

ii. Information adequate to demonstrate that the location(s) will be maintained securely;

iii. Steps to be taken by the MTC to prevent diversion to minors;

iv. A plan by the MTC to provide reduced cost or free Marijuana to Patients with documented Verified Financial Hardship, as defined by the Commission. The plan shall outline the goals, programs, and measurements the MTC will pursue once licensed;

v. A plan by the Marijuana Establishment to positively impact the community;

vi. Information adequate to demonstrate that the location will not constitute a nuisance as defined by law; and

vii. An attestation that community members were permitted to ask questions and receive answers from representatives of the MTC.

10. A description of plans to ensure that the MTC is or will be compliant with local codes, ordinances, and bylaws for the physical address of the MTC, which shall include, but not be limited to, the identification of all local licensing requirements for the medical use of Marijuana;

11. A plan by the MTC to positively impact Areas of Disproportionate Impact, as defined by the Commission, for the purposes established in M.G.L. c. 94G, § 4(a½)(iv). The plan shall outline the goals, programs, and measurements the MTC will pursue once licensed;

12. The requisite nonrefundable application fee pursuant to 935 CMR 501.005; and

13. Any other information required by the Commission.

(b) Background Check. Prior to an application being considered complete, each applicant for licensure shall submit the following information:

1. The list of individuals and entities in 935 CMR 501.101(1)(a)1.;

2. Information for each individual identified in 935 CMR 501.101(1)(a)1., which shall include:

a. the individual's full legal name and any aliases;

b. the individual's address;

c. the individual's date of birth;

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d. a photocopy of the individual's driver's license or other government-issued identification card;

e. a CORI Acknowledgment Form, pursuant to 803 CMR 2.09: *Requirements for Requestors to Request CORI*, provided by the Commission, signed by the individual and notarized; and

f. any other authorization or disclosure, deemed necessary by the Commission, for the purposes of conducting a background check.

3. Relevant Background Check Information. All Persons and Entities Having Direct or Indirect Control, and those individuals and entities contributing 10% or more in the form of a loan, shall provide information detailing involvement in any of the following criminal, civil, or administrative matters:

a. A description and the relevant dates of any criminal action under the laws of the Commonwealth, or an Other Jurisdiction, whether for a felony or misdemeanor including, but not limited to, action against any health care facility or facility for providing Marijuana for medical or adult-use purposes, in which those individuals either owned shares of stock or served as board member, Executive, officer, director or member, and which resulted in conviction, or guilty plea, or plea of *nolo contendere*, or admission of sufficient facts;

b. A description and the relevant dates of any civil action under the laws of the Commonwealth, or an Other Jurisdiction including, but not limited to, a complaint relating to any professional or occupational or fraudulent practices;

c. A description and relevant dates of any past or pending legal or disciplinary actions in the Commonwealth or any other state against an entity whom the applicant served as a Person or Entity Having Direct or Indirect Control, related to the cultivation, Processing, distribution, or sale of Marijuana for medical or adult-use purposes;

d. A description and the relevant dates of any administrative action including any complaint, order, stipulated agreement or settlement, or disciplinary action, by the Commonwealth, or like action in an Other Jurisdiction including, but not limited to:

i. The denial, suspension, or revocation, or other action with regard to of a professional or occupational license, registration, or certification or the surrender of a license;

ii. Administrative actions with regard to unfair labor practices, employment discrimination, or other prohibited labor practices; and

iii. Administrative actions with regard to financial fraud, securities regulation, or consumer protection.

e. A description and relevant dates of any administrative action, including any complaint, order or disciplinary action, by the Commonwealth, or a like action by Other Jurisdictions with regard to any professional license, registration, or certification, held by any Person or Entity Having Direct or Indirect Control, if any;

f. A description and relevant dates of actions against a license to prescribe or distribute controlled substances or legend drugs held by any Person or Entity Having Direct or Indirect Control that is part of the applicant's application, if any; and

g. Any other information required by the Commission.

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

1. Detailed information regarding its business registration with the Commonwealth, including the legal name, a copy of the articles of organization and bylaws as well as the identification of any doing-business-as names;

2. A certificate of good standing, issued within the previous 90 days from submission of an application, from the Corporations Division of the Secretary of the Commonwealth;

3. A certificate of good standing or certificate of tax compliance issued within the previous 90 days from submission of an application, from the DOR;

4. A certificate of good standing, issued within the previous 90 days from submission of an application, from the DUA, if applicable. If not applicable, a written statement to this effect is required;

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

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6. A description of the MTC's plan to obtain a liability insurance policy or otherwise meet the requirements of 935 CMR 501.105(10);
7. A detailed summary of the business plan for the MTC;
8. A detailed summary of operating policies and procedures for the MTC, which shall include, but not be limited to, provisions for:
   a. Security;
   b. Prevention of Diversion;
   c. Storage of Marijuana;
   d. Transportation of Marijuana;
   e. Inventory procedures;
   f. Procedures for quality control and testing of product for potential contaminants;
   g. Personnel policies;
   h. Dispensing procedures;
   i. Recordkeeping procedures;
   j. Maintenance of financial records; and
   k. Diversity plans to promote equity among people of color, particularly Black, African American, Latinx, and Indigenous people, women, Veterans, persons with disabilities, and LGBTQ+ people, in the operation of the MTC. The plan shall outline the goals, programs, and measurements the MTC will pursue once licensed.
9. A detailed description of qualifications and intended training(s) for MTC agents who will be employees;
10. The Management and Operation Profile submitted in accordance with 935 CMR 501.101(1)(c) shall demonstrate compliance with the operational requirements set forth in 935 CMR 501.105 through 501.160, as applicable;
11. Disclosure of the proposed hours of operation, and the names and contact information for individuals that will be the emergency contacts for the MTC;
12. The identification of whether the MTC will perform home deliveries to Patients and Caregivers. If so, a detailed summary of the policies and procedures to ensure the safe delivery of Finished Marijuana Products to Patients and Caregivers, including procedures for how Individual Orders will be filled and procedures for reconciling Individual Orders at the close of the business day, shall be provided;
13. A detailed operation plan for the cultivation of Marijuana, including a detailed summary of policies and procedures for cultivation, consistent with state and local law including, but not limited to, the Commission's guidance in effect November 1, 2019;
14. A list of all products that MTC plans to produce, including the following information:
   a. A description of the types and forms of Marijuana Products that the MTC intends to produce;
   b. The methods of production;
   c. A safety plan for the manufacture and production of Marijuana Products; and
   d. A sample of any unique identifying mark that will appear on any product produced by the applicant as a branding device.
15. A detailed summary of the proposed program to provide reduced cost or free Marijuana to Patients with documented financial hardship; and
16. Any other information required by the Commission.

(2) Application Requirements for MTC Applicants that Submit an Application of Intent prior to November 1, 2019.

(a) Application of Intent. An applicant for an MTC License shall submit the following as part of the Application of Intent:

1. Documentation that it is an entity in good standing as specified in 935 CMR 501.050, as well as a list of all Executives of the proposed MTC, and a list of all members, if any, of the entity;
2. 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. 935 CMR 501.101(2) 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;

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3. An attestation signed by an authorized designee of the entity that if the entity is allowed to proceed to the Management and Operations Profile, the entity is prepared to pay a nonrefundable application fee as specified in the applicable notice;
4. The requisite nonrefundable application fee; and
5. Any other information required by the Commission.

(b) Management and Operations Profile. Within 45 days after receipt of an invitation to the Management and Operations Profile, the applicant shall submit a response in a form and manner specified by the Commission, which includes:

1. Detailed information regarding entity, including the legal name, a copy of the articles of organization and bylaws;
2. The name, address, date of birth, and resumés of each Executive of the applicant and of the members, if any, of the entity, along with a photocopy of their driver's licenses or other government-issued identification cards, and background check information in a form and manner determined by the Commission;
3. List of all Persons or Entities Having Direct or Indirect Control over the management or policies of the MTC;
4. A description of the MTC's plan to obtain a liability insurance policy or otherwise meet the requirements of 935 CMR 501.105(10);
5. A detailed summary of the business plan for the MTC;
6. An operational plan for the cultivation of Marijuana, including a detailed summary of policies and procedures for cultivation;
7. If the MTC intends to produce MIPs, a description of the types and forms of MIPs that the MTC intends to produce, and the methods of production;
8. A detailed summary of operating policies and procedures for the MTC, which shall include, but not be limited to, provisions for security, prevention of diversion, storage of Marijuana, transportation of Marijuana, inventory procedures, including plans for integrating any existing electronic tracking systems with the Seed-to-sale SOR, procedures for quality control and testing of product for potential contaminants, procedures for maintaining confidentiality as required by law, personnel policies, dispensing procedures, recordkeeping procedures, plans for patient education, and any plans for patient or Personal Caregiver home delivery;
9. A detailed summary of the MTC'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 935 CMR 501.050;
10. A detailed description of all intended training(s) for MTC agents;
11. Evidence that the applicant is responsible and suitable to maintain an MTC. Information including, but not limited to, the following factors shall be considered in determining the responsibility and suitability of the applicant to maintain an MTC:
    a. Demonstrated experience running a business;
    b. History of providing healthcare services or services providing Marijuana for medical purposes, including provision of services in other states;
    c. History of response to correction orders issued under the laws or regulations of the Commonwealth or other states;
    d. Whether the applicant complies 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;
    e. A description and the relevant dates of any criminal action under the laws of the Commonwealth, or Other Jurisdictions, whether for a felony or misdemeanor including, but not limited to, action against any health care facility or facility for providing Marijuana for medical- or adult-use purposes, in which those individuals either owned shares of stock or served as board member, Executive, officer, director or member, and which resulted in conviction, or guilty plea, or plea of *nolo contendere*, or admission of sufficient facts;
    f. A description and the relevant dates of any civil action under the laws of the Commonwealth, or Other Jurisdictions including, but not limited to, a complaint relating to any professional or occupational or fraudulent practices;

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i. Fraudulent billing practices;

ii. Past or pending legal or disciplinary 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;

iii. 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 the Commonwealth or Other Jurisdictions, including denial, suspension, revocation, or refusal to renew certification for Medicaid or Medicare;

iv. Past discipline by, or a pending disciplinary action or unresolved complaint by the Commonwealth, or a like action or complaint by Other Jurisdictions, with regard to any professional license or registration of an Executive of the applicant, as well as by any member of the entity, if any; or

g. A description and relevant dates of actions against a license to prescribe or distribute controlled substances or legend drugs held by any Person or Entity Having Direct or Indirect Control that is part of the applicant's application, if any; and

h. Any attempt to obtain a registration, license, or approval to operate in any state by fraud, misrepresentation, or the submission of false information;

12. Any other information required by the Commission.

(c) Siting Profile. Within 12 months after receipt of an invitation to submit the Siting Profile, the applicant shall submit a response in a form and manner specified by the Commission, which includes:

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

2. The applicant shall provide evidence of interest in the subject property or properties. Interest may be demonstrated by one of the following:

a. Clear legal title to the proposed site;

b. An option to purchase the proposed site;

c. A legally enforceable agreement to give such title; or

d. Documentation evidencing permission to use the premises;

3. Documentation in the form of a single-page certification signed by the contracting authorities for the municipality (or municipalities) and applicant evidencing that the applicant for licensure and host municipality in which the address of the MTC is located have executed a Host Community agreement(s);

4. A description of plans to ensure that the MTC is or shall be compliant with local codes, ordinances, and bylaws for the physical address of the MTC and for the physical address of the additional location, if any, including the identification of all local licensing bylaws or ordinances for the medical use of Marijuana;

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

6. Any other information required by the Commission.

(3) CMO License Requirements. MTC applicants seeking to operate a Marijuana Establishment shall also comply with 935 CMR 500.101: *Application Requirements*.

501.102: Action on Applications

(1) Action on Each Application. The Commission shall grant Licenses with the goal of ensuring that the needs of the Commonwealth are met regarding access, quality, and community safety.

(a) License applications shall be evaluated based on the applicant's:

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1. Demonstrated compliance with the laws and regulations of the Commonwealth;
2. Suitability for licensure based on the provisions of 935 CMR 501.101(1), 501.800 and 501.801; and
3. Evaluation of the thoroughness of the applicant's responses to the required criteria. The Commission shall consider each License application submitted by an applicant on a rolling basis.

(b) The Commission shall notify each applicant in writing that:
1. The application has been deemed complete;
2. The application has been deemed incomplete, and include the grounds for which it has been deemed incomplete; or
3. The Commission requires further information within a specified period of time before the packet is determined to be complete.

(c) Failure of the applicant to adequately address all required items in its application in the time required under 935 CMR 501.102 by the Commission will result in evaluation of the application as submitted. Nothing in 935 CMR 501.101 is intended to confer a property or other right or interest entitling an applicant to a meeting before an application may be denied.

(d) On determination that the application is complete, a copy of the completed application, to the extent permitted by law, will be forwarded to the municipality in which the MTC will be located. The Commission shall request that the municipality respond within 60 days of the date of the correspondence that the applicant's proposed MTC complies with municipal bylaws or ordinances.

(e) The applicant shall keep current all information required by 935 CMR 501.000 or otherwise required by the Commission. The applicant shall report any changes in or additions to the content of the information contained in the application to the Commission within five business days after such change or addition. If a material change occurs to an application deemed complete, the Commission may deem the application incomplete pending further review. If an application initially deemed complete, and later deemed incomplete, a notice will be provided to the applicant. An incomplete application must be fully evaluated pursuant to 935 CMR 501.102(1)(a) prior to being deemed complete again and submitted to the Commission pursuant to M.G.L. c. 94G, § 5(a).

(2) Action on Completed Application.

(a) The Commission shall review applications from applicants in the order they were submitted as determined by the Commission's electronic licensing system.

(b) The Commission shall grant or deny a provisional License not later than 90 days following notification to the applicant that all required packets are considered complete. Applicants shall be notified in writing that:
1. the applicant shall receive a provisional License which may be subject to further conditions as determined by the Commission; or
2. the applicant has been denied a License. Denial shall include a statement of the reasons for the denial.

(c) Failure of the applicant to complete the application process within the time specified by the Commission in the application instructions shall be grounds for denial of a License.

(3) Action on Application Submissions under 935 CMR 501.101(2).

(a) The Commission shall not consider an application that is submitted after the due date specified.
1. An applicant that has submitted an Application of Intent shall be invited to the Management and Operations Profile phase within six months of November 1, 2019. Failure to do so will result in the expiration of the application.
2. An applicant that has been invited to the Management and Operations Profile shall submit the Management and Operations Profile within 45 days of the invite. Failure to do so will result in the expiration of the application.
3. An applicant that has been invited to the Management and Operations Profile shall be invited to submit a Siting Profile within 12 months of the invite to the Management and Operations Profile. Failure to do so will result in the expiration of the application.
4. An applicant that has been invited to the Siting Profile shall obtain a provisional License within 12 months of the invite to the Siting Profile. Failure to do so will result in the expiration of the application.

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(b) Once the Application of Intent and Management and Operations Profile have been submitted, respectively, and deemed complete, the applicant will be invited by notice to the next stage of the application.

(c) Once the Siting Profile has been deemed complete, the applicant will receive notice. Notice and a copy of the completed application, to the extent permitted by law, will be forwarded to the municipality (or municipalities) in which the MTC will be located. The Commission shall request that the municipalities respond within 60 days of the date of the correspondence that the applicant's proposed MTC is in compliance with municipal bylaws or ordinances.

(d) 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 Commission.

(e) The Commission shall grant or deny a provisional License once the application, and all its sections, have been deemed complete and all third-party documentation has been reviewed. Applicants shall be notified in writing that:

1. The applicant shall receive a provisional License which may be subject to further conditions as determined by the Commission; or

2. The applicant has been denied a License. Denial shall include a statement of the reasons for the denial.

(f) 935 CMR 501.103 shall apply to all applicants that are granted a provisional License under 935 CMR 501.101.

501.103: Licensure and Renewal

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

(a) The Commission shall review architectural plans for the building or renovation of an MTC. Construction or renovation related to such plans may not begin until the Commission has granted approval. Submission of such plans shall occur in a manner and form established by the Commission including, but not limited to, a detailed floor plan of the Premises of the proposed MTC that identifies the square footage available and describes the functional areas of the MTC, including areas for any preparation of Marijuana Products, and, if applicable, such information for the single allowable off-Premises location in Massachusetts where Marijuana will be cultivated or Marijuana Products will be prepared; and a description of plans to ensure that the MTC will be compliant with requirements of the Americans with Disabilities Act (ADA) Accessibility Guidelines.

To demonstrate compliance with 935 CMR 501.120(11), an MTC applicant shall also submit an energy compliance letter prepared by a Massachusetts Licensed Professional Engineer or Massachusetts Licensed Registered Architect with supporting documentation.

(b) An MTC shall construct its facilities in accordance with 935 CMR 501.000, conditions set forth by the Commission in its provisional License and architectural review, and any applicable state and local laws, regulations, permits or licenses.

(c) The Commission may conduct inspections of the facilities, as well as review all written materials required in accordance with 935 CMR 501.000.

(d) The applicable License fee shall be paid within 90 days from the date the applicant was approved for a provisional License by the Commission. Failure to pay the applicable License fee within the required time frame will result in the License approval expiring. If this occurs, a new License application will need to be completed pursuant to 935 CMR 501.101 and will require Commission approval.

(e) To the extent updates are required to the information provided for initial licensure, the MTC shall submit an updated energy compliance letter prepared by a Massachusetts Licensed Professional Engineer or Massachusetts Licensed Registered Architect with supporting documentation, together with a renewal application submitted under 935 CMR 501.103(4).

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(2) Final License. On completion of all inspections required by the Commission, an MTC is eligible for a final License. All information described in 935 CMR 501.000 that is not available at the time of submission shall be provided to and approved by the Commission before an MTC may receive a final License. Such final Licenses shall be subject to reasonable conditions specified by the Commission, if any.

(a) No person or entity shall operate an MTC without a final License issued by the Commission.

(b) A provisional or final License may not be assigned or transferred without prior Commission approval.

(c) A provisional or final License shall be immediately void if the MTC Ceases to Operate or if, without the permission of the Commission, it relocates.

(d) Acceptance of a provisional or final License constitutes an agreement by the MTC 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 Commission as part of licensure.

(e) The MTC shall post the final License in a conspicuous location on the Premises at each Commission-approved location.

(f) The MTC shall conduct all activities authorized by 935 CMR 501.000 at the address(es) identified on the final License issued by the Commission.

(3) The MTC shall be operational within the time indicated in 935 CMR 501.101(1)(c)5. or as otherwise amended through the application process and approved by the Commission through the issuance of a final License.

(4) Expiration and Renewal of Licensure. The MTC's License, as applicable, shall expire one year after the date of issuance of the provisional License and annually thereafter, and may be renewed as follows, unless an action has been taken based on the grounds set forth in 935 CMR 501.450:

(a) No later than 60 calendar days prior to the expiration date, an MTC shall submit a completed renewal application to the Commission in a form and manner determined by the Commission, as well as the required License fee.

(b) The MTC shall submit as a component of the renewal application a report or other information demonstrating the establishment's efforts to comply with the plans required under 935 CMR 501.101(1), including 935 CMR 501.101(1)(a)11. and 935 CMR 501.101(1)(c)8.k., as applicable. The report will, at a minimum, have detailed, demonstrative, and quantifiable proof of the establishment's efforts, progress, and success of said plans.

(c) An MTC engaged in indoor cultivation shall include a report of the MTC's energy and water usage over the 12-month period preceding the date of the application.

(d) To the extent updates are required to the information provided for initial licensure, the MTC shall submit an updated energy compliance letter prepared by a Massachusetts Licensed Professional Engineer or Massachusetts Licensed Registered Architect with supporting documentation, together with a renewal application submitted under 935 CMR 501.103(4).

(e) The MTC shall submit as a component of the renewal application certification of good standing from the Secretary of the Commonwealth, the DOR, and the DUA. Certificates of good standing will be accepted if issued within 90 days of the submittal of the renewal application.

(f) A MTC shall submit, as a component of the renewal application documentation that the establishment requested from its Host Community, the records of any cost to a city or town reasonably related to the operation of the establishment, which would include the city's or town's anticipated and actual expenses resulting from the operation of the establishment in its community. The applicant shall provide a copy of the electronic or written request, which should include the date of the request, and either the substantive response(s) received or an attestation that no response was received from the city or town. The request should state that in accordance with M.G.L. c. 94G, § 3(d), any cost to a city or town imposed by the operation of a Marijuana Establishment or MTC shall be documented and considered a public record as defined by M.G.L. c. 4, § 7, cl. 26.

(g) The MTC shall update as needed, and ensure the accuracy of, all information that it submitted on its initial application for a License.

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(h) The MTC shall comply with the requirements of 935 CMR 501.104(1) in accordance with that section separately from the renewal application.

(i) The Commission shall issue a renewal License within 30 days of receipt of a renewal application and renewal License fee from an MTC to a Licensee, if the Licensee:

1. Is in good standing with the Secretary of the Commonwealth, DOR, and DUA;

2. Provided documentation demonstrating substantial effort or progress towards achieving its goals submitted as part of its plans required under 935 CMR 501.101(1), including 935 CMR 501.101(1)(a)11. and 501.101(1)(c)8.k., as applicable; and

3. No new information submitted as part of the renewal application, or otherwise obtained, presents suitability issues for any individual or entity listed on the application or License.

(j) CMO Marijuana Retailers shall submit the following information pertaining to patient supply of marijuana:

1. The licensee's policy and the procedures (*e.g.*, data points, formulas) relied on to determine what constitutes a sufficient quantity and variety of marijuana products consistent with 935 CMR 501.140(12); and

2. The licensee's policy and procedures for determining what qualifies as a reasonable substitution for a medical marijuana product under 935 CMR 501.140(12) and its policy for communicating reliance on the substitution to Patients.

501.104: Notification and Approval of Changes

(1) Prior to making the following changes, an MTC shall submit a request for such change to the Commission and pay the appropriate fee. No such change shall be permitted until approved by the Commission or in certain cases, the Commission has delegated authority to approve changes to the Executive Director. Failure to obtain approval of such changes may result in a License being suspended, revoked, or deemed void.

(a) Location Change. Prior to changing its location, the MTC shall submit a request for such change to the Commission.

(b) Ownership or Control Change.

1. Ownership Change. Prior to any change in ownership, where an Equity Holder acquires or increases its ownership to 10% or more of the equity or contributes 10% or more of the initial capital to operate the MTC, including capital that is in the form of land or buildings, the MTC shall submit a request for such change to the Commission.

2. Control Change. Prior to any change in control, where a new Person or Entity Having Direct or Indirect Control should be added to the License, the MTC shall submit a request for such change to the Commission prior to effectuating such a change. An individual, corporation, or entity shall be determined to be in a position to control the decision-making of an MTC if the individual, corporation, or entity falls within the definition of Person or Entity Having Direct or Indirect Control.

(c) Structural Change. Prior to any modification, remodeling, expansion, reduction or other physical, non-cosmetic alteration of the MTC, the establishment shall submit a request for such change to the Commission.

(d) Name Change. Prior to changing its name, the MTC shall submit a request for such change to the Commission. Name change requests, and prior approval, shall apply to an establishment proposing a new or amending a current doing-business-as name.

(e) Court Supervised Proceedings. Notification and approval requirements with respect to Court Appointees and Court Supervised Proceedings are detailed in 935 CMR 501.104(3).

(2) The Executive Director of the Commission may approve, provided the Executive Director gives the Commission timely notice of his or her decision:

(a) A Location Change;

(b) A Name Change;

(c) Any new equity owner, provided that the equity acquired is below 10%;

(d) Any new Executive or Director, provided that the equity acquired is below 10%;

(e) A reorganization, provided that the ownership and their equity does not change; and

(f) Court Appointees, as detailed in 935 CMR 501.104(3).

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(3) Court Supervised Proceedings.

(a) Commission Petition.

1. The Commission or its delegee may seek to file a petition where there is an imminent threat or danger to the public health, safety or welfare, which may include one or more of the following:

a. Notice of violations of state or federal criminal statutes including, but not limited to, M.G.L. c. 94C, §§ 32 and 34;

b. Noncompliance with or violations of its statute or regulations such that the imposition of fines or other disciplinary actions would not be sufficient to protect the public;

c. Conditions that pose a substantial risk of diversion of Marijuana or Marijuana Products to the illicit market or to individuals younger than 21 years of age who do not possess a valid pediatric Patient Registration Card issued by the Commission;

d. Conditions that pose a substantial risk to Patients;

e. Violations of testing or inventory and transfer requirements such that the Commission cannot readily monitor Marijuana and Marijuana Products cultivated, manufactured, transported, delivered, transfer, or sold by a Licensee; or

f. Other circumstance that the Commission or its delegee determines possess an imminent threat or danger to public health, safety, or welfare exists.

2. The Commission or its delegee may seek to file a petition, intervene, or otherwise participate in a Court Supervised Proceeding or any other proceeding to secure its rights under M.G.L. c. 94G, § 19.

3. Nothing in 935 CMR 501.104(3) shall limit the Commission's authority under M.G.L. c. 94G, § 4(a)(v).

(b) Delegation. In accordance with M.G.L. c. 10, § 76(j), the Commission may delegate to the Executive Director the authority to appear on its behalf in Court Supervised Proceedings or any other proceeding, and to administer and enforce its regulations relative to such proceedings or Court Appointees which includes, but it not limited to, the following.

1. To determine the form and manner of the application process for a Preapproved Court Appointee;

2. To preapprove, recommend, disqualify, or discipline Court Appointees;

3. To approve the distribution of escrow funds under 935 CMR 501.105(10) or bond funds under 935 CMR 501.105(16) including, but not limited to, to cover the cost of a Court Appointee or the operations of an MTC under supervision subject to the receipt of a court order prior to the expenditure of such funds;

4. To approve the use of additional funds subject to the receipt of a court order prior to the expenditure of such funds;

5. To preapprove or approve certain transactions; provided, however, any change in the ownership or control under 935 CMR 501.104(1) shall be considered by the Commission; or

6. To impose fines or other disciplinary action under 935 CMR 501.500, however, any suspension or revocation of a License under 935 CMR 501.450 shall be considered by the Commission.

(c) Notice to the Commission.

1. A Licensee or Person or Entity Having Direct or Indirect Control over a Licensee shall provide notice to the Commission of a petition or Court Supervised Proceeding or any other proceeding implicating 935 CMR 501.000:

a. Five business days prior to the Licensee or Person or Entity Having Direct or Indirect Control filing a petition; or

b. On receipt of notice that a petition was filed or of an imminent threat of litigation that could lead to the appointment of a Court Appointee.

2. Notice to the Commission shall include a copy of the relevant communications, petition, pleadings and supporting documents, and shall be sent electronically to Commission@CCCMass.Com and by mail to the Cannabis Control Commission at:

Cannabis Control Commission
ATTN: General Counsel - Court Appointees
Union Station
2 Washington Square
Worcester, MA 01604

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3. As soon as practicable, the Licensee or Person or Entity Having Direct or Indirect Control over a Licensee shall provide electronic and written notice to the Commission if the circumstances giving rise to the petition pose or may pose a threat to the public health, safety or welfare.

4. As soon as practicable, the Licensee or Person or Entity Having Direct or Indirect Control over a Licensee shall provide notice to the court that it is licensed by the Commission and of the regulations relative to Court Supervised Proceedings and Court Appointees including, but not limited to, the qualifications for a Court Appointee established in 935 CMR 501.104(3)(d)1., and the list of Preapproved Court Appointees.

5. A Licensee or Person or Entity Having Direct or Indirect Control over a Licensee that fails to comply with the requirements of 935 CMR 501.104(3) may be subject to disciplinary action including, but not limited to, revocation or suspension of any license or registration under 935 CMR 501.450.

(d) Commission Qualifications for Court Appointees.

1. Qualifications. The Commission deems the following qualifications essential in a Court Appointee, subject to the court's discretion. At a minimum, an individual or entity seeking to be a Preapproved Court Appointee shall demonstrate the following qualifications consistent with the regulatory requirements for licensees. An applicant may seek a waiver of these qualifications under 935 CMR 501.850. The failure to maintain these qualifications may be a basis for disqualification.

a. Suitability. An applicant must demonstrate suitability under 935 CMR 501.801: *Table A*.

b. Ownership and Control Limits. A person or entity named as a Court Appointee shall, prior to and as a result of being a Court Appointee, be in compliance with the control limitations set forth in 935 CMR 501.050(1)(b) or any other limitations on licensure set forth in 935 CMR 501.000.

2. Application Process for Preapproved Court Appointees. The Commission or its delegee may preapprove, recommend, disqualify, or discipline Preapproved Court Appointees. A person or entity seeking to be a Preapproved Court Appointee shall pay a fee established in 935 CMR 501.005(7)(a) and submit the following information and make the necessary disclosures:

a. Qualifications. An applicant shall demonstrate the qualifications set forth in 935 CMR 501.104(3)(d)1.

b. Credentials. An applicant shall demonstrate sufficient training, knowledge and experience, to ensure a Licensee under their or its supervision shall comply with Commissions statutory and regulatory requirements.

c. Affiliated Individuals or Entities. An applicant shall identify any person or entity that may exert control or influence over the Preapproved Court Appointee, whether or not such individuals or entities are can exercise the authority of a Court Appointee.

d. Engaged Individuals or Entities. An applicant shall identify an person or entity that the applicant intends to engage in conducting the work of a Court Appointee, whether or not such individuals or entities are exercising the authority of a Court Appointee.

e. Financial Information. An applicant shall make such financial disclosures necessary to determine its ability to serve as a Court Appointee.

f. Licenses. The applicant shall submit any professional or occupational licenses and represent that these licenses are in good standing.

g. Good Standing. If the applicant is an entity, it shall submit a valid Certificate of Good Standing issued each by the Secretary of the Commonwealth and the Department of Revenue.

h. Limitations. The applicant shall identify any limitations on the ability to serve as a Court Appointee including, but not limited to, capacity, qualifications, credentials, conflicts of interest, and financial requirements.

i. An applicant shall submit any additional information the Commission or its delegee may request, in its sole discretion.

j. Suitability. An applicant shall demonstrate suitability to operate a Licensee. If the applicant is an entity, each individual exercising the authority of a Court Appointee shall demonstrate suitability as provided in 935 CMR 501.000. An applicant shall demonstrate suitability by:

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i. Submitting to a criminal background check in accordance with 935 CMR 501.030, 935 CMR 501.101 and 935 CMR 501.105; or

ii. Submitting an attestation under the pains and penalties of perjury that the applicant is suitable to operate a Licensee.

3. Application requirements in this 935 CMR 501.104(3)(d)2., shall apply only to persons and entities acting as a Court Appointee.

4. Renewal. In order to remain as Preapproved Court Appointee, each Preapproved Court Appointee, on the anniversary of their preapproval, shall annually attest to the Commission under the pains and penalties of perjury that there has been no material change to the information and disclosures submitted as part of the initial application or provide updated information and disclosures with respect to those that have changed, and pay the fee identified in 935 CMR 501.005(7)(b).

(e) Licensee's Obligations. A Licensee placed under the oversight or a Court Appointee shall:

1. Continue to comply with all legal and regulatory requirements applicable to a Licensee, except as otherwise determined pursuant a court order or a waiver granted pursuant to 935 CMR 501.850.

2. Provide the Commission with any documents requested by the Commission.

3. Cooperate with the Commission's efforts to intervene as an interested party in any Court proceeding pursuant to which a Court Appointee is sought.

4. Comply with the requirements of 935 CMR 501.104(1) upon final disposition of the License(s) subject to oversight by a Court Appointee.

5. When a Licensee files a petition, it shall propose in such petition a Court Appointee with the qualifications identified in 935 CMR 501.104(3)(d)1. And/or may choose from the Commission's list of Preapproved Court Appointees.

(f) Applicability of 935 CMR 104(3).

1. All Licensees and Persons or Entities having Direct or Indirect Control shall comply with the notice requirements established in 935 CMR 501.104(3)(c).

2. A Person or Entity Having Direct or Indirect Control that has its ownership or control interest placed under the oversight of a Court Appointee shall be exempt from the requirements of subsection 935 CMR 501.104(3)(b) and (d) through (f); provided however, that upon final disposition of the interest in question, the Licensee shall comply with the requirements of 935 CMR 501.104(1), as applicable.

(4) Assignment for the Benefit of Creditors. A Licensee must seek Commission approval, in a form or manner determined by the Commission, prior to effectuating an Assignment for the Benefit of Creditors. The Commission may delegate authority to approve such agreements to the Executive Director; provided however, that any transfer of a License shall be subject to Commission Approval.

(5) The MTC shall keep current all information required by 935 CMR 501.000 or otherwise required by the Commission. The MTC shall report any changes in or additions to the content of the information contained in any document to the Commission within five business days after such change or addition.

501.105: General Operational Requirements for Medical Marijuana Treatment Centers

(1) Written Operating Procedures. Every MTC shall have and follow a set of detailed written operating procedures. If the MTC has an additional location, it shall develop and follow a set of such operating procedures for that facility. A CMO shall have written operating procedures that comply with both 935 CMR 501.105(1) and 500.105(1): *Written Operating Procedures* and may do so by having two sets of written operating procedures applicable to each medical-use and adult-use operations or having one set of written operating procedures, provided it complies with both medical-use and adult-use requirements. Operating procedures shall include, but need not be limited to, the following:

(a) Security measures in compliance with 935 CMR 501.110.

(b) Employee security policies, including personal safety and crime prevention techniques.

(c) A description of the MTC's hours of operation and after hours contact information, which shall be provided to the Commission, made available to Law Enforcement Authorities on request, and updated pursuant to 935 CMR 501.104(4).

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(d) Storage and waste disposal of Marijuana in compliance with 935 CMR 501.105(11) and 501.105(12).
(e) Description of the various strains of Marijuana to be cultivated and dispensed, and the form(s) in which Marijuana will be dispensed.
(f) Price list for Marijuana, MIPs, and any other available products, and alternate price lists for Patients with documented Verified Financial Hardship as required by 935 CMR 501.050(1)(h).
(g) Procedures to ensure accurate recordkeeping, including inventory protocols for Transfer and inventory and procedures for integrating a secondary electronic system with the Seed-to-sale SOR.
(h) Plans for quality control, including product testing for contaminants in compliance with 935 CMR 501.160.
(i) A staffing plan and staffing records in compliance with 935 CMR 501.105(9)(d).
(j) Emergency procedures, including a disaster plan with procedures to be followed in case of fire or other emergencies.
(k) Alcohol, smoke, and drug free workplace policies.
(l) A plan describing how Confidential Information and other records required to be maintained confidentially will be maintained.
(m) A policy for the immediate dismissal of any MTC Agent who has:
1. Diverted Marijuana, which shall be reported to Law Enforcement Authorities and to the Commission;
2. Engaged in unsafe practices with regard to operation of the MTC, which shall be reported to the Commission; or
3. Been convicted or entered a guilty plea, plea of *nolo contendere*, or admission to sufficient facts of a felony drug offense involving distribution to a minor in the Commonwealth, or a like violation of the laws of any Other Jurisdiction.
(n) A list of all board of directors, members and Executives of an MTC, and Members, if any, of the Licensee, shall be made available on request by any individual. This requirement may be fulfilled by placing this information on the MTC's website.
(o) Policies and procedure for the handling of cash on MTC Premises including, but not limited to, storage, collection frequency, and transport to financial institution(s), to be available on inspection.
(p) The standards and procedures by which the MTC determines the price it charges for Marijuana, and a record of the prices charged, including the MTC'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 935 CMR 501.050(1)(h).
(q) Policies and procedures for energy efficiency and conservation that shall include:
1. Identification of potential energy use reduction opportunities (including, but not limited to, natural lighting, heat recovery ventilation and energy efficiency measures), and a plan for implementation of such opportunities;
2. Consideration of opportunities for renewable energy generation including, where applicable, submission of building plans showing where energy generators could be placed on the site, and an explanation of why the identified opportunities were not pursued, if applicable;
3. Strategies to reduce electric demand (such as lighting schedules, active load management and energy storage); and
4. Engagement with energy efficiency programs offered pursuant to M.G.L. c. 25, § 21, or through municipal lighting plants.
(r) Policies and procedures to promote workplace safety consistent with the standards set forth under the Occupational Safety and Health Act of 1970, 29 U.S.C. § 651, *et seq*., including the general duty clause whereby each employer:
1. shall furnish to each of its employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to its employees;
2. shall comply with occupational safety and health standards promulgated under 29 U.S.C. § 651, *et seq*. Each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to 29 U.S.C. § 651, *et seq*., which are applicable to the employee's own actions and conduct.

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All current and updated regulations and references at 29 CFR Parts 1903, 1904, 1910, 1915, 1917, 1918, 1926, 1928 and 1977 are incorporated by reference, and applicable to all places of employment covered by 935 CMR 501.000.

(s) A description of the MTC's patient education activities in accordance with 935 CMR 501.140(6).

(2) MTC Agent Training.

(a) MTCs and Independent Testing Laboratories shall ensure that all MTC Agents and Laboratory Agents complete minimum training requirements prior to performing job functions.

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

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

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

4. Agents responsible for tracking and entering product into the Seed-to-sale SOR shall receive training in a form and manner determined by the Commission. At a minimum, staff shall receive eight hours of on-going training annually.

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

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

(b) Responsible Vendor Training.

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

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

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

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

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

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

4. Responsible Vendor Trainer Certification.

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

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

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

d. Except as provided in 935 CMR 501.105(2)(b)4.e., Responsible Vendor Training Program courses shall be taught in a real-time, interactive, virtual or in-person classroom setting in which the instructor is able to verify the identification of each individual attending the program and certify completion of the program by the individual.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ii. The amount of time to feel impairment;

iii. Visible signs of impairment; and

iv. Recognizing the signs of impairment.

b. Diversion prevention and prevention of sales to minors, including best practices.

c. Compliance with all tracking requirements.

d. Acceptable forms of identification. Training shall include:

i. How to check identification;

ii. Spotting and confiscating fraudulent identification;

iii. Patient registration cards currently and validly issued by the Commission;

iv. Common mistakes made in identification verification; and

v. Prohibited purchases and practices, including purchases by persons younger than 21 years old in violation of M.G.L. c. 94G, § 13.

e. How to engage and work with persons with disabilities.

f. Other key state laws and rules affecting MTC Agents, which shall include:

i. Conduct of MTC Agents;

ii. Permitting inspections by state and local licensing and enforcement authorities;

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iii. Local and state licensing and enforcement, including registration and license sanctions;
iv. Incident and notification requirements;
v. Administrative, civil, and criminal liability;
vi. Health and safety standards, including waste disposal;
vii. Patrons prohibited from bringing marijuana and Marijuana Products onto licensed premises;
viii. Permitted hours of sale;
ix. Licensee responsibilities for activities occurring within licensed premises;
x. Maintenance of records, including confidentiality and privacy; and

g. Such other areas of training determined by the Commission to be included in a Responsible Vendor Training Program.

6. Advanced Core Curriculum.

a. Each Advanced Core Curriculum class shall be approved by the Commission prior to being offered. The curriculum shall build on the knowledge, skills, and practices covered in the Basic Core Curriculum.

b. An Advanced Core Curriculum class shall include standard and best practices in one or more of the following areas

i. Cultivation;
ii. Product Manufacturing;
iii. Retail;
iv. Transportation;
v. Social Consumption;
vi. Laboratory Science;
vii. Energy and Environmental Best Practices;
viii. Social Justice and Economically Reparative Practices;
ix. Implicit Bias and Diversity Training;
x. Worker Safety;
xi. Food Safety and Sanitation;
xii. Confidentiality and Privacy;
xiii. In depth coverage of any topic(s) taught in the Basic Core Curriculum; or
xiv. Such other topic as the Commission may approve in its sole discretion.

7. Delivery Core Curriculum. In addition to the Basic Core Curriculum, all MTC Agents acting as delivery employees of an MTC shall have attended and successfully completed the Delivery Core Curriculum prior to making a delivery, which shall, to the extent not covered in Basic Core Training include, without limitation, training on:

a. Safely conducting deliveries;
b. Safe cash handling practices;
c. Strategies for de-escalating potentially dangerous situations;
d. Securing product following any instance of diversion, theft or loss of Finished Marijuana Products pursuant to 935 CMR 501.110(1)(m);
e. Collecting and communicating information to assist in investigations;
f. Procedures for checking identification;
g. Indications of impairment; and
h. Such other areas of training determined by the Commission to be included in a Responsible Vendor Training Program.

(3) Handling of Marijuana.

(a) An MTC shall Process Marijuana in a safe and sanitary manner. An MTC shall Process the leaves and flowers of the female Marijuana plant only, which shall be:

1. Well cured and free of seeds and stems;
2. Free of dirt, sand, debris, and other foreign matter;
3. Free of contamination by mold, rot, other fungus, pests and bacterial diseases and satisfying the sanitation requirements in 105 CMR 500.000: *Good Manufacturing Practices for Food*, and if applicable, 105 CMR 590.000: *State Sanitary Code Chapter X: Minimum Sanitation Standards for Food Establishments*;
4. Prepared and handled on food-grade stainless steel tables with no contact with MTC Agents' bare hands; and
5. Packaged in a secure area.

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(b) All MTCs, including those that develop, Repackage, or Process non-Edible MIPs, shall comply with the following sanitary requirements:

1. Any MTC 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*;

2. Any MTC Agent working in direct contact with preparation of Marijuana or non-Edible MIPs shall conform to sanitary practices while on duty, including:

a. Maintaining adequate personal cleanliness; and

b. 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.

3. Hand washing facilities shall be located in the MTC 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;

4. There shall be sufficient space for placement of equipment and storage of materials as is necessary for the maintenance of sanitary operations;

5. 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 935 CMR 501.105(12);

6. Floors, walls, and ceilings shall be constructed in such a manner that they may be adequately kept clean and in good repair;

7. There shall be adequate safety lighting in all Processing and storage areas, as well as areas where equipment or utensils are cleaned;

8. Buildings, fixtures, and other physical facilities shall be maintained in a sanitary condition;

9. 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 US 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;

10. All toxic items shall be identified, held, and stored in a manner that protects against contamination of Marijuana and MIPs. Toxic items may not be stored in an area containing products used in the cultivation of Marijuana. The Commission may require an MTC to demonstrate the intended and actual use of any toxic items found on the Premises;

11. An MTC'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 MTC's needs;

12. Plumbing shall be of adequate size and design, and adequately installed and maintained to carry sufficient quantities of water to required locations throughout the MTC. Plumbing shall properly convey sewage and liquid disposable waste from the MTC. There shall be no cross-connections between the potable and wastewater lines;

13. An MTC shall provide its employees with adequate, readily accessible toilet facilities that are maintained in a sanitary condition and in good repair;

14. Products that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms;

15. 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; and

16. All vehicles and transportation equipment used in the transportation of Marijuana Products or Edibles requiring temperature control for safety shall be designed, maintained, and equipped as necessary to provide adequate temperature control to prevent the Marijuana Products or edibles from becoming unsafe during transportation, consistent with applicable requirements pursuant to 21 CFR 1.908(c).

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(c) All MTCs shall comply with sanitary requirements during the development or Processing of Edibles. All Edibles shall be prepared, handled, and stored in compliance with the sanitation requirements in 105 CMR 590.000: *Minimum Sanitation Standards for Food Establishments.*

(d) 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.

1. Such items shall be accessible only to the minimum number of specifically authorized MTC Agents essential for efficient operation;

2. Such items shall be returned to a secure location immediately after completion of the process or at the end of the scheduled business day; and

3. 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. Unless otherwise authorized by the Commission, a CMO shall comply with 935 CMR 500.105(3): *Requirements for the Handling of Marijuana* and 935 CMR 501.105(3).

(4) Advertising Requirements.

(a) Permitted Practices.

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

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

a. Sponsorship of the event is limited to the Brand Name.

b. Any advertising at or in connection with such an event is prohibited, unless such advertising is targeted to entrants or participants reasonably expected to be 21 years of age or older, as determined by reliable, current audience composition data, and reasonable safeguards have been employed to prohibit advertising from targeting or otherwise reaching entrants or participants reasonably expected to be younger than 21 years old, as determined by reliable, current audience composition data; unless such advertising is targeted to entrants or participants reasonably expected to be 21 years of age or older, as determined by reliable, current audience composition data, and reasonable safeguards have been employed to prohibit advertising from targeting or otherwise reaching entrants or participants reasonably expected to be younger than 21 years old, as determined by reliable, current audience composition data;

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

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

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

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

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a. "This product may cause impairment and may be habit forming";

b. "Marijuana can impair concentration, coordination and judgment. Do not operate a vehicle or machinery under the influence of this drug";

c. "There may be health risks associated with consumption of this product"; or

d. "Marijuana should not be used by women who are pregnant or breastfeeding".

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

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

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

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

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

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

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

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

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

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

10. Any advertising, including the use of Brand Names, of an improper or objectionable nature including, but not limited to, the use or language or images offensive or disparaging to certain groups;

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

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

13. The display of signs or other printed material advertising any brand or kind of Marijuana or Marijuana Products that are displayed on the exterior of any licensed Premises;

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

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

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

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

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

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

(5) Labeling of Marijuana and Marijuana Products.

(a) Labeling of Marijuana Not Sold as a Marijuana Product. Prior to Marijuana being sold or Transferred, an MTC shall ensure the placement of a legible, firmly Affixed label on which the wording is no less than $^{1}/_{16}$ of an inch in size on each package of Marijuana that it makes available for retail sale. The Affixed label shall contain at a minimum the following information, but may not include a Qualifying Patient's name:

1. The name and registration number, telephone number, email address of the MTC that produced the Marijuana, together with the retail Licensee's business telephone number, electronic mail address, and website information, if any;
2. The date that the MTC packaged the contents and a statement of which Licensee performed the packaging;
3. A batch number, sequential serial number, and bar code when used, to identify the batch associated with manufacturing and Processing;
4. Net weight or volume in U.S. customary or metric units, listed in that order;
5. The full Cannabinoid Profile of the Marijuana contained within the package, including THC and other Cannabinoid levels;
6. A statement and a seal certifying that the product has been tested for contaminants, that there were no adverse findings, and the date of testing in accordance with M.G.L c. 94G, § 15;
7. 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. Marijuana use during pregnancy and breast-feeding may pose potential harms. It is against the law to drive or operate machinery when under the influence of this product. KEEP THIS PRODUCT AWAY FROM CHILDREN.";
8. The following symbol or easily recognizable mark issued by the Commission that indicates the package contains Marijuana:

9. The following symbol or other easily recognizable mark issued by the Commission that indicates that the product is harmful to children:

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10. 935 CMR 501.105(5)(a) may not apply to Marijuana packaged for transport of wholesale cultivated Marijuana in compliance with 935 CMR 501.105(8); provided however, that the MTC is responsible for compliance with 935 CMR 501.105(5) for all Marijuana Products sold or displayed to Patients.

(b) Labeling of Marijuana Concentrates and Extracts. Prior to Marijuana concentrates or extracts being sold or Transferred, the MTC shall place a legible, firmly Affixed label on which the wording is no less than $^{1}/_{16}$ of an inch in size on each Marijuana concentrate container that it prepares for retail sale or wholesale. The Affixed label shall contain at a minimum the following information, but may not include a Qualifying Patient's name:

1. The name and registration number of the Marijuana Product Manufacturer that produced the Marijuana Product, together with the Marijuana Product Manufacturer's business telephone number, e-mail address and website information, if any;
2. The name of the Marijuana Product;
3. Refrigeration of the product is required, as applicable;
4. Total net weight or volume in U.S. customary and metric units, listed in that order, of the Marijuana Product;
5. The number of servings in the Marijuana Product and the specific weight in milligrams of a serving size;
6. The type of Marijuana used to produce the product, including what, if any, Processing technique or solvents were used;
7. A list of ingredients, including the full Cannabinoid Profile of the Marijuana contained within the Marijuana Product, including the amount of delta-nine-tetrahydrocannabinol (Δ9-THC) and other Cannabinoids in the package and in each serving of a Marijuana Product as expressed in absolute terms and as a percentage of volume;
8. The amount, in grams, of sodium, sugar, carbohydrates and total fat per serving;
9. The date of creation and the recommended "use by" or expiration date which may not be altered or changed;
10. A batch number, sequential serial number and bar codes when used, to identify the batch associated with manufacturing and Processing;
11. Directions for use of the Marijuana Product;
12. A statement and a seal that the product has been tested for contaminants, that there were no adverse findings, and the date of testing in accordance with M.G.L. c. 94G, § 15;
13. A warning if nuts or other Known Allergens are contained in the product;
14. This statement, including capitalization: "The impairment effects of edible products may be delayed by two hours or more. 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. Marijuana use during pregnancy and breast-feeding may pose potential harms. It is against the law to drive or operate machinery when under the influence of this product. KEEP THIS PRODUCT AWAY FROM CHILDREN.";
15. The following symbol or easily recognizable mark issued by the Commission that indicates the package contains Marijuana:

16. The following symbol or other easily recognizable mark issued by the Commission that indicates that the product is harmful to children:

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17. 935 CMR 501.105(5)(b) shall apply to Edibles produced by an MTC for transport to another Licensee in compliance with 935 CMR 501.105(8) and shall be in addition to any regulation regarding the appearance of Edibles under 935 CMR 501.150.

(c) Labeling of Marijuana Concentrates and Extracts. Prior to Marijuana concentrates or extracts being sold or Transferred, the MTC shall place a legible, firmly Affixed label on which the wording is no less than $^{1}/_{16}$ of an inch in size on each Marijuana concentrate container that it prepares for retail sale or wholesale. The Affixed label shall contain at a minimum the following information, but may not include a Qualifying Patient's name:

1. The name and registration number of the Marijuana Product Manufacturer that produced the Marijuana Product, together with the Marijuana Product Manufacturer's business telephone number and e-mail address;
2. The name of the Marijuana Product;
3. Product identity, including the word "concentrate" or "extract", as applicable;
4. Total net weight or volume expressed in U.S. customary units and metric units, listed in that order, of a Marijuana Product;
5. If applicable, the number of servings in the Marijuana Product and the specific weight in milligrams of a serving size;
6. The type of Marijuana used to produce the product, including what, if any, Processing technique or solvents were used;
7. A list of ingredients including, but not limited to, the full Cannabinoid Profile of the Marijuana contained within the Marijuana Product, including the amount of delta-nine-tetrahydrocannabinol (Δ9-THC) and other Cannabinoids in the package and in each serving of a Marijuana Product as expressed in absolute terms and as a percentage of volume, and the amount of specific additives infused or incorporated during the manufacturing process, whether active or inactive including, but not limited to, thickening agents, thinning agents, and specific terpenes, expressed in absolute terms and as a percentage of volume;
   a. For Marijuana Vaporizer Devices, identification of specific additives shall include, but not be limited to, any additives identified on the FDA's Inactive Ingredient Database for "Respiratory (inhalation)" or "Oral" routes of administration and based on dosage form as an aerosol product or inhalant. The FDA Inactive Ingredient Database is available at https://www.fda.gov/media/72482/download. If the FDA database or its equivalent is no longer available, licensees shall use the database identified by the Commission.
   b. For Marijuana Vaporizer Devices produced using only cannabis-derived terpenes, the following statement: "This product was produced using only cannabis-derived terpenes."
   c. For Marijuana Vaporizer Devices produced using terpenes other than cannabis-derived terpenes, the following statement: "This product was produced using terpenes derived from sources other than cannabis."
8. The date of creation and the recommended "use by" or expiration date;
9. A batch number, sequential serial number, and bar code when used, to identify the batch associated with manufacturing and Processing;
10. Directions for use of the Marijuana Product;
11. A statement and a seal that the product has been tested for contaminants, that there were no adverse findings, and the date(s) of testing in accordance with M.G.L. c. 94G, § 15. Marijuana Products that are required to undergo more than one screening shall list all applicable dates of testing;
12. A warning if nuts or other Known Allergens are contained in the product;
13. 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. Marijuana use during pregnancy and breast-feeding may pose potential harms. It is against the law to drive or operate machinery when under the influence of this product. KEEP THIS PRODUCT AWAY FROM CHILDREN.";

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14. The following symbol or easily recognizable mark issued by the Commission that indicates the package contains Marijuana:

15. The following symbol or other easily recognizable mark issued by the Commission that indicates that the product is harmful to children:

16. 935 CMR 501.105(5)(c) shall apply to Marijuana concentrates and extracts produced by an MTC for transport to another Licensee in compliance with 935 CMR 501.105(7).

(d) Labeling of Marijuana-infused Tinctures, Topicals or Other Non-edible Marijuana-infused Products. Prior to Marijuana-infused Tinctures, topicals or other non-edible Marijuana-infused Products being sold or Transferred the MTC shall place a legible, firmly Affixed label on which the wording is no less than $^{1}/_{16}$ of an inch in size on each container of Marijuana-infused Product that it prepares for retail sale or wholesale. The Affixed label shall contain at a minimum the following information, but may not include a Qualifying Patient's name:

1. The name and registration number of the MTC that produced the Marijuana Product, together with the MTC's business telephone number, e-mail address and website information, if any;
2. The Marijuana Product's identity;
3. The type of Marijuana used to produce the product, including what, if any, Processing technique or solvents were used;
4. A list of ingredients, including the full Cannabinoid Profile of the Marijuana contained within the Marijuana Product, including the amount of delta-nine-tetrahy drocannabinol (Δ9-THC) and other Cannabinoids in the package and in each serving of a Marijuana Product as expressed in absolute terms and as a percentage of volume;
5. Total net weight or volume as expressed in U.S. customary units and metric units, listed in that order, of the Marijuana Product;
6. If applicable, the number of servings in the Marijuana Product and the specific weight in milligrams of a serving size;
7. The date of product creation;
8. A batch number, sequential serial number, and bar code when used, to identify the batch associated with manufacturing and Processing;
9. Directions for use of the Marijuana Product;
10. A statement and a seal that the product has been tested for contaminants, that there were no adverse findings, and the date of testing in accordance with M.G.L. c. 94G, § 15;
11. A warning if nuts or other Known Allergens are contained in the product;
12. 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. Marijuana use during pregnancy and breast-feeding may pose potential harms. It is against the law to drive or operate machinery when under the influence of this product. KEEP THIS PRODUCT AWAY FROM CHILDREN.";

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13. The following symbol or easily recognizable mark issued by the Commission that indicates the package contains Marijuana:

14. The following symbol or other easily recognizable mark issued by the Commission that indicates that the product is harmful to children:

15. 935 CMR 501.105(5)(d) shall apply to Marijuana-infused Tinctures and topicals produced by an MTC for transport to another Licensee in compliance with 935 CMR 501.105(8).

(e) Labeling of Repackaged Marijuana. Prior to Repackaged Marijuana being sold, the Retailer shall place a legible, firmly Affixed label on which the wording is no less than $^{1}/_{16}$ inch in size on each container of Marijuana that it prepares for retail sale.

1. The Affixed label shall contain at a minimum the following information, but may not include a Qualifying Patient's name:

a. The name and registration number of the Cultivator that produced the Marijuana;

b. Business or trade name of licensee that packaged the product, if different from the Cultivator;

c. Date of Harvest;

d. Type of Marijuana or name of strain;

e. The full Cannabinoid Profile of the Marijuana contained within the Repackaged Product, including the amount of delta-nine-tetrahydrocannabinol (Δ9-THC) and other Cannabinoids in the package;

f. Weight in grams of usable marijuana used in product;

g. A batch number, sequential serial number, and bar code when used, to identify the batch associated with manufacturing and Processing;

h. A statement and a seal that the product has been tested for contaminants, that there were no adverse findings, and the date of testing in accordance with M.G.L. c. 94G, § 15;

i. 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. Marijuana use during pregnancy and breast-feeding may pose potential harms. It is against the law to drive or operate machinery when under the influence of this product. KEEP THIS PRODUCT AWAY FROM CHILDREN.";

j. The following symbol or easily recognizable mark issued by the Commission that indicates the package contains Marijuana:

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k. The following symbol or other easily recognizable mark issued by the Commission that indicates that the product is harmful to children:

2. In circumstances where the labeling of the Marijuana Product is unreasonable or impractical, the MTC may include the labeling information on a peel-back label or may place the product in a sealed bag with an insert or additional, easily readable label firmly Affixed to that bag.

(f) In circumstances where the labeling of the Marijuana Product is unreasonable or impractical, the MTC may include the labeling information on a peel-back label or may place the product in a take-away bag with an insert or additional, easily readable placed within that bag.

(g) CMOs shall comply with the labeling requirements in 935 CMR 500.105(5) for all adult-use sales and 935 CMR 501.105(5) for all medical-use sales.

(6) Packaging of Marijuana and Marijuana Products.

(a) Child-resistant Packaging. MTCs engaged in product manufacturing operations shall ensure that all Marijuana and Marijuana Products that are provided for sale to Registered Qualifying Patients shall be sold in child-resistant packaging. To comply with 935 CMR 501.105(6), Licensees shall ensure:

1. That to the extent it is not Unreasonably Impracticable for the specific type of product, Marijuana Products are packaged in containers that are:

a. Opaque and plain in design;

b. Do not use bright colors, cartoon characters and other features designed to appeal to minors;

c. Resealable for any Marijuana Product intended for more than a single use or containing multiple servings; and

d. Certified by a qualified child-resistant packaging testing firm that the packaging complies with the most recent poison prevention packaging regulations of the U.S. Consumer Product Safety Commission as included at 16 CFR 1700.

2. That where compliance with the requirements of child-resistant packaging is deemed to be Unreasonably Impracticable or too challenging for Patients to maneuver, Marijuana Products shall be placed in an packaging that is:

a. Capable of being resealed after it has been opened; and

b. Includes the following statement, including capitalization, in at least ten-point Times New Roman, Helvetica or Arial font: "KEEP OUT OF REACH OF CHILDREN".

(b) Limits on Packaging Design. Packaging for Marijuana or Marijuana Products sold or displayed to Patients, including any label or imprint Affixed to any packaging containing Marijuana or Marijuana Products or any exit packages, may not be attractive to minors. Packaging is explicitly prohibited from:

1. Imitating or having a semblance to any existing branded consumer products, including foods and beverages, that do not contain Marijuana;

2. Featuring cartoons;

3. Featuring a design, brand or name that resembles a non-Cannabis consumer product of the type that is typically marketed to minors;

4. Featuring symbols or celebrities that are commonly used to market products to minors;

5. Featuring images of minors; and

6. Featuring words that refer to products that are commonly associated with minors or marketed to minors.

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(c) Packaging of Multiple Servings.

1. Packaging for Marijuana Products sold or displayed for Registered Qualifying Patients in multiple servings shall include the following statement on the exterior of the package in a printed font that is no smaller than ten-point Times New Roman, Helvetica or Arial, including capitalization: "INCLUDES MULTIPLE SERVINGS."

2. Packaging for Marijuana Products in solid form sold or displayed for Registered Qualifying Patients in multiple servings shall allow a Registered Qualifying Patient to easily perform the division into single servings.

a. Edibles in a solid form shall be easily and permanently scored to identify individual servings.

b. Notwithstanding 935 CMR 501.105(6)(c)2.a., where a product is unable, because of its form, to be easily and permanently scored to identify individual servings, the product shall be packaged in a single serving size. The determination of whether a product can be easily and permanently scored shall be decided by the Commission consistent with sub-regulatory guidelines established by the Commission and provided to Licensees.

(d) Each single serving of an Edible contained in a multiple-serving package may be marked, stamped or otherwise imprinted with the symbol issued by the Commission under 935 CMR 501.105(5) that indicates that the single serving is a Marijuana Product.

(e) Serving size shall be determined by the MTC.

(f) CMOs shall comply with the packaging requirements in 935 CMR 500.105(6): *Packaging of Marijuana and Marijuana Products* for adult use sales or 935 CMR 501.105(6) for medical use sales.

(7) Packaging and Labeling Pre-approval. Prior to Marijuana or Marijuana Product being sold at an MTC, a CMO, a Licensee or License Applicant may submit an application for packaging and label approval to the Commission. An application for preapproval may be submitted at any time prior to Marijuana or Marijuana Product being sold or at any time a substantive change is made to the packaging or labeling of Marijuana or Marijuana Product. The Commission shall charge a fee for packaging and labeling preapproval pursuant to 935 CMR 501.005.

(a) Packaging and labeling preapproval review shall be limited to the physical attributes of, and statutorily required warnings on, the packaging and label, including but not limited to legibility, but may not include a review of specific Independent Testing Laboratory test results required pursuant to 935 CMR 501.105(5) and (6). The packaging and labeling preapproval process shall be in addition to the requirements of 935 CMR 501.105(5) and (6).

(b) In addition to an application for packaging and labeling preapproval in a form and manner determined by the Commission, an applicant for preapproval shall submit electronic files of the following to the Commission:

1. For packaging preapproval, two images of the packaging, one depicting the front of the packaging and one depicting the back of the packaging. Photographs shall be electronic files in a JPEG format with a minimum photo resolution of 640 x 480 and print resolution of 300 DPI. Photographs shall be against a white background.

2. For labeling preapproval, one image of each label requested for review. Photographs shall be electronic files in a JPEG format with a minimum photo resolution of 640 x 480 and print resolution of 300 DPI. Photographs shall be against a white background.

(c) The Commission shall make every effort to make a preapproval determination based on information submitted. In the event that a preapproval determination is unable to be made conclusively based on submitted photographs, the Commission may request to view the packaging or label in person or through a video conference. Any such request by the Commission shall be made to the applicant electronically or in writing.

(8) Inventory.

(a) Subject to Marijuana or Marijuana Products being entered into the Seed-to-sale SOR, a Marijuana Establishment may Transfer product to an MTC, and an MTC may Transfer product to a Marijuana Establishment as long as there is no violation of the dosing limitations set forth in 935 CMR 500.150(4): *Dosing Limitations* or the limitations on total MTC inventory as set forth in 935 CMR 501.105(8)(m)1. Such Transfers cannot violate provisions protecting patient supply under 935 CMR 501.140(12). An MTC shall limit its Transfer of inventory of seeds, plants, and Usable Marijuana to reflect the projected needs of Registered Qualifying Patients.

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(b) Real-time inventory shall be maintained as specified by the Commission and in 935 CMR 501.105(8)(c) and (d) including, at a minimum, an inventory of Marijuana plants, Marijuana plant seeds and 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.

(c) An MTC shall:

1. 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;

2. Conduct a monthly inventory of Marijuana in the process of cultivation and finished, stored Marijuana;

3. Conduct a comprehensive annual inventory at least once every year after the date of the previous comprehensive inventory; and

4. Promptly transcribe inventories if taken by use of an oral recording device.

(d) 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.

(e) An MTC shall attach plant tags to all Marijuana, Clones, and plants and attach package tags to all Finished Marijuana and Marijuana Products, and track all Marijuana seeds, Clones, plants, and Marijuana Products, using a Seed-to-sale methodology in a form and manner to be approved by the Commission.

(f) The failure to enter inventory into the Seed-to sale SOR may result in the suspension or revocation of an MTC License.

(g) The use of the Seed-to sale SOR does not preclude an MTC from using a secondary electronic tracking system so long as it complies with 935 CMR 501.105(8). The MTC shall seek approval from the Commission, in a form and manner determined by the Commission, to integrate its secondary system with the Seed-to-sale SOR.

(h) Prior to the point of sale, an MTC shall specify the suggested retail price for any Marijuana or Marijuana Product intended for patient sale.

(i) An MTC shall limit its inventory of seeds, plants, and Usable Marijuana to reflect the projected needs of Registered Qualifying Patients.

(j) An MTC may acquire Marijuana and Marijuana Product from or distribute Marijuana or Marijuana Product to another MTC or Marijuana Establishment in accordance with 935 CMR 501.140(8)(b) and subject to the following:

1. The distribution and acquisition of Marijuana and Marijuana Product, including MIPs, to and from all other MTCs does not exceed, cumulatively, 45% of the MTC's total annual inventory of Marijuana as measured by weight, or for Marijuana Product, including MIPs, as measured by its combined dry weight equivalent in Marijuana concentrate; except that such requirement shall not apply to CMOs; and

2. A documented emergency occurs such as loss of crop, vandalism, or theft, or other circumstance as approved by the Commission.

(k) Any distribution and acquisition of Marijuana and MIPs shall be tracked in the Seed-to-sale SOR in a form and manner determined by the Commission. Any distribution of Marijuana and MIPs that is not tracked in the Seed-to sale SOR may result in the suspension or revocation of an MTC License or other administrative action.

(l) An MTC may not engage in a transfer of inventory that would violate the provisions protecting patient supply under 935 CMR 501.140(12).

(m) A CMO shall implement procedures for electronic separation of medical and adult use Marijuana, MIPs, and Marijuana Products in the Seed to sale SOR.

(n) A CMO shall designate whether Marijuana or MIPs, or Marijuana Products are intended for sale for adult use or medical use through the SOR. Products shall be transferred to the appropriate license within the Seed to sale SOR prior to sale. After the point of sale, there shall be a reconciliation of that inventory in the SOR.

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

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(a) Operating procedures as required by 935 CMR 501.105(1);
(b) Inventory records as required by 935 CMR 501.105(8)(e);
(c) Seed-to-sale Electronic Tracking System records for all Marijuana and MIPs as required by 501.105(8)(e);
(d) The following personnel records:
1. Job descriptions for each employee and volunteer position, as well as organizational charts consistent with the job descriptions;
2. A personnel record for each MTC and Laboratory Agent. Such records shall be maintained for at least 12 months after termination of the individual's affiliation with the MTC and shall include, at a minimum, the following:
a. All materials submitted to the Commission pursuant to 935 CMR 501.029 and 501.030;
b. Documentation of verification of references;
c. The job description or employment contract that includes duties, authority, responsibilities, qualifications, and supervision;
d. 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;
e. A copy of the application that the MTC submitted to the Commission on behalf of any prospective MTC agent;
f. Documentation of periodic performance evaluations;
g. Notice of completed Responsible Vendor Training Program and in-house training for MTC Agents required under 935 CMR 501.105(2); and
h. A record of any disciplinary action taken.
3. A staffing plan that will demonstrate accessible business hours and safe cultivation conditions; Personnel policies and procedures, including, at a minimum, the following:
4. Personnel policies and procedures, including, at a minimum, the following:
a. Code of ethics;
b. Whistle-blower policy; and
c. A policy which notifies persons with disabilities of their rights under https://www.mass.gov/service-details/about-employment-rights or a comparable link, and includes provisions prohibiting discrimination and providing reasonable accommodations; and
5. All background check reports obtained in accordance with M.G.L. c. 6, § 172, 935 CMR 501.029, 935 CMR 501.030, and 803 CMR 2.00: *Criminal Offender Record Information (CORI)*;
(e) Business records, which shall include manual or computerized records of:
1. Assets and liabilities;
2. Monetary transactions;
3. Books of accounts, which shall include journals, ledgers, and supporting documents, agreements, checks, invoices, and vouchers;
4. 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;
5. Salary and wages paid to each employee, stipend paid to each board of directors member, and any executive compensation, bonus, benefit, or item of value paid to any individual affiliated with an MTC, including Persons or Entities Having Direct or Indirect Control over the MTC.
(f) Waste disposal records as required under 935 CMR 501.105(12); and
(g) Following closure of an MTC, all records shall be kept for at least two years at the expense of the MTC and in a form and location acceptable to the Commission.

(10) Liability Insurance Coverage or Maintenance of Escrow.
(a) An MTC 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 935 CMR 501.105(10)(b) or otherwise approved by the Commission. The deductible for each policy shall be no higher than $5,000 per occurrence.

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(b) An MTC that documents an inability to obtain minimum liability insurance coverage as required by 935 CMR 501.105(10)(a) may place in escrow a sum of no less than $250,000 or such other amount approved by the Commission, to be expended for coverage of liabilities.
(c) The escrow account required pursuant to 935 CMR 501.105(10)(b) shall be replenished within ten business days of any expenditure.
(d) Reports documenting compliance with 935 CMR 501.105(10) shall be made in a manner and form determined by the Commission pursuant to 935 CMR 501.000.
(e) A CMO shall maintain the insurance coverage or escrow account required under 500.105(10): *Liability Insurance Coverage or Maintenance of Escrow* or 501.105(10) per location.

(11) Storage Requirements.
(a) An MTC shall provide adequate lighting, ventilation, temperature, humidity, space, and equipment, in accordance with applicable provisions of 935 CMR 501.105 and 501.110.
(b) An MTC 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.
(c) MTC storage areas shall be maintained in a clean and orderly condition.
(d) MTC storage areas shall be free from infestation by insects, rodents, birds, and pests of any kind.
(e) MTC storage areas shall be maintained in accordance with the security requirements of 935 CMR 501.110.

(12) Waste Disposal.
(a) All recyclables and waste, including organic 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. All exterior waste receptacles located on the MTC's Premises shall be locked and secured to prevent unauthorized access.
(b) Liquid waste containing Marijuana or by-products of Marijuana Processing shall be disposed of in compliance with all applicable state and federal requirements including, but not limited to, for discharge of pollutants into surface water or groundwater (Massachusetts Clean Waters Act, M.G.L. c. 21, §§ 26 through 53; 314 CMR 3.00: *Surface Water Discharge Permit Program*; 314 CMR 5.00: *Groundwater Discharge Program*; 314 CMR 12.00: *Operation, Maintenance and Pretreatment Standards for Wastewater Treatment Works and Indirect Dischargers*; the Federal Clean Water Act, 33 U.S.C. 1251 *et seq*., the National Pollutant Discharge Elimination System Permit Regulations at 40 CFR Part 122, 314 CMR 7.00: *Sewer System Extension and Connection Permit Program*), or stored pending disposal in an industrial wastewater holding tank in accordance with 314 CMR 18.00: *Industrial Wastewater Holding Tank and Containers Construction, Operation, and Recordkeeping Requirements*.
(c) Organic material, recyclable material and solid waste generated at an MTC shall be redirected or disposed of as follows:
1. Organic and recyclable material shall be redirected from disposal in accordance with the waste disposal bans described at 310 CMR 19.017: *Waste Bans*.
2. To the greatest extent feasible:
a. Any recyclable material as defined in 310 CMR 16.02: *Definitions* shall be recycled in a manner approved by the Commission; and
b. Any Marijuana containing organic material as defined in 310 CMR 16.02: *Definitions* shall be ground up and mixed with other organic material as defined in 310 CMR 16.02 at the MTC such that the resulting mixture renders any Marijuana unusable for its original purpose. Once such Marijuana has been rendered unusable, the organic material may be composted or digested at an aerobic or anaerobic digester at an operation that complies with the requirements of 310 CMR 16.00: *Site Assignment Regulations for Solid Waste Facilities*.

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3. Solid waste containing Marijuana generated at an MTC shall be ground up and mixed with other solid waste at the MTC such that the resulting mixture renders any Marijuana unusable for its original purpose. Once such Marijuana has been rendered unusable, the resulting solid waste may be brought to a solid waste transfer facility or a solid waste disposal facility (*e.g.*, landfill or incinerator) that holds a valid permit issued by the Department of Environmental Protection or by the appropriate agency in the jurisdiction in which the facility is located.

(d) No fewer than two MTC Agents shall witness and document how the solid waste or organic material containing Marijuana is handled on-site including, but not limited to, the grinding up, mixing, storage and removal from the MTC in accordance with 935 CMR 501.105(12). When Marijuana Products or waste is disposed or handled, the MTC shall create and maintain an electronic record of the date, the type and quantity disposed or handled, the manner of disposal or other handling, the location of disposal or other handling, and the names of the two MTC Agents present during the disposal or other handling, with their signatures. An MTC shall keep these records for at least three years. This period shall automatically be extended for the duration of any disciplinary action and may be extended by an order of the Commission.

(13) Transportation Between MTCs.

(a) General Requirements.

1. A licensed MTC shall be licensed to transport its Marijuana and Marijuana Products to other licensed establishments, including Marijuana Establishments, except as otherwise provided in 935 CMR 501.105(13).

2. Marijuana Products may only be transported between licensed MTCs by registered MTC Agents.

3. A Marijuana Transporter licensed pursuant to 935 CMR 500.050(9) may Transfer Marijuana and Marijuana Products to or from an MTC.

4. The originating and receiving licensed MTCs shall ensure that all transported Marijuana Products are linked to the Seed-to-sale SOR. For the purposes of tracking, seeds and Clones will be properly tracked and labeled in a form and manner determined by the Commission.

5. Any Marijuana Product that is undeliverable or is refused by the destination MTC shall be transported back to the originating establishment.

6. All vehicles transporting Marijuana Products shall be staffed with a minimum of two MTC Agents. At least one agent shall always remain with the vehicle when the vehicle contains Marijuana or Marijuana Products.

7. Prior to leaving an MTC for the purpose of transporting Marijuana Products, the originating MTC shall weigh, inventory, and account for, on video, all Marijuana Products to be transported.

8. Within eight hours after arrival at the destination MTC, the destination MTC shall re-weigh, re-inventory, and account for, on video, all Marijuana Products transported.

9. When videotaping the weighing, inventorying, and accounting of Marijuana Products before transportation or after receipt, the video shall show each product being weighed, the weight, and the manifest.

10. Marijuana Products shall be packaged in sealed, labeled, and tamper or child-resistant packaging prior to and during transportation.

11. In the case of an emergency stop during the transportation of Marijuana Products, a log shall be maintained describing the reason for the stop, the duration, the location, and any activities of personnel exiting the vehicle. Licensees shall comply with applicable requirements of 935 CMR 501.110(9).

12. An MTC transporting Marijuana Products shall ensure that all transportation times and routes are randomized.

13. An MTC transporting Marijuana Products shall ensure that all transport routes remain within the Commonwealth.

14. All vehicles and transportation equipment used in the transportation of Cannabis Products or Edibles requiring temperature control for safety shall be designed, maintained, and equipped as necessary to provide adequate temperature control to prevent the Cannabis products or Edibles from becoming unsafe during transportation, consistent with applicable requirements pursuant to 21 CFR 1.908(c).

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15. All vehicles shall be equipped with a video system that includes one or more video cameras in the storage area of the vehicle and one or more video cameras in the driver area of the vehicle and which shall remain operational at all times during the entire transportation process and which shall have:

a. The ability to produce a clear color still photo whether live or recorded; and

b. A date and time stamp embedded in all recordings which shall always be synchronized and set correctly and may not significantly obscure the picture.

(b) Reporting Requirements.

1. MTC agents shall document and report any unusual discrepancy in weight or inventory to the Commission and Law Enforcement Authorities not more than 24 hours of the discovery of such a discrepancy.

2. MTC agents shall report to the Commission and Law Enforcement Authorities any vehicle accidents, diversions, losses, or other reportable incidents that occur during transport, not more than 24 hours of such accidents, diversions, losses, or other reportable incidents.

(c) Vehicles.

1. A vehicle used for transporting Marijuana Products shall be:

a. Exclusively owned or leased by the MTC or otherwise licensed by the Commission as a Third-party Transporter;

b. Properly registered, inspected, and insured in the Commonwealth (documentation of such status shall be maintained as records of the MTC, and shall be made available to the Commission on request);

c. Equipped with an alarm system approved by the Commission; and

d. Equipped with functioning heating and air conditioning systems appropriate for maintaining correct temperatures for storage of Marijuana Products.

2. Marijuana Products may not be visible from outside the vehicle.

3. Any vehicle used to transport or deliver Marijuana or Marijuana Products must comply with applicable Massachusetts Registry of Motor Vehicles (RMV) requirements, but may not include any additional external marking that indicate the vehicle is being used to transport or deliver Marijuana or Marijuana Products.

4. When transporting Marijuana Products, no other products may be transported or stored in the same vehicle.

5. No firearms may be located within the vehicle or on an MTC Agent.

(d) Storage Requirements.

1. Marijuana Products shall be transported in a secure, locked storage compartment that is a part of the vehicle transporting the Marijuana Products.

2. The storage compartment shall be sufficiently secure that it cannot be easily removed.

3. If an MTC is transporting Marijuana Products for more than one licensed MTC at a time, the Marijuana Products for each Licensee shall be kept in a separate locked storage compartment during transportation and separate manifests shall be maintained for each MTC.

4. If an MTC is transporting Marijuana Products to multiple other establishments, it may seek the Commission's permission to adopt reasonable alternative safeguards.

(e) Communications.

1. Any vehicle used to transport Marijuana Products shall contain a global positioning system (GPS) monitoring device that is:

a. Not a mobile device that is easily removable;

b. Attached to the vehicle at all times that the vehicle contains Marijuana Products;

c. Monitored by the MTC during transport of Marijuana Products; and

d. Inspected by the Commission prior to initial transportation of Marijuana Products, and after any alteration to the locked storage compartment.

2. Each MTC Agent transporting Marijuana Products shall always have access to a secure form of communication with personnel at the originating location when the vehicle contains Marijuana and Marijuana Products.

3. Secure types of communication include, but are not limited to:

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

b. Cellular phone; or

c. Satellite phone.

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4. When choosing a type of secure communications, the following shall be taken into consideration:
   a. Cellular signal coverage;
   b. Transportation area;
   c. Base capabilities;
   d. Antenna coverage; and
   e. Frequency of transportation.

5. Prior to, and immediately after leaving the originating location, the MTC Agents shall use the secure form of communication to contact the originating location to test communications and GPS operability.

6. If communications or the GPS system fail while on route, the MTC Agents transporting Marijuana Products shall return to the originating location until the communication system or GPS system is operational.

7. The MTC Agents transporting Marijuana Products shall contact the originating location when stopping at and leaving any scheduled location, and regularly throughout the trip, at least every 30 minutes.

8. The originating location shall have an MTC Agent assigned to monitoring the GPS unit and secure form of communication, who shall log all official communications with MTC Agents transporting Marijuana Products.

(f) Manifests.

1. A manifest shall be filled out in triplicate, with the original manifest remaining with the originating MTC, a second copy provide to the destination MTC on arrival, and a copy to be kept with the licensed MTC Agent during transportation and returned to the MTC on completion of the transportation.

2. Prior to transport, the manifest shall be securely transmitted to the destination MTC by facsimile or email.

3. On arrival at the destination MTC, an MTC Agent at the destination MTC shall compare the manifest produced by the agents who transported the Marijuana Products to the copy transmitted by facsimile or email. This manifest shall, at a minimum, include:
   a. The originating MTC name, address, and registration number;
   b. The names and registration numbers of the agents who transported the Marijuana Products;
   c. The name and registration number of the MTC Agent who prepared the manifest;
   d. The destination MTC name, address, and registration number;
   e. A description of the Marijuana Products being transported, including the weight and form or type of product;
   f. The mileage of the transporting vehicle at departure from originating MTC and mileage on arrival at destination MTC, as well as mileage on return to originating MTC;
   g. The date and time of departure from originating MTC and arrival at destination MTC for each transportation;
   h. A signature line for the MTC Agent who receives the Marijuana Products;
   i. The weight and inventory before departure and on receipt;
   j. The date and time that the transported products were reweighed and re-inventoried;
   k. The name of the MTC Agent at the destination MTC who reweighed and re-inventoried products; and
   l. The vehicle make, model and license plate number.

4. The manifest shall be maintained within the vehicle during the entire transportation process, until the delivery is completed.

5. An MTC shall retain all transportation manifests for no less than one year and make them available to the Commission on request.

(g) Requirements for Agents.

1. Each employee or agent transporting or otherwise handling Marijuana Products for an MTC shall be registered as an MTC Agent and have a driver's license in good standing issued by the Massachusetts Registry of Motor Vehicles for all classes of vehicle the MTC agent will operate for the MTC prior to transporting or otherwise handling Marijuana Products.

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2. An MTC Agent shall carry his or her Agent Registration Card at all times when transporting Marijuana Products and shall produce his or her Agent Registration Card to the Commission or Law Enforcement Authorities on request.

(h) MTCs engaged in transportation operations shall use best management practices to reduce energy and water usage, engage in energy conservation and mitigate other environmental impacts.

(i) A CMO can transport adult use and medical use Marijuana and Marijuana Products if it is appropriately licensed to do so. Where a CMO is transporting both adult use and medical use Marijuana, MIPs and Marijuana Products, the CMO shall comply with the more restrictive security provisions.

(14) Access to the Commission, Emergency Responders, and Law Enforcement.

(a) The following individuals shall have access to an MTC or MTC transportation vehicle:

1. Representatives of the Commission as authorized by St. 2016, c. 334, as amended by St. 2017, c. 55, M.G.L. c. 94G, M.G.L. c. 94I, and 935 CMR 501.000.
2. Representatives of other state agencies of the Commonwealth; and
3. Emergency responders while responding to an emergency.

(b) 935 CMR 501.000 may not be construed to prohibit access to authorized law enforcement personnel or local public health, inspectional services, or other permit-granting agents acting within their lawful jurisdiction

(15) Energy Efficiency and Conservation. An MTC shall demonstrate consideration of the following factors as part of its operating plan and application for licensure:

(a) Identification of potential energy use reduction opportunities (such as natural lighting and energy efficiency measures), and a plan for implementation of such opportunities;

(b) Consideration of opportunities for renewable energy generation including, where applicable, submission of building plans showing where energy generators could be placed on the site, and an explanation of why the identified opportunities were not pursued, if applicable;

(c) Strategies to reduce electric demand (such as lighting schedules, active load management, and energy storage); and

(d) Engagement with energy efficiency programs offered pursuant to M.G.L. c. 25, § 21, or through municipal lighting plants.

(16) Bond.

(a) Prior to commencing operations, an MTC shall provide proof of having obtained a surety bond in an amount equal to its licensure fee payable to the Marijuana Regulation Fund to ensure payment of the cost incurred for:

1. the destruction of Cannabis goods necessitated by a violation of M.G.L. c. 94G, 94I, or 935 CMR 501.000;
2. The costs and compensation of a Court Appointee;
3. The cessation of operation of the MTC; or
4. Such other uses that the Commission may authorize to ensure public health, safety and welfare

(b) All bonds required under 935 CMR 501.000 shall be issued by a corporate surety licensed to transact surety business in the Commonwealth.

(c) If the MTC is unable to secure a surety bond, as required by 935 CMR 501.105(16)(a) it may place in escrow a sum of no less than $5,000 or such other amount approved by the Commission, to be expended for coverage of liabilities.

(d) The escrow account required pursuant to 935 CMR 501.105(16)(c) shall be replenished within ten business days of any expenditure required under 935 CMR 501.105, except if the MTC has ceased operations. Documentation of the replenishment shall be promptly sent to the Commission.

(17) Reports to the Commission. The Commission may require ongoing reporting on operational, quality, and financial information in a form and manner determined by the Commission.

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(18) Requirements on the Expiration, Revocation, or Voiding of Certificate of Licensure of MTC.

(a) If a License to operate expires without being renewed, is revoked, or becomes void, the MTC shall:

1. Immediately discontinue cultivation and production of Marijuana;
2. 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;
3. Dispose of the unused Marijuana in accordance with 935 CMR 501.105(12) after approval by the Commission. Such disposal shall be in the public interest; and
4. Maintain all records as required by 935 CMR 501.105(9)(g).

(b) If the MTC does not comply with the requirements of 935 CMR 501.105(15)(a), the Commission shall have the authority to, at the MTC's expense, secure the MTC, and after a period of 30 calendar days, seize, and destroy the inventory and equipment and contract for the storage of MTC records.

(19) Prohibitions.

(a) Unless otherwise authorized by the Commission, an MTC 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 MTC or to a laboratory as provided for in 935 CMR 501.105(13).

(b) Unless otherwise authorized by the Commission, an MTC may not acquire Marijuana or Marijuana plants, except through the cultivation of Marijuana by that MTC or another MTC as specified in 935 CMR 501.105(13); provided, however that an MTC may acquire Marijuana seeds, cuttings or genetic plant material. Cuttings or genetic plant material may only be acquired within 90 days of receiving a final Certificate of Licensure, or such other time period approved by the Commission and otherwise as authorized under 935 CMR 501.105(13).

(c) Unless authorized by the Commission, an MTC is prohibited from acquiring, possessing, cultivating, delivering, Transferring, transporting, supplying, or dispensing Marijuana for any purpose except to assist Registered Qualifying Patients.

(d) An MTC may not give away any Marijuana except as required pursuant to 935 CMR 501.050(1)(g). An MTC may not provide any samples of Marijuana.

(e) An MTC may not receive orders for Marijuana in any manner other than from a Registered Qualifying Patient or Personal Caregiver in person at the MTC, except in the cases of delivery, in which an order may be received by telephone or through a password-protected, internet-based platform.

(f) An MTC may not fill orders for Marijuana in any manner other than to a Registered Qualifying Patient or Personal Caregiver in person at the MTC, except in the case of delivery, in which an order may be delivered only to the Residence of a Registered Qualifying Patient or Personal Caregiver or the Caregiving Institution of a Registered Qualifying Patient. The Qualifying Patient or caregiver receiving the delivery shall possess a temporary or an annual Registration Card and valid photo identification as required pursuant to 935 CMR 501.140(2). An MTC is prohibited from delivering adult use Marijuana.

(g) Unless authorized by the Commission, an MTC may not sell any products other than Marijuana, including MIPs and Marijuana seeds, and other Marijuana Accessories and products such as vaporizers that facilitate the use of Marijuana for medical purposes.

(h) Consumption of Marijuana on the Premises or grounds of any MTC is prohibited; provided, however, that an MTC may administer medical use Marijuana for the purposes of teaching use of vaporizers, or demonstration of use of other products as necessary. An MTC is prohibited from administering adult use Marijuana.

(i) An MTC may not adulterate Marijuana, including with psychoactive additives or other illegal substances.

(j) An MTC may not sell Marijuana to a Registered Qualifying Patient with a Hardship Cultivation Registration or to his or her Personal Caregiver(s); provided however, that the MTC may sell seeds to such individuals or gift seeds pursuant to 935 CMR 501.105(19)(1)(g).

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501.110: Security Requirements for Medical Marijuana Treatment Centers

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

(a) Positively identifying and allowing only Registered Qualifying Patients, Personal Caregivers, MTC agents, Marijuana Courier agents, as applicable, and, subject to the requirements of 935 CMR 501.110(4)(e), outside vendors, contractors, and Visitors, access to the MTC;

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

(c) Disposing of Marijuana in accordance with 935 CMR 501.105(12), in excess of the quantity required for normal, efficient operation as established within 935 CMR 501.105;

(d) Securing all entrances to the MTC to prevent unauthorized access;

(e) Establishing Limited Access Areas which, after receipt of a final License, shall be accessible only to specifically authorized personnel limited to include only the minimum number of employees essential for efficient operation;

(f) Storing all finished Marijuana in a secure, locked safe or vault and in such a manner as to prevent diversion, theft, and loss;

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

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

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

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

(k) Ensure that the outside perimeter of the MTC is sufficiently lit to facilitate surveillance;

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

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

(n) Develop sufficient additional safeguards as required by the Commission for MTCs that present special security concerns;

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

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

(q) Sharing the MTC's security plan and procedures with Law Enforcement Authorities, in the municipality where the MTC is located and periodically updating Law Enforcement Authorities if the plans or procedures are modified in a material way; and

(r) Inside the MTC, all Marijuana shall be kept in a Limited Access Area inaccessible to any persons other than MTC agents, except for displays allowable under 935 CMR 501.105(4)(a)4. Inside the MTC, all Marijuana shall be stored in a locked, access-controlled space in a Limited Access Area during nonbusiness hours.

(2) Alternative Security Provisions.

(a) Notwithstanding the requirements specified in 935 CMR 501.110(1) and (5) through (7), if an MTC has provided other, specific safeguards that may be regarded as an adequate substitute for those requirements, such measures may be taken into account by the Commission in evaluating the overall required security measures. For purposes of cash handling and cash transportation, only alternative safeguards that comply with the requirements of 935 CMR 501.110(7)(b) shall be considered to be adequate substitutes.

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

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

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

(3) Buffer Zone. An MTC Entrance may not be closer than 500 feet from the nearest School Entrance, unless a city or town adopts an ordinance or bylaw that reduces the distance requirement.

(a) The buffer zone distance of 500 feet shall be measured in a straight line from the geometric center of the MTC Entrance to the geometric center of the nearest School Entrance unless there is an Impassable Barrier within those 500 feet; in these cases, the buffer zone distance shall be measured along the center of the shortest publicly-accessible pedestrian travel path from the geometric center of the MTC Entrance to the geometric center of the nearest School Entrance.

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

(4) Limited Access Areas.

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

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

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

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

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

(5) Security and Alarm Systems.

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

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

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3. A Duress Alarm, Panic Alarm, or Holdup Alarm connected to local public safety or law enforcement authorities;
4. Video cameras in all areas that may contain Marijuana, vaults or safes for the purpose of securing cash, at all points of entry and exit, and in any parking lot, which shall be appropriate for the normal lighting conditions of the area under surveillance. The cameras shall be directed at all safes, vaults, sales areas, and areas where Marijuana is cultivated, harvested, Processed, prepared, stored, handled, Transferred or dispensed, or where cash is kept and Processed. Cameras shall be angled to allow for the capture of clear and certain identification of any individual entering or exiting the MTC or area;
5. 24-hour recordings from all video cameras that are available for immediate viewing by the Commission upon request and that are retained for at least 90 calendar days. Recordings may not be destroyed or altered, and shall be retained as long as necessary if the MTC is aware of a pending criminal, civil, or administrative investigation, or legal proceeding for which the recording may contain relevant information;
6. The ability to immediately produce a clear, color, still image (live or recorded);
7. A date and time stamp embedded on all recordings. The date and time shall be synchronized and set correctly and may not significantly obscure the picture;
8. The ability to remain operational during a power outage for a minimum of four hours and, if it appears likely that the outage will last for more than four hours, the MTC takes sufficient steps to ensure security on the premises in consultation with the Commission; and
9. A video recording that allows for the exporting of still images in an industry standard image format, including .jpg, .bmp, and .gif. Exported video shall have the ability to be archived in a proprietary format that ensures authentication of the video and guarantees that no alteration of the recorded image has taken place. Exported video shall be able to be saved in an industry standard file format that can be played on a standard computer operating system. All recordings shall be erased or destroyed prior to disposal.

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

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

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

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

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

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

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

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

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

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

5. Recordings from all video cameras which shall be enabled to record 24 hours each day and be available for immediate viewing by the Commission on request for at least the preceding 90 calendar days or the duration of a request to preserve the recordings for a specified period of time made by the Commission, whichever is longer. Video cameras may use motion detection sensors to begin recording, so long as the motion detection sensor system provides an alert to designated employees of the MTC in a manner established in the MTC's written security procedures and approved by the Commission or a Commission Delegee. If an MTC receives notice that the motion detection sensor is not working correctly, it shall take prompt action to make corrections and document those actions. Recordings may not be destroyed or altered, and shall be retained as long as necessary if the MTC is aware of a pending criminal, civil or administrative investigation or legal proceeding for which the recording may contain relevant information;

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

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

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

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

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

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

(d) Access to surveillance areas shall be limited to persons that are essential to surveillance operations, law enforcement authorities acting within their lawful jurisdiction, fire safety personnel, security system service personnel and the Commission. A current list of authorized employees and service personnel that have access to the surveillance room shall be available to the Commission on request. If the surveillance room is on-site of the MTC, it shall remain locked and may not be used for any other function.

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

(f) Security plans and procedures shared with law enforcement authorities pursuant to 935 CMR 501.110(1)(q) shall include:

1. A description of the location and operation of the security system, including the location of the central control on the Premises;

2. A schematic of security zones;

3. The name of the security alarm company and monitoring company, if any;

4. A floor plan or layout of the facility in a manner and scope as required by the municipality; and

5. A safety plan for the manufacture and production of Marijuana Products as required pursuant to 935 CMR 501.101(1)(c)14.c.

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(7) Cash Handling and Transportation Requirements.

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

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

(b) Notwithstanding the requirement of 935 CMR 501.110(7)(a)4., an MTC may request an alternative security provision under 935 CMR 501.110(2) for purposes of cash transportation to financial institutions and DOR facilities. Any approved alternative security provision shall be included in the security plan shared with law enforcement in the municipality in which the MTC is licensed and periodically updated as required under 935 CMR 501.110(1)(q). To be determined to provide a sufficient alternative, any such alternative safeguard shall include, but may not be limited to:

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

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

(8) Security Requirements for MTC Home Delivery Operations.

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

1. A vehicle security system that includes an exterior alarm;
2. A secure, locked storage compartment that is a part of the vehicle and not easily removable for the purpose of transporting the Marijuana or Marijuana Products.
3. A secure, locked storage compartment that is secured to the vehicle and not easily removable for the purpose of transporting and securing cash used as payment for deliveries of Marijuana or Marijuana Products.
4. A means of secure communication between each vehicle and the MTC's or Marijuana Courier's dispatching location which shall be capable of being monitored at all times that a vehicle is performing a delivery route. Means of communication shall include:
   a. Two-way digital or analog radio (UHF or VHF);
   b. Cellular phone; or
   c. Satellite phone.

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5. A global positioning system (GPS) monitoring device that is:
   a. Not a mobile device and that is attached to the vehicle at all times that the vehicle contains Marijuana or Marijuana Products; and
   b. Monitored by the MTC or Marijuana Courier at a fixed location during the transportation of Marijuana or Marijuana Products for the purpose of home delivery with location checks occurring at least every 30 minutes. The MTC or Marijuana Courier may delegate monitoring of the GPS to the Third-party Technology Platform Provider with which the MTC or Marijuana Courier has a contract, provided that the MTC Licensee or Marijuana Courier shall be responsible for ensuring that monitoring occurs as required 935 CMR 501.110(8) and the contract is made available for inspection and on request, submitted to the Commission.
6. A video system that includes one or more video cameras in the storage area of the vehicle and one or more video cameras in the driver area of the vehicle and which shall remain operational at all times during the entire transportation process and which shall have:
   a. The ability to produce a clear color still photo whether live or recorded; and
   b. A date and time stamp embedded in all recordings which shall be synchronized and set correctly at all times and may not significantly obscure the picture.
7. All security equipment on vehicles shall be in good working order and shall be inspected and tested at regular intervals, no to exceed 30 calendar days from the previous inspection and test.

(b) An MTC transporting Marijuana and Marijuana Products for home delivery shall ensure that all vehicles used for deliveries are staffed with a minimum of two MTC Agents. At least one MTC Agent shall remain with the vehicle at all times that the vehicle contains Marijuana or Marijuana Products.

(c) The Commission may establish required training programs for MTC and Marijuana Courier Agents that shall be completed within a reasonable period of time and at the expense of the MTC or Marijuana Courier. Trainings shall include, but may not be limited to, the requirements of 935 CMR 501.105(2)(b)7.:

(d) An MTC agent shall document and report any unusual discrepancy in inventory to the Commission and local law enforcement within 24 hours of the discovery of such a discrepancy.

(e) An MTC shall report to the Commission and local law enforcement any vehicle accidents, diversions, losses, or other reportable incidents that occur during transport immediately and, under no circumstances, more than 24 hours of becoming aware of any accidents, diversions, losses, or other reportable incidents and shall otherwise comply with the incident reporting requirements set forth under 935 CMR 501.110(9).

(f) The following individuals shall have access to MTC operations and vehicles, including video recordings:
1. Representatives of the Commission in the course of responsibilities authorized by 935 CMR 501.000;
2. Representatives of other state agencies of the Commonwealth of Massachusetts acting within their jurisdiction; and
3. Law Enforcement Authorities and emergency medical services in the course of responding to an emergency.

(g) 935 CMR 501.000 may not be construed to prohibit access to authorized law enforcement personnel or local public health, inspectional services, or other permit-granting agents acting within their lawful jurisdiction.

(h) All vehicles used by the MTC for home delivery are subject to inspection and approval by the Commission prior being put into use. It shall be the MTCs responsibility to make the Commission aware of its intent to introduce a new vehicle into operation and ensure an inspection of the vehicle prior to commencing operation.

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

(9) Incident Reporting.

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

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1. Discovery of inventory discrepancies;
2. Diversion, theft, or loss of any Marijuana Product;
3. Any criminal action involving the MTC or an MTC Agent or occurring on or in the MTC Premises;
4. Any suspicious act involving the sale, cultivation, distribution, Processing, or production of Marijuana by any person;
5. Unauthorized destruction of Marijuana;
6. Any loss or unauthorized alteration of records related to Marijuana, Registered Qualifying Patients, Personal Caregivers, or MTC Agents;
7. An alarm activation or other event that requires response by public safety personnel including, but not limited to, local law enforcement, municipal fire departments, public works or municipal sanitation departments, and municipal inspectional services department, or security personnel privately engaged by the MTC;
8. The failure of any security alarm system due to a loss of electrical power or mechanical malfunction that is expected to last longer than eight hours;
9. A significant motor vehicle crash that occurs while transporting or delivering Finished Marijuana Products and would require the filing of a Motor Vehicle Crash Operator Report pursuant to M.G.L. c. 90 § 26; provided however that a motor vehicle crash that renders the Licensee's vehicle inoperable shall be reported immediately to state and local law enforcement so that Marijuana or Marijuana Products may be adequately secured; or
10. Any other breach of security.

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

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

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

501.120: Additional Operational Requirements for the Cultivation, Acquisition, and Distribution of Marijuana

(1) In addition to the general operational requirements for MTCs required under 935 CMR 501.105 and security requirements provided in 935 CMR 501.110, MTCs shall comply with additional operational requirements for the cultivation, acquisition, and distribution of Marijuana required under 935 CMR 501.120.

(2) Unless otherwise authorized by the Commission, only an MTC is permitted to cultivate medical-use Marijuana, except for a Registered Qualifying Patient granted a Hardship Cultivation Registration or that Patient's Personal Caregiver. Prior to commencing operations, MTCs shall disclose all growing media and plant nutrients intended to be used during the cultivation process. In all instances, MTCs shall disclose all growing media and plant nutrients being used upon request.

(3) Unless otherwise authorized by the Commission, a cultivation location of an MTC may cultivate Marijuana for only that MTC, and up to two additional MTCs locations operated by the same entity Owner.

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(4) All phases of the cultivation of Marijuana shall take place in a designated, Limited Access Areas where Marijuana is not visible from a public place without the use of binoculars, aircraft or other optical aids. Marijuana is not visible if it cannot be reasonably identified.

(5) Application of Pesticides shall be performed in compliance with M.G.L. c. 132B, and 333 CMR 2.00: *General Information* through 333 CMR 14.00: *Protection of Children and Families from Harmful Pesticides*. Any testing results indicating noncompliance shall be immediately reported to the Commission, who may refer any such result to the MDAR.

(6) An MTC selling or otherwise Transferring Marijuana to another MTC or Marijuana Establishment shall provide documentation of its compliance, or lack thereof, with the testing requirements of 935 CMR 501.160.

(7) An MTC may label Marijuana and MIPS with the word "organic" only if all cultivation is consistent with US Department of Agriculture organic requirements at 7 CFR Part 205 and consistent with the MDAR requirements for Pesticide usage.

(8) Soil for cultivation shall meet federal standards identified by the Commission including, but not limited to, the US Agency for Toxic Substances and Disease Registry's Environmental Media Evaluation Guidelines for residential soil levels.

(9) The cultivation process shall use best practices to limit contamination including, but not limited to, mold, fungus, bacterial diseases, rot, pests, Pesticides not in compliance with 935 CMR 501.120(5), mildew, and any other contaminant identified as posing potential harm. Best practices shall be consistent with state and local law including, but not limited to, the Commission's Guidance on Integrated Pest Management.

(10) Any application of plant nutrient to land used for the cultivation of Marijuana shall comply with St. 2012, c. 262, as amended by St. 2013, c. 118, § 26, and 330 CMR 31.00: *Plant Nutrient Application Requirements for Agricultural Land and Non-agricultural Turf and Lawns*.

(11) MTC cultivation operations shall satisfy minimum energy efficiency and equipment standards established by the Commission and meet all applicable environmental laws, regulations, permits and other applicable approvals including, but not limited to, those related to water quality and quantity, wastewater, solid and hazardous waste management, and air pollution control, including prevention of odor and noise pursuant to 310 CMR 7.00: *Air Pollution Control* as a condition of obtaining a final License under 935 CMR 501.103(2) and as a condition of renewal under 935 CMR 501.103(4). MTC cultivation operations shall adopt and use additional best management practices as determined by the Commission, in consultation with the working group established under St. 2017, c. 55, § 78(b) or applicable departments or divisions of the EOEEA, to reduce energy and water usage, engage in energy conservation and mitigate other environmental impacts, and shall provide energy and water usage reporting to the Commission in a form determined by the Commission. Each License renewal application under 935 CMR 501.103(4) must include a report of the MTC cultivation operations' energy and water usage over the 12-month period preceding the date of application.

(12) MTC cultivation operations shall be subject to the following minimum energy efficiency and equipment standards:

(a) The building envelope for all facilities, except Greenhouses, shall meet minimum Massachusetts Building Code requirements and all Massachusetts amendments (780 CMR: *State Building Code*), International Energy Conservation Code (IECC) Section C.402 or The American Society of Heating, Refrigerating and Air-conditioning Engineers (ASHRAE) Chapters 5.4 and 5.5 as applied or incorporated by reference in 780 CMR*: State Building Code*, except that facilities using existing buildings may demonstrate compliance by showing that the envelope insulation complies with code minimum standards for Type Factory Industrial F-1, as further defined in guidelines issued by the Commission.

(b) Lighting used for MTC cultivation operations shall meet one of the following compliance paths:

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1. Horticulture Lighting Power Density may not exceed 36 watts per square foot, except for Tier 1 and Tier 2 which may not exceed 50 watts per square foot;

2. All horticultural lighting used in a facility is listed on the current Design Lights Consortium Solid-State Horticultural Lighting Qualified Products List ("Horticultural QPL") or other similar list approved by the Commission as of the date of License application, and lighting Photosynthetic Photon Efficacy (PPE) is at least 15 % above the minimum Horticultural QPL threshold rounded up to the nearest 0.1 μmol/J (micromoles per joule); or

3. A facility seeking to use horticultural lighting not included on the Horticultural QPL or other similar list approved by the Commission shall seek a waiver pursuant to 935 CMR 500.850: *Waivers* and provide documentation of third-party certification of the energy efficiency features of the proposed lighting. All facilities, regardless of compliance path, shall provide third-party safety certification by an OSHA NRTL or SCC-recognized body, which shall certify that products meet a set of safety requirements and standards deemed applicable to horticultural lighting products by that safety organization.

(c) Heating Ventilation and Air Conditioning (HVAC) and dehumidification systems shall meet Massachusetts State Building Code requirements and all Massachusetts amendments (780 CMR: *State Building Code*), IECC Section C.403 or ASHRAE Chapter 6 as applied or incorporated by reference in (780 CMR: *State Building Code*). As part of the documentation required under 935 CMR 501.120(11) an MTC engaged in cultivation operations shall provide a certification from a Massachusetts Licensed Mechanical Engineer that the HVAC and dehumidification systems meet Massachusetts building code as specified in 935 CMR 501.120(11) and that such systems have been evaluated and sized for the anticipated loads of the facility.

(d) Safety protocols shall be established and documented to protect workers, Qualifying Patients, or Visitors (*e.g.*, eye protection near operating Horticultural Lighting Equipment).

(e) The requirements in 935 CMR 501.120(12)(b) and (c) may not be required if an indoor MTC cultivation operation is generating 80% or more of the total annual on-site energy use for all fuels (expressed on a MWh basis) from an on-site clean or renewable generating source, or renewable thermal generation, as provided in M.G.L. c. 25A, §§ 11F and 11F½. Additionally, the Licensee shall document that renewable energy credits or alternative energy credits representing the portion of the Licensee's energy usage not generated on-site have been purchased and retired on an annual basis.

(f) Prior to final licensure, an MTC applicant shall demonstrate compliance with 935 CMR 501.120(11) by submitting an energy compliance letter prepared by a Massachusetts Licensed Professional Engineer or Massachusetts Licensed Registered Architect with supporting documentation, together with submission of building plans under 935 CMR 501.103(1)(a). To the extent updates are required to the information provided for initial licensure, the MTC shall submit an updated energy compliance letter prepared by a Massachusetts Licensed Professional Engineer or Massachusetts Licensed Registered Architect with supporting documentation, together with a renewal application submitted under 935 CMR 501.103(4).

(g) CMO with a final Certificate of Licensure issued before November 1, 2019 shall have until July 1, 2020 to comply with 935 CMR 501.120(11), except that any additions to or renovations to a facility shall comply with 935 CMR 501.120(11). An MTC with a final Certificate of Licensure issued before November 1, 2019 shall have until January 1, 2021 to comply with 935 CMR 501.120(11), except that any additions to or renovations to a facility shall comply with 935 CMR 501.120(11). An MTC subject to 935 CMR 501.120(12)(g) may apply for an additional six-month extension if it agrees to install meters to monitor energy usage, water usage and other data determined by the Commission as necessary in order to provide reports on energy usage, water usage, waste production and other data in a form and manner determined by the Commission.

(h) For purposes of 935 CMR 501.120(11), the following terms shall have the following meanings:

1. Horticultural Lighting Equipment (HLE) means any lighting equipment (*e.g.* fixtures, bulbs, ballasts, controls, *etc.*) that uses energy for the cultivation of plants, at any stage of growth (*e.g.* germination, cloning/mother plants, Propagation, Vegetation, Flowering, and harvest).

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2. Horticulture Lighting Square Footage (HLSF) means an area to be calculated in square feet and measured using clearly identifiable boundaries of all areas(s) that will contain plants at any point in time, at any stage of growth, including all of the space(s) within the boundaries, HLSF may be noncontiguous, but each unique area included in the total HLSF calculations shall be separated by an identifiable boundary which includes, but is not limited to: interior walls, shelves, Greenhouse walls, hoop house walls, garden benches, hedge rows, fencing, garden beds, or garden plots. If plants are being cultivated using a shelving system, the surface area of each level shall be included in the total HLSF calculation.

3. Lighting Power Density (HLPD) means a measure of total watts of Horticultural Lighting Equipment per total Horticulture Lighting Square Footage, (HLE/HLSF = HLPD) expressed as number of watts per square foot.

(13) In addition to the written operating policies required under 935 CMR 501.105(1), MTC cultivation operations, including CMO Marijuana Cultivators, shall maintain written policies and procedures for the cultivation, production, Transfer or distribution of Marijuana, as applicable, which shall include, but not be limited to:

(a) Methods for identifying, recording, and reporting diversion, theft, or loss, for correcting all errors and inaccuracies in inventories, and for maintaining accurate inventory. The policies and procedures, at a minimum, shall comply with 935 CMR 501.105(8);

(b) Policies and procedures for handling voluntary and mandatory recalls of Marijuana. Such procedures shall be adequate to deal with recalls due to any action initiated at the request or order of the Commission, and any voluntary action by an MTC to remove defective or potentially defective Marijuana from the market, as well as any action undertaken to promote public health and safety;

(c) Policies and procedures for ensuring that any outdated, damaged, deteriorated, mislabeled, or contaminated Marijuana is segregated from other Marijuana and destroyed. Such procedures shall provide for written documentation of the disposition of the Marijuana. The policies and procedures, at a minimum, shall comply with 935 CMR 501.105(12);

(d) Policies and Procedures for Transportation. The policies and procedures, at a minimum, shall comply with 935 CMR 501.105(13);

(e) Policies and procedures to reduce energy and water usage, engage in energy conservation and mitigate other environmental impacts. The policies and procedures, at a minimum, shall comply with 935 CMR 501.105(15) and 501.120(11);

(f) Policies and procedures for ensuring fire safety in cultivation activities including, but not limited to, the storage and processing of chemicals or fertilizers, in compliance with the standards set forth in 527 CMR 1.00: *Massachusetts Comprehensive Fire Code*; and

(g) Policies and procedures for the Transfer, acquisition, or sale of Marijuana between MTCs and Marijuana Establishments.

501.130: Additional Operational Requirements for Handling and Testing Marijuana and for Production of MIPs

(1) In addition to the general operational requirements for MTCs required under 935 CMR 501.105 and security requirements provided in 935 CMR 501.110, MTCs shall comply with additional operational requirements required under 935 CMR 501.130.

(2) Production of Edibles shall take place in compliance with the following:

(a) All Edibles shall be prepared, handled, and stored in compliance with the sanitation requirements in 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 that is made to resemble a typical food or beverage product shall be packaged in an opaque package and labeled as required by 935 CMR 501.105(5)(c).

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(3) An MTC engaged in product manufacturing operations shall meet all applicable environmental laws, regulations, permits and other applicable approvals including, but not limited to, those related to water quality and quantity, wastewater, solid and hazardous waste management and air pollution control, including prevention of odor and noise pursuant to 310 CMR 7.00: *Air Pollution Control*, and to use additional best management practices as determined by the Commission in consultation with the working group established under St. 2017, c. 55, § 78(b) or applicable departments or divisions of the EOEEA to reduce energy and water usage, engage in energy conservation and mitigate other environmental impacts.

(4) An MTC selling or otherwise Transferring Marijuana to another MTC or Marijuana Establishment shall provide documentation of its compliance, or lack thereof, with the testing requirements of 935 CMR 501.160, and standards established by the Commission for the conditions, including time and temperature controls, necessary to protect Marijuana Products against physical, chemical, and microbial contamination as well as against deterioration of finished products during storage and transportation.

(a) An MTC shall retain all records of purchases from any manufacturer or supplier of any ingredient, additive, device, component part or other materials obtained by the MTC in relation to the manufacturing of Marijuana Vaporizer Devices and such records shall be made available to the Commission on request.

(b) An MTC shall maintain records of the name and business address of the manufacturer of any cartridge, battery, atomizer coil, hardware or other component of Marijuana Vaporizer Products manufactured by the Licensee. Further, the MTC shall, on request by the Commission, identify the materials used in the device's atomizer coil (*e.g.*, titanium, titanium alloy, quartz, copper, nichrome, kanthal, or other specified material) or state if such information cannot be reasonably ascertained.

(c) A copy of the Certificate of Analysis for each thickening agent, thinning agent or terpene infused or incorporated into a Marijuana Vaporizer Device during production shall be retained by an MTC and provided as a part of a wholesale transaction with any MTC or Marijuana Retailer.

(d) An MTC that wholesales Marijuana Vaporizer Devices to an MTC or Marijuana Retailer shall provide the recipient with the information insert required by 935 CMR 501.105(5)(c) or the necessary information to produce such an insert and the appropriate labeling information required by 935 CMR 501.000.

(5) 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. The policies and procedures, at a minimum, shall comply with 935 CMR 501.105(8);

(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 Commission, and any voluntary action by an MTC 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 or Marijuana Products are segregated from other Marijuana and destroyed. Such procedures shall provide for written documentation of the disposition of the Marijuana or Marijuana Products. The policies and procedures, at a minimum, shall comply with 935 CMR 501.105(12);

(d) Policies and procedures for transportation and Patient or Personal Caregiver home delivery;

(e) Policies and procedures for the Transfer, acquisition, or sale of Marijuana between MTCs, and if applicable, Marijuana Establishments and CMOs;

(f) Policies and procedures to ensure that all Edibles are 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

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(g) Policies and procedures for ensuring safety in all processing activities and the related uses of extraction equipment in compliance with the standards set forth in 527 CMR 1.00: *Massachusetts Comprehensive Fire Code*.

(6) Product Database. An MTC engaged in product manufacturing operations, after receiving a Provisional License, but prior to receiving a Certificate to Commence Operations, shall provide the following information about the finished Marijuana Products it intends to produce prior to commencement of operations. This information may be used by the Commission for its Product Database.

(a) The MTC shall provide the following:

1. Marijuana Product type;
2. Marijuana Product brand name;
3. List of direct ingredients;
4. List of indirect ingredients;
5. Serving size, including a description of what constitutes a serving size for a product that is not already a single serving;
6. Potency;
7. A photograph of a finished Marijuana Product, against a white background, outside of but next to the Marijuana Product's packaging, including any external or internal packaging, provided however that where single servings of a multi-serving product are unable to be easily identified because of its form, a description of what constitutes a single serving shall be provided (*e.g.*, a single serving is a 1" x 1" square), and where an Edible cannot be stamped, for example, due to size or a coating, the photograph of the Edible outside of but next to its external and internal packaging, such as the wrapper, and labeling information for the Edible;
8. A photograph of the Marijuana Product, against a white background, inside the packaging; and
9. A list of Marijuana Products to be sold based on anticipated or executed agreements between the MTC and another MTC or Marijuana Establishment.

(b) Photographs shall be submitted in a form and manner determined by the Commission.

(c) An MTC shall provide the information required under 935 CMR 501.130(6)(a) for each Marijuana Product that it produces prior to the product being made available for sale and shall update the information whenever a substantial change to the product information occurs. Substantial changes, including changes to information listed in 935 CMR 501.130(6)(a)1. through 9., shall be submitted to the Commission for inclusion in the Product Database prior to the transfer of the Marijuana Product.

(7) Notwithstanding a stricter municipal or state regulation, an MTC shall identify the method of extraction (*e.g.*, Butane, Propane, CO_2) on a physical posting at all entrances of the MTC. The Posting shall be a minimum of 12" x 12" and identify the method of extraction in lettering no smaller than one inch in height. An MTC shall post a copy of a permit to keep, store, handle or otherwise use flammable and combustible material at each place of operation within the facility.

(8) Except for a Registered Qualifying Patient or Personal Caregiver, who are not subject to 935 CMR 501.105, only a licensed MTC is permitted to produce MIPs. Unless otherwise authorized by the Commission, an MIP production facility of an MTC may produce MIPs for only that MTC, and up to two additional MTCs under an entity.

501.140: Additional Operational Requirements for Patient Sales

(1) In addition to the general operational requirements for MTCs required under 935 CMR 501.105 and security requirements provided in 935 CMR 501.110, MTCs engaged in patient sales shall comply with additional operational requirements for MTCs under 935 CMR 501.140.

(2) Verification of Patient and Caregiver Certification

(a) Upon entry into an MTC by a Registered Qualifying Patient or Personal Caregiver, or arrival at a residence for delivery to a Registered Qualifying Patient of Personal Caregiver, an MTC or Marijuana Courier Agent shall immediately inspect the Patient's or caregiver's temporary or annual Registration Card and proof of government-issued identification.

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1. The government-issued identification card shall contain a name, photograph, and date of birth, and shall be limited to one of the following:
   a. A driver's license;
   b. A government issued identification card;
   c. A military identification card; or
   d. A passport.

2. An MTC may dispense only to a Registered Qualifying Patient who has a current valid certification with the Commission or Other Jurisdictions that permit the medical use of marijuana or their Personal Caregiver. Pursuant to 935 CMR 501.010(8), a Certifying Healthcare Provider shall have defined the calendar day length of valid certification of a Qualifying Patient.

3. Qualifying Patients younger than 18 years old do not have to have a separate means of identification to enter an MTC.

4. A Qualifying Patient younger than 18 years old cannot enter an MTC without their Caregiver.

(b) An MTC 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.

(3) Patient Allotment.

(a) 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 935 CMR 501.002 (*e.g.*, a Patient with a 60-day supply of ten ounces who is 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).

(b) For a Registered Qualifying Patient whose Certifying Healthcare Provider has determined that he or she requires a 60-day supply other than ten ounces in accordance with 935 CMR 501.010(9), the amount of Marijuana dispensed, including Marijuana contained in MIPs, shall be adjusted accordingly so that the amount of Marijuana dispensed, including Marijuana contained in MIPs, shall be no more than a 60-day supply as certified by the Certifying Healthcare Provider in each 60-day period.

(c) A Registered Qualifying Patient may possess up to 12 flowering plants and up to 12 Vegetative plants, excluding Clones and cuttings. If one or more Qualifying Patients collectively require more than this amount at one residence in order to maintain a 60-day supply, then a Hardship Cultivation Registration is required.

(4) Unauthorized Sales and Right to Refuse Sales.

(a) An MTC shall refuse to sell Marijuana to any Registered Qualifying Patient or Personal Caregiver who is unable to produce a temporary or an annual Registration Card and valid proof of identification, or who does not have a valid certification in the Commission supported interoperable database.

(b) An MTC shall refuse to dispense to a Registered Qualifying Patient or Personal Caregiver if in the opinion of the MTC agent, the Patient or the public would be placed at risk. In any instance of denial, an MTC shall notify the Patient's Certifying Healthcare Provider within 24 hours.

(c) An MTC may not sell to a Patient or caregiver an amount of Marijuana or Marijuana Products that would exceed the Patient's 60-day Supply.

(d) An MTC is prohibited from selling Marijuana Products containing nicotine.

(e) An MTC is prohibited from selling Marijuana Products containing alcohol, if sales of such alcohol would require licensure pursuant to M.G.L. c. 138.

(5) Recording Sales.

(a) An MTC shall only utilize a point-of-sale system approved by the Commission.

(b) A retailer is prohibited from utilizing software or other methods to manipulate or alter sales data.

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1. An MTC shall conduct a monthly analysis of its equipment and sales data to determine that no software has been installed that could be utilized to manipulate or alter sales data and that no other methodology has been employed to manipulate or alter sales data. The MTC shall use industry best practices to ensure its analysis does not compromise system security.

An MTC shall maintain records that it has performed the monthly analysis and produce it on request to the Commission. If a retailer determines that software has been installed for the purpose of manipulation or alteration of sales data or other methods have been utilized to manipulate or alter sales data:

2. It shall immediately disclose the information to the Commission;

3. It shall cooperate with the Commission in any investigation regarding manipulation or alteration of sales data; and

4. Take such other action directed by the Commission to comply with 935 CMR 501.105.

(c) An MTC shall adopt separate accounting practices at the point-of-sale for Marijuana and Marijuana Product sales, and non-Marijuana sales.

(d) For non-Marijuana sales, an MTC shall comply with Massachusetts tax laws, and DOR rules and regulations including, but not limited to, 830 CMR 62C.25.1: *Record Retention*, and *DOR Directive* 16-1 regarding recordkeeping requirements.

(e) At the point of sale, and in a form and manner determined by the Commission, an MTC shall comply with tracking requirements in 935 CMR 501.015(3) and (4) including, but not limited to, Qualifying Patient and, where applicable, Personal Caregiver information, and amount of medical-use Marijuana or MIPs sold.

(f) An MTC shall accurately track and maintain these records for no less than one year, except as otherwise provided in 935 CMR 501.140(5)(e) for taxable non-Marijuana sales, and shall be readily available to the Commission or its representatives on request. Such records shall include:

1. Date and time of transaction;

2. Name and agent registration number of the MTC Agent conducting the transaction;

3. Specific name, strength, dose, quantity, and type of Marijuana and MIPs sold during the transaction;

4. Name of Patient, and where applicable, Personal Caregiver, receiving the Marijuana, MIPs or Marijuana accessory or other taxable non-Marijuana item; and

5. Any other additional information the Commission may deem necessary.

(g) The Commission may audit and examine the point-of-sale system used by an MTC in order to ensure compliance with 935 CMR 501.140(5);

(6) Patient Education.

(a) An MTC shall provide educational materials about Marijuana to Registered Qualifying Patients and their Personal Caregivers.

1. An MTC shall have an adequate supply of up to date educational material available for distribution.

2. Educational materials shall be available in languages accessible to all Patients served by the MTC, including for the visually and hearing impaired.

3. Such materials shall be made available for inspection by the Commission upon request.

(b) The educational material shall include at least the following:

1. A warning that Marijuana has not been analyzed or approved by the 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, § 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 shall also be explained;

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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 shall return unused, excess, or contaminated product to the MTC from which they purchased the product, for disposal; and
9. Any other information required by the Commission.

(c) The educational material cannot include:
1. 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;
2. Any statement, design, representation, picture, or illustration that encourages or represents the recreational use of Marijuana;
3. Advertising, marketing, and branding that asserts that its products are safe, or represent that its products have curative or therapeutic effects, other than labeling required pursuant to M.G.L. c. 94G, § 4(a½)(xxvi), unless supported by substantial evidence or substantial clinical data with reasonable scientific rigor as determined by the Commission; and
4. Any statement, design, representation, picture, or illustration portraying anyone younger than 21 years old.

(7) Testing. No Marijuana Product, including Marijuana, may be sold or otherwise marketed for adult use that is not capable of being tested by Independent Testing Laboratories, except as allowed under 935 CMR 501.000. The product shall be deemed to comply with the standards required under 935 CMR 501.160.

Potency levels derived from the Cannabinoid Profile, including the amount of delta-nine-tetrahydrocannabinol (Δ9-THC) and other Cannabinoids, contained within Finished Marijuana or Marijuana Product to be sold or otherwise marketed shall be recorded in the Seed-to-sale SOR.

(8) Repackaging. Repackaged Marijuana shall comply with the labeling and packaging requirements under 935 CMR 501.105(5) and 500.105(6).

(9) Advance Contactless Order Fulfillment.

(a) An MTC may allow for advance ordering of Marijuana and Marijuana Products by telephone, website or Third-party Platform, which shall be available for inspection prior to commencing operations and on request.

(b) MTCs may fulfill advance orders through contactless means by not requiring contact between a Qualified Patient or Personal Caregiver and Registered Marijuana Agent.

(c) Any physical unit used for the purpose of the fulfillment of an advance contactless order (order) shall ensure that access to orders of Marijuana or Marijuana Products is limited to the Qualifying Patient or Personal Caregiver who placed the advance order.

(d) Any physical unit used for the purpose of order fulfillment of Marijuana or Marijuana Products shall be located within the MTC building and bolted or otherwise permanently affixed to the MTC Premises.

(e) An MTC that adopts a contactless means of fulfilling orders shall have a written operations plan which shall be submitted to the Commission prior to commencing these operations and on request. The plan shall include a detailed description of how the MTC will ensure that advance contactless order fulfillment complies with the requirements of:
1. 935 CMR 501.105(3)(b) and (c) for the safe storage of Marijuana and Marijuana Products;
2. 935 CMR 501.110(1)(a) for the purposes of limiting access to Qualifying Patient or Personal Caregivers;
3. 935 CMR 501.110(5)(a)4. for the video surveillance of all advance contactless orders; and
4. 935 CMR 501.140(8)(c) and (d).

(f) Orders placed in advance may not be retained in a physical unit used for the purpose of contactless order fulfillment overnight or outside of business hours.

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(10) Product Database. An MTC engaged in patient sales that purchases wholesale Marijuana Products from another licensed Marijuana Product Manufacturer for the purpose of Repackaging Marijuana Products for sale to a Qualifying Patient shall provide the Commission with the following information. This information may be used by the Commission for its Product Database.

(a) The MTC shall provide the following:

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

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

3. The name of the MTC or Marijuana Establishment Product Manufacturer that produced the Marijuana Product.

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

(c) The MTC shall provide the information required under 935 CMR 501.140(8)(a) for each Marijuana Product it Repackages for sale prior to the product being made available for sale and shall update the information whenever a substantial change to packaging or label of the Marijuana Product occurs. For purposes of 935 CMR 501.140(10), a substantial change shall be a change to the physical attributes or content of the package or label.

(11) Sale of Marijuana Vaporizer Devices.

(a) MTCs offering Marijuana Vaporizer Devices for sale to Registered Qualifying Patients shall include signage at the point of sale, that is legible and enlarged and contains the following statements:

1. "Marijuana Vaporizer Devices have been tested for Vitamin E Acetate and other contaminants, with no adverse findings. WARNING: Vaporizer Devices may contain ingredients harmful to health when inhaled."

2. "Patients shall have access to the test results of Marijuana Vaporizer Devices including copies of any Certificates of Analysis provided be the device's manufacturer."

(b) MTCs shall provide a physical insert to Registered Qualifying Patients that accompanies all purchased Marijuana Vaporizer Devices that states, including capitalization and emphasis, the following: “Marijuana Vaporizer Devices have been tested for Vitamin E Acetate and other contaminants, with no adverse findings. WARNING: Vaporizer Devices may contain ingredients harmful to health when inhaled."

(c) The sale of disposable and reusable vaporizer pens and devices shall be accompanied by a product insert identifying the materials used in the vaporizer device's atomizer coil (*e.g.*, titanium, titanium alloy, quartz, copper, nichrome, kanthal, or other specified material), and manufacturer identification of the device hardware, cartridge, battery and other components;

(d) An MTC shall make available the information contained in 935 CMR 501.105(5)(c)6. in the product description at the point of sale and as part of any product list posted on the MTC's website or Third-party Technology Platforms or applications employed for preordering or delivery.

(e) An MTC shall retain all records of purchases from any supplier of any ingredient, additive, device, component part or other materials provided to the MTC about Marijuana Vaporizer Devices sold at MTCs. Such records shall be made available to the Commission upon request.

(12) Physical Separation of Marijuana and MIPs or Marijuana Products for Medical or Adult Use. CMO shall provide for physical separation between medical and adult use sales areas. Separation may be provided by a temporary or semi permanent physical barrier, such as a stanchion, that, in the opinion of the Commission, adequately separates sales areas of MIPs for medical use from sales areas of Marijuana Products for adult use for the purpose of patient confidentiality.

(a) A CMO shall provide for separate lines for sales of Marijuana or MIPs for medical use from Marijuana Products for adult use within the sales area, provided that the holder of a patient registration card may use either line and may not be limited only to the medical use line, so long as the CMO can record the patient's transaction in accordance with 935 CMR 501.105(5)(d).

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(b) A CMO shall additionally provide a patient consultation area, an area that is separate from the sales floor that is enclosed to allow privacy and for confidential visual and auditory consultation with Qualifying Patients.
(c) A CMO's patient consultation area shall have signage stating, "Consultation Area". The private consultation area shall be separate from the sales area. It shall be accessible by a Qualifying Patient or caregiver without having to traverse a Limited Access Area.
(d) A CMO shall use best efforts to prioritize Patient and caregiver identification verification and physical entry into its retail area.

(13) Patient Supply.
(a) A CMO shall ensure access to a sufficient quantity and variety of Marijuana Products, including Marijuana, for Patients registered under 935 CMR 501.000.
1. Where the CMO has been open and dispensing for a period of less than six months, the license shall reserve 35% of the MTC's Marijuana Products.
2. Where the CMO has been open and dispensing for a period of six months or longer, the licensee shall maintain a quantity and variety of Marijuana Products for Patients registered under 935 CMR 501.000, sufficient to meet the demand indicated by an analysis of sales data collected by the Licensee during the preceding six months in accordance with 935 CMR 501.140(5).
(b) Marijuana products reserved for patient supply shall, unless unreasonably impracticable, reflect the actual types and strains of Marijuana Products documented during the previous six months. If a substitution shall be made, the substitution shall reflect as closely as possible the type and strain no longer available.
(c) On a biennial basis, the CMO shall submit to the Commission an inventory plan to reserve a sufficient quantity and variety of medical use Marijuana Products for Registered Qualifying Patients, based on reasonably anticipated patient needs as documented by sales records over the preceding six months. On each occasion that the supply of any product within the reserved patient supply is exhausted and a reasonable substitution cannot be made, the CMO shall submit a report to the Commission in a form determined by the Commission.
(d) Marijuana Products reserved for patient supply shall be either maintained on-site at the retailer or easily accessible at another location operated by the Licensee and transferable to the retailer location within 48 hours of notification that the on-site supply has been exhausted. CMOs shall perform audits of available patient supply on a weekly basis and retain those records for a period of six months.
(e) The Commission shall, consistent with 935 CMR 501.301 or 501.301, inspect and audit CMOs to ensure compliance with 935 CMR 500.140: *Additional Operating Requirements for Retail Sales*. The Commission may, in addition to the issuance of a deficiency statement under 935 CMR 500.310: *Deficiency Statements* or 935 CMR 501.310 and a plan of correction under 935 CMR 500.320: *Plans of Correction* or 935 CMR 501.320, demand that the CMO take immediate steps to replenish its reserved patient supply to reflect the amounts required under 935 CMR 500.140(15)(a) or 935 CMR 501.140(12)(a). Failure to adequately address a deficiency statement or follow a plan of correction shall result in administrative action by the Commission pursuant to 935 CMR 500.450: *Marijuana Establishment License: Grounds for Denial of Renewal Applications, Suspension and Revocation* and 935 CMR 500.500: *Hearings and Appeals of Actions on Licenses* or 935 CMR 501.450 and 501.500.
(f) CMOs may transfer Marijuana Products reserved for medical-use to adult-use within a reasonable period of time prior to the date of expiration provided that the product does not pose a risk to health or safety.

(14) Prohibition on Monopolies.
(a) It shall be a violation of 935 CMR 501.000 for any MTC to monopolize or attempt to monopolize, or combine or conspire with any other person or entity including, but not limited, to a Third-party Technology Platform Provider, to monopolize any part of licensed activities authorized under 935 CMR 501.000.

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(b) It shall be a violation of 935 CMR 501.000 for any MTC engaged in activities authorized under 935 CMR 501.000 to make a contract for services with a Third-party Technology Platform Provider for the listing of a MTC's Marijuana or Marijuana Products on the condition, agreement or understanding that the parties to the contract shall not deal in Marijuana or Marijuana Products, either generally or specific brands or categories of Finished Marijuana Products, of a competitor or competitors of the parties where the effect of such contract or such condition, agreement or understanding may be to lessen substantially competition or tend to create a monopoly in any activity engaged in under 935 CMR. 501.000.

501.145: Home Delivery

(1) General Requirements.

(a) An MTC, or a Marijuana Courier acting on behalf of an MTC, shall obtain Commission approval prior to engaging in the delivery of Marijuana and Marijuana Products directly to a Registered Qualified Patient or Caregiver. An MTC shall comply with 935 CMR 501.110(8) and 935 CMR 501.110(9) and adhere to its policies and procedures for home delivery approved pursuant to 935 CMR 501.101(1)(c)12.

(b) All individuals delivering Marijuana and Marijuana Products for an MTC directly to Registered Qualifying Patients and Caregivers shall be employees of the MTC Licensee and shall hold a valid MTC agent registration; or, where a Marijuana Courier provides delivery services on behalf of an MTC, employees duly registered as agents of the Marijuana Courier.

(c) All Marijuana and Marijuana Products delivered by or on behalf of an MTC in fulfillment of an Individual Order shall be obtained from the MTC with which the Individual Order was placed. An MTC cannot pick up Marijuana or Marijuana Products from another MTC to fulfill an Individual Order.

(d) An MTC or Marijuana Courier may use a Third-party Technology Platform Provider to facilitate the ordering of Marijuana or Marijuana Products.

1. All agreements between an MTC or Marijuana Courier and a Third-party Technology Platform Provider shall be available for inspection and subject to the control limitations under 935 CMR 501.050(1)(a).

2. The Commission shall be notified in writing within five days of any Substantial Modification to an agreement between an MTC or Marijuana Courier and a Third-party Technology Platform Provider.

3. Any Third-party Technology Platform shall comply with privacy and patient protection standards established by the Commission.

4. The Commission shall be notified in writing on an ongoing basis of any new or additional or assigned agreements between an MTC or Marijuana Courier and a Third-party Technology Platform Provider within five days.

(e) The maximum retail value of Marijuana or Marijuana Products allowed in an MTC's vehicle at any one time shall be $10,000 000 and each Marijuana Product shall be associated with a specific Individual Order. For purposes of 935 CMR 501.145(1)(e), "maximum retail value" shall mean the aggregate value of Marijuana and Marijuana Products as priced on the day of the order for delivery.

(f) All Marijuana and Marijuana Product deliveries shall be tracked using the Seed-to-sale SOR as designated by the Commission.

(g) Limitations on the time for delivery shall comply with all municipal bylaws and ordinances, provided however, that all deliveries of Marijuana or Marijuana Products shall be completed before 9:00 P.M. or the time determined by municipal bylaw or ordinance, whichever occurs first, and deliveries Marijuana may not occur between the hours of 9:00 P.M. and 8:00 A.M., unless otherwise explicitly authorized by municipal bylaw or ordinance.

(h) Every effort shall be made to minimize the amount of cash carried in an MTC or Marijuana Courier vehicle at any one time. MTCs and Marijuana Couriers shall use best efforts to implement platforms for the electronic payment of funds. Where cash is carried in an MTC vehicle, the storage and transport of cash shall comply with the requirements of 935 CMR 501.110(7).

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(2) Orders. All orders for deliveries made by an MTC or Marijuana Courier shall comply with the following requirements:

(a) All Marijuana and Marijuana Products delivered by or on behalf of an MTC shall comply with 935 CMR 501.145(1)(c).

(b) An MTC shall only deliver Marijuana or Marijuana Products for which it has received a specific order from a Registered Qualifying Patient or Caregiver. MTCs are prohibited from delivering Marijuana or Marijuana Products without a specific order destined for an identified Qualifying Patient or Caregiver. An order may be generated directly through the MTC or through a Third-party Technology Platform identified to the Commission under 935 CMR 501.145(1)(d).

(c) MTCs shall deliver Marijuana or Marijuana Products only to the primary residence and be prohibited from delivering Marijuana or Marijuana Products to college or university-designated dormitories or housing, federally-subsidized housing, shelters or residential programs. An Institutional Caregiver shall only receive delivery at their Caregiving Institution.

(d) Orders for home delivery shall be received by the MTC and completed after confirmation of the Registered Qualifying Patient's or Personal Caregiver's Residence.

(e) MTCs shall only deliver one Individual Order, per Qualifying Patient or Caregiver, during each delivery.

(f) Only Marijuana and Marijuana Products that are Shelf-stable may be delivered. Products that are perishable, or time and temperature controlled to prevent deterioration may not be allowed to be delivered by or on behalf of an MTC.

(g) For home delivery, each order shall be labeled and packaged in accordance with 935 CMR 501.105(5) and (6).

(h) Any Marijuana or Marijuana Product that is undeliverable or is refused by the Qualifying Patient or Caregiver shall be transported back to the originating MTC that provided the product once all other deliveries included on a delivery manifest have been made. It shall be the responsibility of the MTC, or the MTC in conjunction with the Marijuana Courier performing the delivery, to ensure that any undelivered product is returned to the MTC's physical location and stored in accordance with 935 CMR 501.105(11). A process for ensuring that undelivered Marijuana and Marijuana Products can be returned to the MTC by the Marijuana Courier shall be a term of the Delivery Agreement.

(3) Vehicle and Transport Requirements for Home Delivery.

(a) Vehicles used for home delivery by an MTC or Marijuana Courier shall be owned or leased by the MTC or Marijuana Courier and shall be properly registered as commercial vehicles, inspected and insured in the Commonwealth of Massachusetts.

(b) Vehicles and transportation operations of an MTC or Marijuana Courier shall comply with 935 CMR 501.105(13) and 501.110(7).

(c) The MTC or Marijuana Courier shall maintain a separate log for each vehicle in use for home deliveries. For each delivery, the MTC or Marijuana Courier shall record:

1. The location of the originating MTC and date and time the vehicle leaves the location;

2. The mileage of the transporting vehicle at departure from the MTC, mileage on arrival at each Registered Qualifying Patient or Caregiver destination, and mileage on return to the MTC;

3. The date and time of departure from the MTC and arrival at each patient destination for each delivery; and

4. An entry indicating the date and time of the last delivery in an order.

(d) An MTC or Marijuana Courier may not transport products other than Marijuana and Marijuana Products during times when and MTC or Marijuana Courier is performing home deliveries.

(4) Manifests.

(a) Every home delivery shall have a manifest produced by the MTC. A manifest shall be completed in duplicate, with the original manifest remaining with the originating MTC, and a copy to be kept with the MTC or Marijuana Courier agent during the delivery. The manifest shall be signed by the Registered Qualifying Patient or Caregiver receiving the Marijuana or Marijuana Products and the MTC or Marijuana Courier agent acting on behalf of the MTC. A signed manifest shall serve as the written record of the completion of the delivery.

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(b) The manifest shall, at a minimum, include:
1. The originating MTC's name, address, and License number;
2. The names and agent numbers of the MTC or Marijuana Courier agents performing the delivery;
3. The Patient or caregiver's name, address, and registration number;
4. A description of the Marijuana or Marijuana Products being transported, including the weight, form or type of product, cost and transaction number entered in the patient sales system;
5. Signature lines for the agents who transported the Marijuana or Marijuana Products;
6. A signature line for the person who receives the Marijuana or Marijuana Products; and
7. The MTC or Marijuana Courier vehicle make, model, and license plate number.

(c) The manifest shall be maintained within the vehicle during the entire transportation process, until all the deliveries are completed.

(d) An MTC shall retain all transportation manifests for no less than one year and make them available to the Commission on request.

501.150: Edibles

(1) Production of Edibles. Edibles shall be produced in compliance with the following:

(a) Any Edibles that is made to resemble a typical food or beverage product shall be packaged and labeled as required by M.G.L. c. 94G, § 4(a½)(xxiv) and (xxvi), and 935 CMR 501.105(5) and (6).

(b) The manufacture or sale of Edibles in the following shapes and types is prohibited:
1. The distinct shape of a human, animal, fruit, or sporting-equipment item; or
2. A shape that bears the likeness or contains characteristics of a realistic or fictional human, animal, fruit, or sporting-equipment item including artistic, caricature, or cartoon renderings.

(c) Edibles that are geometric shapes and simply fruit-flavored are not considered fruit and are permissible.

(2) Sanitary Requirements. All Edibles shall be prepared, handled, and stored in compliance with the requirements in 935 CMR 501.105(3) and (11).

(3) Additional Labeling and Packaging Requirements for Edibles.

(a) In addition to the requirements set forth in M.G.L. c. 94G, § 4(a½)(xxiv) and (xxvi), and 935 CMR 501.105(5) and (6), every MTC shall ensure that the following information or statement is Affixed to every container holding an Edible:
1. If the retail Edible MIP is perishable or time and temperature controlled, a statement that the Edible shall be refrigerated.
2. The date on which the Edible was produced.
3. A nutritional fact panel that shall be based on the number of THC servings within the container.
4. Information regarding the size of each serving for the product by milligrams, the total number of servings of Marijuana in the product, and the total amount of active THC in the product by milligrams (mg). For example: "The serving size of active THC in this product is X mg, this product contains Y servings of Marijuana, and the total amount of active THC in this product is (X*Y) mg."
5. A warning that the impairment effects of Edibles may be delayed by two hours or more.

(b) Once a label with a use-by date has been Affixed to a container holding an Edible , a Licensee may not alter that date or affix a new label with a later use-by date.

(c) Each single serving of an Edible within a multi-serving package of Edibles shall be easily separable in order to allow an average person 21 years of age or older to physically separate, with minimal effort, individual servings of the product.

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(d) Each single serving of an Edible contained in a multi-serving package of Edibles shall be marked, stamped, or otherwise imprinted with the symbol or easily recognizable mark issued by the Commission that indicates the package contains Marijuana consistent with 935 CMR 501.105(5)(a)8. Alternatively, a Licensee may ensure that each single serving of an Edible is individually wrapped and shall mark, stamp, or otherwise imprint each individual wrapper with the symbol or easily recognizable mark issued by the Commission that indicates the serving contains Marijuana consistent with 935 CMR 500.105(5)(a)8.

(e) Each single serving of an Edible contained in a packaged unit of multiple Edible may be marked, stamped, or otherwise imprinted with a symbol or easily recognizable mark issued by the Commission that indicates the package contains Marijuana.

501.160: Testing of Marijuana and Marijuana Products

(1) No Marijuana Product, including Marijuana, may be sold or otherwise marketed for medical use that is not capable of being tested by Independent Testing Laboratories, except as allowed under 935 CMR 501.000. Testing of Marijuana Products shall be performed by an Independent Testing Laboratory in compliance with a protocol(s) established in accordance with M.G.L. c. 94G, § 15 and in a form and manner determined by the Commission including, but not limited to, the Protocol for Sampling and Analysis of Finished Marijuana and Marijuana Products for Marijuana Establishments, Medical Marijuana Treatment Centers and Colocated Marijuana Operations. Testing of environmental media (*e.g.*, soils, solid growing media, and water) shall be performed in compliance with the Protocol for Sampling and Analysis of Environmental Media for Massachusetts Registered Medical Marijuana Dispensaries published by the Commission.

(2) Marijuana and Marijuana Products shall be tested for the Cannabinoid profile and for contaminants as specified by the Commission including, but not limited to, mold, mildew, heavy metals, plant growth regulators, and the presence of Pesticides. The Commission may require additional testing. In addition to these contaminant tests, final ready-to-sell Marijuana Vaporizer Products shall be screened for heavy metals and Vitamin E Acetate (VEA) in accordance with the Protocol for Sampling and Analysis of Finished Marijuana and Marijuana Products for Marijuana Establishments, Medical Marijuana Treatment Centers and Colocated Marijuana Operations issued by the Commission.

(3) The Commission may, at its discretion, require additional testing where necessitated to safeguard public health or safety and so identified by the Commission

(4) An MTC shall have a written policy for responding to laboratory results that indicate contaminant levels are above acceptable limits established in the protocols identified in 935 CMR 501.160(1). Such policy shall be available to Registered Qualifying Patients and Personal Caregivers.

(a) Any such policy shall include:

1. Notifying the Commission within 72 hours of any laboratory testing results indicating that the contamination cannot be remediated and disposing of the Production Batch submission of any information regarding contamination immediately upon request by the Commission; and

2. Notifying the Commission of any information regarding contamination as specified by the Commission or immediately upon request by the Commission.

(b) The notification shall be from both the MTC and the Independent Testing Laboratory, separately and directly.

(c) The notification from the MTC shall describe a proposed plan of action for both the destruction of the contaminated product and the assessment of the source of contamination.

(5) An MTC shall maintain the results of all testing for no less than one year. Testing results shall be valid for a period of one year. Marijuana and Marijuana Products with testing dates in excess of one year shall be deemed expired and may not be dispensed, sold, Transferred or otherwise conveyed until retested.

(6) The sale of seeds is not subject to these testing provisions.

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(7) Clones are subject to these testing provisions, but are exempt from testing for metals.

(8) All transportation of Marijuana and Marijuana Products to and from Independent Testing Laboratories providing Marijuana testing services shall comply with 935 CMR 501.105(13).

(9) All storage of Marijuana and Marijuana Products at a laboratory providing Marijuana testing services shall comply with 935 CMR 501.105(11).

(10) All excess Marijuana and Marijuana Products shall be disposed of in compliance with 935 CMR 501.105(12), either by the Independent Testing Laboratory returning excess Marijuana or Marijuana Products to the source MTC for disposal or by the Independent Testing Laboratory disposing of it directly;

(11) No Marijuana or Marijuana Product shall be sold or otherwise marketed for adult use that has not first been tested by an Independent Testing Laboratory and deemed to comply with the standards required under 935 CMR 501.160; and

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

(a) Reanalysis by a Second ITL. If the Licensee chooses to reanalyze the sample, a sample from the same batch shall be submitted for reanalysis at the ITL that provided the initial failed result. If the sample passes all previously failed tests at the initial ITL, a sample from the same batch previously tested shall be submitted to a second ITL other than the original ITL for a Second Confirmatory Test. To be considered passing and therefore safe for sale, the sample shall have passed the Second Confirmatory Test at a second ITL. Any Marijuana and Marijuana product that fails the Second Confirmatory Test may not be sold, transferred or otherwise dispensed to Consumers, Patients or Licensees wiithout first being remediated. Otherwise, the MTC shall dispose of any such product.

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

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

501.170: Municipal Requirements

(1) An MTC and Independent Testing Laboratory and their agents shall comply with all local rules, regulations, ordinances, and bylaws.

(2) The Commission does not mandate any involvement by municipalities or local boards of health in the regulation of MTCs, Qualifying Patients with Hardship Cultivation Registrations, or any other aspects of Marijuana for medical use. However, nothing in 935 CMR 501.000 shall be construed to prohibit lawful local oversight and regulation, including fee requirements, that does not conflict or interfere with the operation of 935 CMR 501.000.

501.200: Counties of Dukes County and Nantucket

(1) To the extent permitted by law, MTCs operating from locations in the Counties of Dukes County and Nantucket (the "island counties") may operate in full compliance with 935 CMR 501.000.

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(2) If an MTC operating from locations in the island counties are prevented from operating in full compliance with 935 CMR 501.000 by operation of law, they are not required to utilize Independent Testing Laboratories until such time as a laboratory is located on the island where the MTC is located or the establishment can transport Marijuana Products to the mainland of Massachusetts.

(3) If MTCs operating from locations in the island counties are prevented from utilizing Independent Testing Laboratories by operation of law, they are required to test Marijuana Products in a manner that is not unreasonably impracticable, but also adequately protects the public health in the opinion of the Commission. Such testing may include:

(a) A modified on-Premises testing system approved by the Commission if the label on any Marijuana or Marijuana Product so tested discloses in capital letters: "WARNING: LIMITED TESTING FOR CONTAMINANTS AND PESTICIDES";

(b) A testing facility in the island counties that does not meet the criteria for an Independent Testing Laboratory, but is approved by the Commission for testing by MTCs located in the island counties; or

(c) Such other testing system approved by the Commission.

(4) An MTC performing home delivery operations in the island counties may only perform deliveries to Residences located in the same county as the MTC which the delivery order originates from until such time as it permitted to deliver to other locations by law.

501.300: Complaints Process

(1) In a time and manner determined by the Commission, a dedicated telephone number, email address or other means shall be provided for members of the public or Qualifying Patients to notify the Commission of complaints regarding MTCs or MTC Agents.

(2) The Commission may, at its discretion, investigate or decline to investigate any complaint or refer a complaint to another law enforcement or regulatory authority.

501.301: Inspections and Compliance

(1) Pursuant to M.G.L. c. 94I and M.G.L. c. 94G, §§ 4(a)(xvii) through (xx), the Commission or a Commission Delegee may inspect an MTC and affiliated vehicles at any time without prior notice to determine the MTC's compliance with the act and 935 CMR 501.000. All areas, activities and records of an MTC and activities and records of MTC agents are subject to such inspection. Submission of an application by or issuance of a License to an MTC constitutes consent for such inspection

(2) An MTC shall allow immediate access to the facility on being presented with photo identification documenting the Commission representative's affiliation with the Commission or a Commission Delegee's affiliation with a state agency with lawful jurisdiction over the operations of an MTC.

(3) An MTC shall immediately on request make available to the Commission or a Commission Delegee all information that may be relevant to an inspection or investigation of an incident or a complaint.

(4) An MTC shall make all reasonable efforts to facilitate the inspection or investigation of an incident or a complaint, including the taking of samples, photographs, video or other evidence or recordings, and complying with demands for examination and inspection in accordance with 935 CMR 501.302.

(5) During an inspection, the Commission or a Commission Delegee may direct an MTC to test Marijuana for contaminants including, but not limited to, mold, mildew, heavy metals, plant-growth regulators, and the presence of Pesticides not approved for use on Marijuana pursuant to 935 CMR 501.120(5).

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(6) An inspection or other investigation may be made prior to the issuance of a License or the renewal of a License. Additional inspections may be made whenever the Commission or a Commission Delegee deems it necessary for the enforcement of M.G.L. c. 94I and M.G.L. c. 94G, and 935 CMR 501.000.

(7) The failure to cooperate with an inspection or otherwise comply with 935 CMR 501.301 may result in administrative or disciplinary action against the Licensee.

501.302: Compliance Examination

(1) After an MTC has been licensed, the Commission or a Commission Delegee pursuant to M.G.L. c. 94I and M.G.L. 94G, § 4(a)(xx), has the authority to demand access to its papers, books, documents, records, correspondence, electronic communications, and other tangible things to examine and inspect. Such examination and inspection may include interrogatories to parties or subpoenas to compel the production of papers, books, documents, records, correspondence, electronic communications, and other tangible things. The examination and inspection of an MTC may also include the interview of material witnesses, registered agents or Close Associates whom the Commission has determined is involved in the financing, management or operation of the MTC.

(2) Administrative Subpoenas. The Commission or a Commission Delegee may, during a preliminary investigation prior to a hearing, issue, modify, amend or rescind subpoenas. Material witnesses, registered agents, or other Persons whom the Commission has determined are involved in the financing, management or operation of an MTC may petition the Commission to modify, amend or rescind subpoenas.

(3) General Provisions. Administrative subpoenas for compliance examination and inspection shall be issued in the name of the Commission by the Commission or a Commission Delegee. Service may be made in a form and manner determined by the Commission including, but not limited to, by the consent of the parties.

(4) Enforcement of *Subpoenas*. On the failure of a person to comply with a *subpoena*, and not subsequently vacated or modified by the Commission or a Commission Delegee, the Commission or a Commission Delegee may apply to the Superior Court for an order to compel compliance with the *subpoena*; an order for costs and fees associated with the issuance and enforcement of the *subpoena*; or an order of contempt for any failure by a party to comply with a court order.

(5) The failure to cooperate with provisions of 935 CMR 501.302 may result in administrative or disciplinary action against the Licensee.

501.303: Unannounced Purchase for Purpose of Investigative Testing (Secret Shopper Program).

(1) Secret Shopper Program Authorized. The Commission or a Commission Delegee may at any time and without prior notice, authorize an employee or other agent to pose as a customer and purchase any Marijuana or Marijuana Products from any registered or licensed MTC. The Commission or a Commission Delegee, may authorize such purchase for any investigative purposes that are consistent with St. 2016, c. 334, as amended by St. 2017, c. 55, M.G.L. c. 94G, M.G.L. c. 94I, 935 CMR 500.000: *Adult Use of Marijuana*, or 935 CMR 501.000 including, but not limited to, investigative testing for compliance with laboratory testing standards and identification check requirements. The purchasing employee or agent shall document the purchase, including the date, time and place of purchase, type and amount of Marijuana or Marijuana Products, and any other information required by the Commission.

(2) Custody and Preservation of Purchases. The Marijuana or Marijuana Products purchased as part of the program shall be securely stored during transport in a manner to prevent contamination or spoilage.

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(3) Contamination and Spoilage During Storage or Transport. Any contamination or spoilage of purchases under the Secret Shopper Program during storage or transport while under the control of the purchaser shall be promptly documented by the purchaser in writing and reported to the Commission. The Commission or a Commission Delegee, may authorize the disposal of the contaminated or spoiled purchase, pursuant to the regulations concerning waste disposal under 935 CMR 501.105(12).

(4) Use of Secret Shopper Investigative Results. Results of investigations conducted under Secret Shopper Program shall be promptly submitted to the Commission.

(a) All investigative results shall be retained as part of the records for the licensed MTC from which the purchase originated.

(b) The MTC may be notified of any investigative results determined to be noncompliant at a time and manner determined by the Commission.

(c) After the MTC is notified of the investigative results, such results may be used by the Commission to take action on the License of the MTC pursuant to 935 CMR 501.340, 501.350, 501.450, 501.500 or assess fines or other civil penalties pursuant to 935 CMR 501.360.

(d) Without notice to the MTC, the Commission may share such investigative results with any other law enforcement or regulatory authorities.

(e) The Commission may elect to conduct further evaluation of the investigative results at any time for verification or for other purposes reasonably related to sanitation, public health or public safety.

(5) The failure to cooperate with provisions of 935 CMR 501.303 may result in administrative or disciplinary action against the Licensee.

501.310: Deficiency Statements

After an inspection in which a violation of St. 2016, c. 334, as amended by St. 2017, c. 55, M.G.L. c. 94G, M.G.L. 94I, 935 CMR 500.000: *Adult Use of Marijuana*, or 935 CMR 501.000 is observed or a violation is otherwise determined to have occurred, the Commission shall issue a deficiency statement citing every violation identified, a copy of which shall be left with or sent to the MTC.

501.320: Plans of Correction

(1) An MTC shall submit to the Commission a written plan of correction for any violations cited in the deficiency statement issued pursuant to 935 CMR 501.310, within ten business days after receipt of the statement.

(2) A plan 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 will be achieved. The timetable and the compliance dates shall be consistent with achievement of compliance in the most expeditious manner possible.

(3) The Commission shall review the plan of correction, and shall notify the MTC of either the acceptance or rejection of the plan or any component of the plan.

(4) An unacceptable plan shall be amended and resubmitted within five business days after receipt of such notice.

(5) The approval of a plan of correction shall not preclude the Commission from issuing an order for further corrective action fixing a reasonable time for correction of the violation, assessing an administrative fine, or taking any other administrative action authorized under the Commission's regulations.

(6) An MTC shall notify the Commission once the plan of correction has been fully implemented and completed.

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501.321: Administrative Hold

(1) Pursuant to M.G.L. c. 94I and M.G.L. c. 94G, § 4(a)(xix), the Commission or a Commission Delegee may order an Administrative Hold of Marijuana, Marijuana Products or MIPs to examine and inspect an MTC to ensure compliance with the provisions of 935 CMR 501.000, prevent the destruction of evidence, prevent the diversion of Marijuana or Marijuana Products, or as otherwise necessary to protect the public health, safety, or welfare.

(2) An MTC subject to an Administrative Hold shall retain its inventory pending further investigation by the Commission or a Commission Delegee pursuant to the following procedure:

(a) If during an investigation or inspection of an MTC, the Commission has reasonable cause to believe certain Marijuana or Marijuana Products are noncompliant under 935 CMR 501.000, or otherwise constitutes a threat to the public health, safety or welfare, the Commission may issue a notice to administratively hold any Marijuana or Marijuana Product. The notice shall identify the Marijuana or Marijuana Product subject to the Administrative Hold and a concise statement stating the reasons relied on in the issuance of the Administrative Hold.

(b) Following the issuance of a notice of Administrative Hold, the Commission will identify and mark the Marijuana or Marijuana Product subject to the Administrative Hold in the Commission's Seed-to-sale SOR. The MTC shall continue to comply with all inventory requirements including, but not limited to, 935 CMR 501.105(8).

(c) The MTC shall completely and physically segregate the Marijuana or Marijuana Product subject to the Administrative Hold in a Limited Access Area, where it shall be safeguarded by the MTC.

(d) While the Administrative Hold is in effect, the MTC shall be prohibited from selling, transporting or otherwise Transferring or destroying the Marijuana or Marijuana Product subject to the Administrative Hold, except as otherwise authorized by the Commission.

(e) While the Administrative Hold is in effect, the MTC shall safeguard the Marijuana or Marijuana Product subject to the Administrative Hold and shall fully comply with all security requirements including, but not limited to, 935 CMR 501.110.

(f) An Administrative Hold shall not prevent an MTC from the continued possession, cultivation or harvesting of the Marijuana or Marijuana Product subject to the Administrative Hold, unless otherwise provided by an order of the Commission. All Marijuana or Marijuana Products subject to an Administrative Hold shall be put into separately tracked Production Batches.

(g) An Administrative Hold shall not prevent an MTC from voluntarily surrendering Marijuana or Marijuana Products subject to an Administrative Hold, except that the MTC shall comply with the waste disposal requirements in 935 CMR 501.105(12).

(h) At any time after the initiation of the Administrative Hold, the Commission or a Commission Delegee may modify, amend or rescind the Administrative Hold.

(i) The failure to cooperate with provisions of 935 CMR 501.321 may result in administrative or disciplinary action against the Licensee.

501.330: Limitation of Sales

(1) If the Commission or a Commission Delegee determines that an MTC does not substantially comply with applicable provisions of St. 2016, c. 334, as amended by St. 2017, c. 55, M.G.L. c. 94G, M.G.L. c. 94I, or 935 CMR 501.000, the Commission or a Commission Delegee may order that the MTC dispose of and may not sell Marijuana or Marijuana Products, after a date specified.

(2) The Commission or a Commission Delegee shall not make such a determination until an MTC has been notified that the MTC does not substantially comply with applicable provisions of St. 2016, c. 334, as amended by St. 2017, c. 55, M.G.L. c. 94G, M.G.L. c. 94I, or 935 CMR 501.000, that an order to dispose of or limit sales is contemplated, and that the MTC has a reasonable opportunity to correct the deficiencies.

(3) An order that an MTC dispose of and may not sell Marijuana or Marijuana Products pursuant to 935 CMR 501.330(1) may be rescinded when the Commission or a Commission Delegee finds that the MTC is in substantial compliance with the applicable provisions of St. 2016, c. 334, as amended by St. 2017, c. 55, M.G.L. c. 94G, M.G.L. c. 94I, or 935 CMR 501.000.

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501.335: Removal and Prohibition of Marijuana and Marijuana Products

(1) Pursuant to M.G.L. c. 94G, § 4(a½)(xxxi) and M.G.L. c. 94I, the Commission or a Commission Delegee may order the removal or prohibition of sales by more than one Licensee of categories of product types, of specific product types or of specific brands of products after notice and a determination that Marijuana, Marijuana Products, and Marijuana Accessories (for the purposes of 935 CMR 501.335, "Product"), which based on preliminary evidence, pose a substantial risk to the public health, safety or welfare including, but not limited to, that the product is especially appealing to Persons under 21 years of age.

(a) The Commission may vote to initiate a complaint about a Product and refer that complaint to the Executive Director and Enforcement staff for investigation.

(b) In consultation with the Executive Director, Enforcement staff may conduct an investigation and make a recommendation as to the Removal of Product. The recommendation shall be based on credible and reliable evidence and provide a specific description of the scope of removal and specify whether the removal or prohibition on sales applies to one of the following:

1. Category of Product Type(s). A type of Product including, but not limited to, Marijuana seeds, Marijuana Clones, Edibles, Beverages, topical products, ointments, oils, Tinctures, oral dosage forms or any other Product identified by the Commission or a Commission Delegee.

2. Specific Product Type(s). A specific type of Product within a category of Products, but not including other types of Product within the same category.

3. Specific Brand of Product(s). One or more specific Product types or category types Manufactured by a Marijuana Product Manufacturer or a specific Product type or category type Manufactured by multiple Marijuana Product Manufacturers subject to an agreement including, but not limited to, a partnership, product licensing, distribution, branding, advertising, marketing or sales agreement.

(2) After receiving a recommendation from Enforcement staff, the Executive Director may act to address the substantial risk to the public health, safety or welfare including, but not limited to:

(a) Refer the matter to a Hearing Officer with expertise to evaluate scientific evidence to conduct an informal hearing;

(b) If credible and reliable evidence has been evaluated and found to meet the standard of a substantial risk to public health, safety or welfare, if one is not yet issued, order the quarantine or Removal of Product or prohibition on sales of a Product pending consideration by a Hearing Officer; or

(c) Refer the matter to the Commission.

(3) When a matter is referred by the Executive Director, the Hearing Officer may conduct an informal hearing.

(a) If necessary and in consultation with the Executive Director, the Hearing Officer may develop a process for the purpose of identifying the Licensees and Registrants that may be impacted by a current or future order including, but not limited to, identifying those Licensees and Registrants to whom providing adequate notice and an opportunity to be heard shall be given.

(b) The Hearing Officer shall exercise discretion in admitting and weighing evidence including, but not limited to, testimony and evidence from:

1. Licensees and Registrants; and

2. Subject-matter experts.

(c) The Hearing Officer shall issue findings of fact and make a recommended decision to the Executive Director.

(d) To the extent that the Hearing Officer recommends that Products be removed or prohibited, this recommendation shall be based on credible and reliable evidence that the Product poses a substantial risk to the public health, safety and welfare.

(4) The Executive Director may refer the matter to the Commission and make a recommendation.

(5) On referral by the Executive Director, prior to issuing any order, the Commission shall deliberate on the Executive Director's recommendation at a public meeting of the Commission.

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(a) If there is a recommendation that the Products be removed and prohibited, this recommendation shall be based on credible and reliable evidence that the Product poses a substantial risk to the public health, safety and welfare.
(b) An order shall require a vote by the Commission.
(c) The Commission or a Commission designee shall send written notice of the action taken against an identified Licensee or Registrant and the basis for that action. The notice shall include, but not be limited to, the following information:
1. the Commission's statutory and regulatory authority, including its jurisdiction over the subject matter; and its authority to take action with regards to the License or registration;
2. the factual basis for that action;
3. the extent to which the product poses a substantial risk to the public health, safety and welfare; and
4. the current restrictions on the Licensee's or Registrant's operations or sales or other use of Products, if any, including the method and timing of the Removal of Product including, but not limited to, whether the Product shall be destroyed in accordance with 935 CMR 501.105(12).
(d) The Commission or a Commission designee may modify, amend or rescind a notice on condition(s) just to all the parties.

(6) On receipt of the order, the Licensee and its associated agents will immediately comply with the requirements of the order and, if requested by the Commission, post notice at public entrances to the establishment or other notice in a form and manner determined by the Commission.

(7) The order shall be transmitted immediately to all other Licensee(s) or Registrant(s) that may reasonably be affected by the order by electronic and certified mail.

(8) The order may be posted on the Commission's website.

(9) It shall be a violation of 935 CMR 501.000 for Licensees to produce, sell or otherwise make available the categories of Product Types, Specific Product Types or Specific Brands of Products identified in the order.

(10) An MTC subject to the order shall accept Registered Qualifying Patients' returns of unused and unopened product for a period of 30 days after the effective date of the order.

(11) The failure to cooperate with provisions of this section may result in further administrative or disciplinary action against the Licensees or Registrants.

501.340: Quarantine Order

(1) Pursuant to its authority under M.G.L. c. 94I and M.G.L. c. 94G, §§ 4(a)(xix) and 4(a½)(xxxi), a Quarantine Order may be imposed by the Commission or a Commission Delegee to immediately quarantine or otherwise restrict the sale or use of Marijuana, Marijuana Products or MIPs by a Licensee or Registrant to protect the public health, safety or welfare.

(2) If, based on complaint(s) inspection(s), affidavit(s), or other credible evidence, the Commission or a Commission Delegee determines that a Licensee or Registrant or the Marijuana, Marijuana Products, MIPs, cultivated, produced or sold by a Licensee or Registrant pose an immediate or serious threat to the public health, safety, or welfare, the Commission or a Commission Delegee may issue an order to the Licensee that:
(a) Quarantines or otherwise restricts the sale or use of Marijuana, Marijuana Products, or MIPs, prepared by or in the possession of the Licensee; or
(b) Quarantines or otherwise restricts the sales or use of Marijuana, Marijuana Products, or MIPs to the extent necessary to avert a threat, pending final investigation results.

(3) On receipt of the order, the Licensee and its associated agents will immediately comply with the requirements of the order and, if requested by the Commission, post notice at the public entrances to the MTC or Independent Testing Lab or other notice in a form and manner determined by the Commission or a Commission Delegee.

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(4) The Commission or a Commission Delegee may modify, amend or rescind the order at any time after its issuance on condition(s) just to all the parties.

(5) To the extent that the issuance of a Quarantine Order is to investigate a risk to public safety, health and welfare, a Licensee shall not have a right to a hearing, unless and until the order remains in effect beyond 21 calendar days without any further action by the Commission or a Commission Delegee.

(6) The failure to cooperate with provisions of 935 CMR 501.340 may result in administrative or disciplinary action against the Licensees or Registrants.

501.350: Cease and Desist Order and Summary Suspension Order

(1) Pursuant to its authority under M.G.L. c. 94I, and M.G.L. c. 94G, §§ 4(a) and 4(a½), a Cease and Desist or a Summary Suspension Order may be imposed by the Commission or a Commission Delegee prior to a hearing to protect the public health, safety, or welfare.

(2) If based on inspection(s), affidavit(s) or other credible evidence, the Commission or a Commission Delegee determines that a Licensee or Registrant, or the Marijuana, Marijuana Products, MIPs cultivated, produced, or sold by a Licensee or Registrant, pose an immediate or serious threat to the public health, safety, or welfare, the Commission or a Commission Delegee may:

(a) Issue a Cease and Desist Order that requires cessation of any or all operations including, but not limited to, the cultivation, product manufacturing, Transfer, sale, delivery or transportation of Marijuana, Marijuana Products, or MIPs; or

(b) Issue a Summary Suspension Order that requires the immediate suspension of a License and its associated registrations and cessation of all operations.

(3) Notice of Violations.

(a) For a Cease and Desist or Summary Suspension Order issued under 935 CMR 501.350(2), the Commission or a Commission Delegee shall send written notice of the action taken against a Licensee or Registrant and the basis(es) for that action, which shall include, but not be limited to, the following information:

1. The Commission's statutory and regulatory authority, including its jurisdiction over the subject matter and its authority to take action with regards to the License or registration;
2. The factual basis(es) of the action;
3. The immediate threat to the public health, safety, and welfare;
4. The alleged violation(s) of law, including the alleged noncompliance with law, regulation, guideline or other applicable requirement;
5. The current restriction(s), if any, on the Licensee's or Registrant's operations;
6. Requirements for the continued maintenance and security of any Marijuana and Marijuana Products;
7. The potential for further disciplinary action(s), sanction(s) or fine(s); and
8. The Licensee's right to a hearing, if any.

(b) The Commission or a Commission Delegee may modify, amend or rescind the order at any time after its issuance on condition(s) just to all the parties.

(4) On receipt of the order issued under 935 CMR 501.350(2), the Licensee and its associated agents will immediately comply with the requirements of the order and, if requested, post notice at public entrances to the MTC or Independent Testing Lab or other notice in a form and manner determined by the Commission or a Commission Delegee.

(5) Hearings. Pursuant to its authority under M.G.L. c. 94I, § 7, M.G.L. c. 94G, § 4(a)(xxiv) and (g), the Commission has the authority to administer the administrative hearing process and to delegate to a Hearing Officer the authority to conduct an administrative hearing.

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(a) Hearing Request. On written request filed with the Commission, a Licensee shall be afforded a hearing on an order issued under 935 CMR 501.350(2). The hearing request shall be submitted in a form and a manner determined by the Commission or a Commission Delegee including, but not limited to, the request shall be made no later than 21 calendar days after the effective date of the order. A request for a hearing is filed on the date the request is received by the Commission.

1. A timely request for a hearing shall specifically identify each issue and fact in dispute and state the position of the Licensee or Registrant, the pertinent facts to be adduced at the hearing, and the reasons supporting that position.

2. The failure to timely file a request for a hearing or to state the basis of the hearing request will result in dismissal of the challenge to the findings set forth in the Notice of Violations.

(b) Hearing Notice. If a hearing is requested in a timely manner under 935 CMR 501.350(5)(a), the Hearing Officer shall provide notice and a hearing promptly after that request, or as soon as is practicable, or at a time mutually agreed by the parties.

(c) Conduct of the Hearing.

1. The hearing shall be conducted pursuant to Standard Adjudicatory Rules of Practice and Procedure, which includes 801 CMR 1.01: *Formal Rules*, 801 CMR 1.02: *Informal/Fair Hearing Rules*, and 801 CMR 1.03: *Miscellaneous Provisions Applicable to All Administrative Proceedings*.

2. The scope of the hearing shall be limited to whether there existed prior to, or at the time of the order(s) issued pursuant to 935 CMR 501.350(2), or an amended or a modified order, an immediate or serious threat to the public health, safety, or welfare.

3. If the Commission proves by a preponderance of the evidence that there existed an immediate or serious threat to the public health, safety, or welfare, the Hearing Officer shall affirm the order.

4. The Hearing Officer shall electronically mail a copy of the recommended decision to each Licensee or Registrant and their attorney(s) of record, and mail a copy on written request.

(6) The requirements of the order issued under 935 CMR 501.350(2) shall remain in effect until one of the following events has occurred:

(a) The Commission modifies, amends or rescinds the order;

(b) There is a Final Decision on the merits of a Commission order, including judicial review of the order, unless the order is vacated or modified by a court of competent jurisdiction or rescinded by the Commission;

(c) There is a Final Decision on the merits of a subsequently issued Order to Show Cause under 935 CMR 501.370, including judicial review of the order, unless the order is vacated or modified by a court of competent jurisdiction or rescinded by the Commission; or

(d) Until such time as is otherwise established under the procedures set forth in 935 CMR 501.500.

501.360: Fines

The Commission or a Commission Delegee may issue an order to a Licensee to show cause as to why a fine or other financial penalty against a Licensee or Registrant should not be imposed for any acts or omissions determined to be in violation of the state Marijuana laws, including 950 CMR 501.000.

(1) Notice of Fines. The Commission or a Commission Delegee shall send written notice of the action taken against a Licensee or Registrant and the basis(es) for that action, which shall include, but not be limited to, the following information:

(a) The Commission's statutory and regulatory authority, including its jurisdiction over the subject matter and its authority to issue the order with regards to the License or registration;

(b) The factual basis(es) of the order;

(c) The alleged violation(s) of law;

(d) An assessment of an administrative fine of up to $50,000, or an order for corrective action fixing a reasonable time for correction of the violation or both; and

(e) Notice to the Licensee or Registrant that they may request a hearing in accordance with 935 CMR 501.500.

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(2) An administrative fine up to $50,000 may be assessed for each violation.
(a) The decision to impose any fine shall identify the factors considered by the Commission or a Commission Delegee in setting the amount of the fine.
(b) Each day during which a violation continues may constitute a separate offense, and each instance and provision of the state Marijuana laws, including M.G.L. c. 94I, and 935 CMR 501.000, that is violated may constitute a separate violation.

(3) The Commission or a Commission Delegee, in determining the amount of sanction(s) to impose may consider greater or lesser sanction(s) depending on aggravating or mitigating circumstances including, but not limited to:
(a) Aggravating Circumstances.
1. Duration and severity of violation;
2. Whether the Licensee has previously been subject to an administrative action against its License including, but not limited to, a notice of deficiency;
3. Whether the Licensee knew or had reason to know of the violation including, but not limited to, warning or issuance of a notice of deficiency; and
4. Whether the offense:
a. Constitutes grounds for denial of a renewal application or suspension or revocation of licensure;
b. Involved multiple Persons or Entities Having Direct or Indirect Control or agents of the Licensee;
c. Involved any compensating features associated with a valid waiver issued pursuant to 935 CMR 501.850;
d. Involved a person younger than 21 years old or a Registered Qualifying Patient or Caregiver;
e. Involved or affected multiple Qualifying Patients;
f. Involved or exposed the public to risk of diversion; or
g. Created a risk to the public health, safety or welfare.
(b) Mitigating Circumstances.
1. The financial impact of corrective measures, if any, which provide safeguards exceeding the minimum requirements of 935 CMR 501.000. However, financial impact shall not include any cost associated with loss of economic opportunity due to noncompliance or costs of corrective action necessary to achieve compliance with minimum requirements of 935 CMR 501.000;
2. The Licensee's or Registrant's good faith efforts to avoid a violation;
3. The Licensee's or Registrant's degree of cooperation in the investigation; and
4. The Licensee's or Registrant's willingness to accept responsibility.

(4) The fine or financial penalty shall be due and payable within 30 calendar days of the date of one of the following:
(a) The date of the assessment; or
(b) If a hearing is requested pursuant to 935 CMR 501.500, the date of the final agency action.

(5) Failure to timely pay the fine or financial penalty may result in further action being taken by the Commission or a Commission Delegee including, but not limited to, suspension or revocation of a License or registration.

(6) If remaining unpaid at the time of licensure renewal, the fine or financial penalty shall be added to the fee for renewal of the License. A License shall not be renewed without the payment of the renewal fee and if applicable, an unpaid fine or financial penalty.

(7) All fines and financial penalties collected by or on behalf of the Commission, pursuant to 935 CMR 501.360, shall be made payable to the Commission and deposited into the Marijuana Regulation Fund.

(8) The failure to cooperate with provisions of 935 CMR 501.360 may result in administrative or disciplinary action against the Licensees or Registrants.

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501.370: Orders to Show Cause

(1) If, after investigation, the Commission or a Commission Delegee determines that there are grounds to suspend or revoke a License or registration, it may also issue an Order to Show Cause why the Licensee or registration should not be suspended or revoked.

(2) Notice of Violations. The Commission or a Commission Delegee shall send written notice of the action taken against a Licensee or Registrant and the basis for that action, which shall include, but not be limited to, the following information:

(a) the Commission's statutory and regulatory authority, including its jurisdiction over the subject matter and its authority to issue the order with regards to the License or registration;
(b) the factual basis(es) of the order;
(c) the alleged violation(s) of law, including the alleged noncompliance with law, regulation, guideline or other applicable requirement;
(d) the restriction(s) on the Licensee's or Registrant's operations or the sale or use of Marijuana, Marijuana Products, or MIPs, if any;
(e) the potential for further disciplinary action(s), sanction(s) or fine(s); and
(f) the right to a hearing, if any.

(3) The Commission or a Commission Delegee may modify, amend or rescind an order issued pursuant to 935 CMR 501.370.

501.400: Medical Marijuana Treatment Center License: Grounds for Denial of Application for Licensure

Each of the following, in and of itself, constitutes full and adequate grounds for denying an applicant on an application for an MTC License and the associated individuals and entities, but not for the renewal of a License.

(1) The applicant failed to complete the application process within the time required by the Commission.

(2) Information provided by the applicant was deceptive, misleading, false or fraudulent, or that tends to deceive or create a misleading impression, whether directly, or by omission or ambiguity, including lack of disclosure or insufficient disclosure.

(3) The application indicates an inability to maintain and operate an MTC in compliance with the requirements of St. 2016, c. 334, as amended by St. 2017, c. 55, M.G.L. c. 94I, and 935 CMR 501.000 including, but not limited to, 935 CMR 501.105 and 935 CMR 501.110 based on the submission of information required by 935 CMR 501.101(1) and (2).

(4) The applicant has been determined to be unsuitable pursuant to any one or more of the factors listed in 935 CMR 501.800 and 501.801.

(5) The applicant failed to comply with the control limitations listed in 935 CMR 501.050(1)(b) or would likely fail to comply with such limitations if a License were granted.

(6) An applicant had its License or registration revoked or application denied in the Commonwealth or an Other Jurisdiction.

(7) Any other ground that serves the purposes of St. 2016, c. 334, as amended by St. 2017, c. 55, M.G.L. c. 94I, or 935 CMR 501.000.

501.415: Void Medical Marijuana Treatment Center License

An MTC License is void if the MTC Ceases to Operate or transfers its location without Commission approval or adds a Person or Entity Having Direct or Indirect Control to the License without Commission approval.

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501.450: Medical Marijuana Treatment Center Registration or License: Grounds for Suspension, Revocation and Denial of Renewal Applications

Each of the following, in and of itself, constitutes full and adequate grounds for suspending or revoking an MTC's License or denying a renewal application for an MTC License.

(1) The MTC is not operational within the time projected in the License application or the time otherwise approved by the Commission.

(2) Information provided by the MTC was deceptive, misleading, false or fraudulent, or that tends to deceive or create a misleading impression, whether directly, or by omission or ambiguity, including lack of disclosure or insufficient disclosure.

(3) The MTC has failed to comply with any requirement of St. 2016, c. 334, as amended by St. 2017, c. 55, M.G.L. c. 94I, and 935 CMR 501.000, or any applicable law or regulation including, but not limited to, the laws and regulations of the Commonwealth relating to taxes, child support, workers' compensation, and professional and commercial insurance coverage.

(4) The MTC has failed to submit a plan of correction as required or to implement the plan as submitted pursuant to 935 CMR 501.320.

(5) The MTC has assigned or attempted to change ownership or assign its License to another entity without prior approval of the Commission under 935 CMR 501.104.

(6) The Licensee failed to comply with the control limitations listed in 935 CMR 501.050(1)(b) or would likely fail to comply with such limitations, if a renewal License were granted.

(7) There has been a lack of responsible operation of the MTC, as shown by, but not limited to, one or more of the following:

(a) Failure to maintain the MTC in a clean, orderly, and sanitary fashion;

(b) Permitting an MTC agent to use a Registration Card belonging to a different person;

(c) Repeated failure to verify the proper temporary or annual registration documents for a Patient or Personal Caregiver, in accordance with 935 CMR 501.015(3) and 501.020(2), prior to permitting that individual on the Premises of an MTC or making sales of Marijuana or MIPs to that individual; or

(d) Other incompetent or negligent operation.

(8) The financial management of the MTC has resulted in the filing of a petition for a Court Appointee related to the financial solvency of the MTC.

(9) A Licensee fails to satisfy the requirements of 935 CMR 501.104(3) or (4), as applicable.

(10) A Person on an MTC License has maintained a substandard level of compliance with the statutory and regulatory requirements for the operation of an MTC, healthcare facility or facility for providing Marijuana for medical purposes in an Other Jurisdiction including, but not limited to, failure to correct deficiencies, a limitation on, or a suspension, revocation, or refusal to grant or renew a registration or License to operate, or certification for Medicaid or Medicare.

(11) The conduct or practices of the MTC demonstrate a lack of suitability as specified in 935 CMR 501.800 and 501.801.

(12) An individual or entity on an MTC License or MTC Agent has a history of criminal conduct as evidenced by any criminal proceedings that resulted in conviction, guilty plea, plea of *nolo contendere*, or admission to sufficient facts in the Commonwealth or Other Jurisdictions.

(13) An individual or entity listed on an MTC License has committed, permitted, aided or abetted or conspired to commit any illegal practice(s) in the operation of any MTC including, but not limited to, engaging in the diversion of Marijuana or Marijuana Products.

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(14) The MTC 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 MTC.

(15) The conduct or practices of the MTC have been detrimental to the safety, health, or welfare of Registered Qualifying Patients, Personal Caregivers, or the public.

(16) The MTC does not have sufficient financial resources to meet the requirements of M.G.L. c. 94I, or 935 CMR 501.000.

(17) Any other ground that serves the purposes of St. 2016, c. 334, as amended by St. 2017, M.G.L. c. 94I, or 935 CMR 501.000.

501.500: Hearings and Appeals of Actions on Registrations or Licenses

(1) The Commission has the authority to administer the administrative hearing process under M.G.L. c. 94I, § 7 and M.G.L. c. 94G, § 4(a)(xxiv) and (g).

(2) A Licensee shall be afforded a hearing on any adverse action taken pursuant to:
(a) 935 CMR 501.360;
(b) 935 CMR 501.370;
(c) 935 CMR 501.450; or
(d) Any other notice of the Commission that specifies that the Licensee or Registrant has a right to challenge the findings of fact and conclusions of law set forth in the Commission's notice using the process set forth in 935 CMR 501.500.

(3) Notice(s).
(a) Notice of Violation(s) includes a notice issued in accordance with 935 CMR 501.360 or 935 CMR 501.370.
(b) Notice of Other Action(s). The Commission or a Commission Delegee shall send written notice of the action including, but not limited to, a denial of a renewal License, taken against a Licensee and the basis(es) for that action, which shall include, but not be limited to, the following information:
1. The Commission's statutory and regulatory authority, including its jurisdiction over the subject matter and its authority to take action with regards to the License or registration;
2. The factual basis(es) for that action;
3. The alleged violation(s) of law;
4. The current restriction(s) on the Licensee's or Registrant's operations or the sale or use of Marijuana, Marijuana Products, or MIPs, if any;
5. The potential for further disciplinary action(s), sanction(s) or fine(s); and
6. The Licensee's right to a hearing, if any.
(c) The Commission or a Commission Delegee may modify, amend or rescind a notice issued under 935 CMR 500.500(3)(c).

(4) Hearing Request. The hearing request shall be submitted in a form and a manner determined by the Commission or a Commission Delegee including, but not limited to, the request shall be made no later than 30 days after the effective date of the notice. A request for a hearing is filed on the date the request is received by the Commission.
(a) A timely request for a hearing shall specifically identify each issue and fact in dispute and state the position of the Licensee, the pertinent facts to be adduced at the hearing, and the reasons supporting that position.
(b) The failure to timely file a request for a hearing or to state the basis of the hearing request will result in dismissal of the challenge to the findings set forth in the notice of violation(s) or action(s).

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(c) If a timely request for a hearing is made, the Licensee may also seek to stay any action until there has been a final agency action pursuant to 935 CMR 501.500(7) or 935 CMR 501.500(12); provided however, that if the Commission issues an order or notice on the basis of information that ongoing operations pose an immediate or serious threat to the public health, safety, or welfare, and that operations without restrictions during the pendency of the administrative appeal could reasonably be expected to endanger the health, safety, or welfare of the public, there will be no stay.

(d) Nothing in 935 CMR 501.500 shall preclude the Commission or a Commission Delegee from issuing a stay.

(5) Hearing Officer. The Commission shall designate a Hearing Officer or delegate this designation to the Executive Director.

(6) Hearing Officer's Authority to Take Action in the Event of Waiver, Default or Summary Decision.

(a) Waiver. If a Licensee fails to request a hearing in a timely manner or otherwise waives their right to a hearing, the Hearing Officer may assume the truth of the allegations set forth in the notice and recommend to the Commission disciplinary action(s), sanction(s) or fine(s) or an informal disposition of the matter.

(b) Default. If a Licensee defaults, the Hearing Officer or a Commission Delegee may assume the truth of the allegations set forth in the notice and recommend to the Commission appropriate disciplinary action(s), sanction(s) or fine(s) or an informal disposition of the matter.

(c) Summary Decision. If there is no genuine issue of fact to be determined by a hearing, the Hearing Officer may assume the truth of the allegations set forth in the notice and recommend to the Commission disciplinary action(s), sanction(s) or fine(s) or an informal disposition of the matter.

(d) For actions without a hearing under 935 CMR 501.500(5)(a) through (c), the Hearing Officer may conduct an evidentiary hearing on the appropriateness of disciplinary action(s), sanction(s) or fine(s).

(7) Commission's Authority to Review, Approve or Reject Informal Dispositions. At any time, the Commission or a Commission Delegee may, in its discretion, review, approve or reject an informal disposition, but only on a showing that the alleged violations have been corrected, and a submission of a written waiver of its right to judicial review.

(8) Hearing Notice. If a hearing is requested in a timely manner under 935 CMR 501.500(4), the Hearing Officer shall provide notice and a hearing within a reasonable time after that request, or as soon as is practicable, or at a time mutually agreed by the parties.

(a) The hearing notice should comply with M.G.L. c. 30A, § 11(1).

(b) Prior to the commencement of a proceeding, a Hearing Officer may conduct conference(s) and refer or require the parties to participate in settlement negotiations. If the parties reach a settlement, the Hearing Officer shall suspend the proceedings pending Commission consideration of the matter under 935 CMR 501.500(7).

(9) Conduct of the Hearing.

(a) To the extent that a Hearing Officer conducts a proceeding, it shall be conducted pursuant to M.G.L. c. 30A and the Standard Adjudicatory Rules of Practice and Procedure, which includes 801 CMR 1.01: *Formal Rules*, 801 CMR 1.02: *Informal/Fair Hearing Rules*, and/or 801 CMR 1.03: *Miscellaneous Provisions Applicable to All Administrative Proceedings*.

(b) In the case of an Order to Show Cause, why a License or Registration should not be suspended or revoked, the hearing shall be conducted pursuant to M.G.L. c. 30A, §§ 10, 11 and 12.

(c) If after the commencement of the hearing, the parties reach a settlement, the Hearing Officer shall suspend the proceedings pending Commission consideration of the matter under 935 CMR 501.500(7).

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(10) Reopening of Hearings. At any time before the Commission's Final Decision is issued, on the motion of any party or on their own initiative, the Commission by a majority vote or the Hearing Officer may on good cause shown reopen the hearing for the purpose of receiving new evidence.

(11) Hearing Officer's Recommended Decision.

(a) Burden of proof.

1. For a notice of violation(s), the Commission or a Commission Delegee bears the burden of proving the Licensee(s)' violation(s) of law.

2. For a notice of action(s) including, but not limited to, the denial of a renewal License, the Licensee bears the burden of proving the qualifications for licensure.

(b) The Hearing Officer will make a recommended decision to the Commission.

1. The recommended decision may affirm, modify, or overturn the actions proposed in the Commission's notice of violation(s) or action(s).

2. The recommended decision shall be in writing to the Commission for its consideration, which shall include, but not be limited to, a statement of reasons, including determination of each issue of fact or law necessary to the decision.

3. The Hearing Officer may recommend disciplinary action(s), sanction(s) or fine(s), or an informal disposition of the matter and provide reasons for the recommendation, including whether the recommendation is consistent with the notice of violation(s) or action(s) and the Commission's prior disciplinary action(s), sanction(s) or fine(s).

4. The Hearing Officer shall electronically mail a copy of the recommended decision to each Licensee or their attorney(s) of record and on request, mail a copy of the recommended decision to each Licensee or their attorney(s) of record.

(c) Within 21 calendar days of the issuance of the recommended decision, the parties may submit to the Commission written objections and arguments regarding the Hearing Officer's recommended decision.

(12) Final Decision.

(a) The Commission may affirm, adopt, modify, amend, or reverse the recommended decision of the Hearing Officer or remand the matter for further consideration.

(b) The Commission's decision shall be considered the Final Decision, unless its authority to render a Final Decision is delegated.

1. The Final Decision shall be in writing. The drafting of the decision may be delegated to the General Counsel so long as the Commission votes on the substance of the Final Decision.

2. The Final Decision may incorporate by reference the Hearing Officer's recommended decision in whole or in part. The Commission shall consider the parties' written objections and arguments regarding the Hearing Officer's recommended decision under 935 CMR 501.500(11)(c), but is not required to respond to these submissions.

3. The Final Decision shall include, but not be limited to, the following:

a. A statement of reasons, including determination of each issue of fact or law necessary to the decision; and

b. Any disciplinary action(s), sanction(s) or fine(s), or an informal disposition of the matter.

(c) The vote on the Final Decision shall be supported and signed by at least three Commissioners. As part of its vote, the Commission may delegate to the General Counsel action(s) needed to finalize the decision including, but not limited to, the stamping of Commissioners' signatures.

(d) The Commission's Final Decision is a final agency action reviewable pursuant to M.G.L. c. 30A, § 14.

(e) The Commission or a Commission Delegee shall electronically mail a copy of the recommended decision to each Licensee or Registrant or their attorney(s) of record and on request, mail a copy of the recommended decision to each Licensee or Registrant or their attorney(s) of record.

(13) Appeals. Any Person aggrieved by a Final Decision may appeal that decision to the Superior Court in accordance with M.G.L. c. 30A, § 14. The filing of an appeal shall not operate as a stay of enforcement of the Commission's decision, but the Commission may in its discretion stay enforcement.

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501.800: Check Suitability Standard for Licensure and Registration

(1) Pursuant to M.G.L. c. 94G, §§ 4(a)(xii), (xiv), 21(a)(ii) and M.G.L. c. 94I, the Commission may make, in an exercise of its discretion, a suitability or cure determination based on a factual basis.

(2) The Commission may also delegate suitability determinations to the Executive Director, who may appoint a Suitability Review Committee (Committee) to advise the Executive Director.

(3) All suitability determinations will be made in accordance with the procedures set forth in 935 CMR 501.800.

(4) Suitability Review Process.

(a) Designated Enforcement staff (staff) shall conduct background checks and gather information and evidence applicable to a subject's suitability and make a recommendation as to suitability and, as appropriate, a cure. Staff may make an adverse suitability recommendation on finding information and evidence that would result in a Mandatory Disqualification, Presumptive Negative Suitability Determination or that would support a Negative Suitability Recommendation.

(b) Before making an adverse suitability recommendation, staff shall consult with the Executive Director or the Executive Director's delegee(s). The Executive Director may dispose of the matter or direct the Committee to institute a review of suitability or take any action consistent with M.G.L. c. 94G.

(c) If the Executive Director institutes a suitability review, the staff shall send the written notice of an adverse suitability recommendation that identifies the Person subject to suitability review, the particular offenses or conduct relied on and whether that the offenses or conduct results in a Mandatory Disqualification or Presumptive Negative Suitability Determination, or supports a Negative Suitability Recommendation, and reasons for that determination.

(d) The notice of an adverse suitability recommendation shall provide an opportunity to cure the suitability issue by removing the subject from its application. To the extent that an applicant can propose a cure, for example, by removing a subject from an application, the cure shall be done in a manner determined by the Commission.

(e) The notice of an adverse suitability recommendation shall provide the subject with the opportunity to request an informal proceeding before the Suitability Review Committee.

(f) A request for an informal proceeding shall be submitted in a form and manner determined by the Commission and no later than 14 business days following the effective date of the adverse suitability recommendation. Requests received after 14 business days may be considered at the discretion of the Executive Director or the Committee.

(g) On notification of an adverse suitability recommendation and receipt of an informal proceeding request, the Committee shall initiate a proceeding, make a recommendation and/or take other action(s) after consultation with the Executive Director.

(h) If an applicant or a subject does not make a timely request for an informal proceeding before the Committee, the Executive Director may forward the adverse suitability recommendation to the Committee for a review, make a suitability determination, or take any action consistent with M.G.L. c. 94G.

(5) The Committee shall:

(a) Consider and review whether offense(s) or information resulting in a Mandatory Disqualification or a Presumptive Negative Suitability Determination under 935 CMR 501.801: *Table A*, 935 CMR 501.802: *Table B* and 935 CMR 501.803: *Table C*, as applied to the subject, renders the subject unsuitable for licensure or registration;

(b) Consider and review whether offense(s) or information not otherwise set forth in 935 CMR 501.801: *Table A*, 935 CMR 501.802: *Table B* and 935 CMR 501.803: *Table C* would result in a Negative Suitability Recommendation and renders the subject unsuitable for licensure or registration; and

(c) Subsequent to its review of a suitability matter, make recommendations to the Executive Director, or the Commission, or a Commission Delegee.

(6) When reviewing an adverse suitability recommendation by staff that there is an offense resulting in a Mandatory Disqualification, the Commission shall consider credible and reliable information demonstrating that:

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501.800: continued

(a) The disqualifying event was based on erroneous information or evidence; and
(b) The subject can demonstrate that prior to the informal proceeding, the adverse suitability recommendation can no longer be supported because the error was corrected.

(7) When reviewing an offense resulting in a Presumptive Negative Suitability Determination, the committee shall take into consideration the following factors:
(a) Nature and specific circumstances of the offense or incident:
1. Time since the offense or incident;
2. Number of offenses or incidents;
3. If criminal, sentence imposed and length, if any, of incarceration;
4. If criminal, sentence imposed and length, if any, of parole or probation; and
5. Relationship of offense or incident to nature of work to be performed;
(b) Mitigating factors:
1. Age of the subject at the time of the offense or incident; and
2. Whether offenses or incidents were committed in association with dependence on drugs or alcohol from which the subject has since recovered;
(c) Conduct since time of the offense or incident:
1. If criminal, any relevant evidence of rehabilitation or lack thereof, such as information about compliance with conditions of parole or probation, including orders of no contact with victims and witnesses; and
2. The subject's conduct and experience since the time of the offense including, but not limited to, professional or educational certifications obtained; and
(d) Any other relevant information, including information submitted by the subject to the Committee or requested by the Commission.

(8) The Committee may make a Negative Suitability Determination in the following circumstances:
(a) On the receipt of the staff's Negative Suitability Recommendation that there is credible and reliable information in the five years immediately preceding the application:
1. The applicant's or Licensee's prior actions posed or would likely pose a risk to the public health, safety, or welfare if a License or registration is granted or renewed; and
2. The risk posed by the applicant's or Licensee's actions relates or would likely relate to the operation of an MTC.
(b) On review of this recommendation, the Committee shall consider whether the staff has carried its burden of demonstrating:
1. The applicant's or Licensee's prior actions posed or would likely pose a risk to the public health, safety, or welfare if a License or registration is granted or renewed; and
2. The risk posed by the applicant's or Licensee's actions relates or would likely relate to the operation of an MTC.

(9) Where an MTC Agent listed on the application for licensure in accordance with 935 CMR 501.101(1) is found to have no suitability issue under 935 CMR 501.801: *Table A*, or to have overcome any suitability issue, the Agent shall not be subject to a subsequent suitability review under 935 CMR 501.802: *Table B* and 935 CMR 501.803: *Table* C.
(a) Nothing in 935 CMR 501.800 relieves the requirement that the applicant or Licensee conduct background checks on its agents and disclose to the Commission's staff any suitability issue(s) that arise as a result of those checks.
(b) Any subsequent disclosure of background check information for an MTC Agent required to be listed and evaluated pursuant to 935 CMR 501.101(1), will be assessed pursuant to 935 CMR 501.801: *Table A* or on other grounds for a Negative Suitability Determination only.
(c) Nothing in 935 CMR 501.800 precludes the Commission from initiating a suitability review based on background information received after the Commission's initial suitability review.

(10) The Executive Director in consultation with the Committee may determine that a subject's suitability warrants the Commission's consideration. The Executive Director may also remand a matter to staff for further investigation prior to making a determination. The Commission may consider the determination when acting on the application or renewal.

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501.801: Suitability Standard for Licensure

(1) In accordance with M.G.L. c. 94I and M.G.L. c. 94G, § 5, the Commission is prohibited from licensing an MTC where an individual who is a Person Having Direct or Indirect Control has been convicted of a felony or offense in an Other Jurisdiction that would be a felony in the Commonwealth, except a prior conviction solely for a Marijuana offense or solely for a violation of M.G.L. c. 94C, § 34, unless the offense involved distribution of a controlled substance, including Marijuana, to a minor.

(2) For purposes of determining suitability based on background checks in accordance with 935 CMR 501.101(1)(b):

(a) All conditions, offenses, and violations are construed to include Massachusetts law or like or similar law(s) of Other Jurisdictions.

(b) All criminal disqualifying conditions, offenses, and violations include the crimes of attempt, accessory, conspiracy, and solicitation.

(c) Juvenile dispositions shall not be considered as a factor for determining suitability.

(d) Where applicable, all look back periods for criminal conditions, offenses, and violations included in 935 CMR 501.801: *Table A* commence on the date of disposition; provided, however, that if disposition results in incarceration in any institution, the look back period shall commence on release from incarceration.

(e) Unless otherwise specified in Table, a criminal condition, offense or violation include both convictions, which include guilty pleas and pleas of *nolo contendere*, and dispositions resulting in continuances without a finding or other disposition constituting an admission to sufficient facts, but shall exclude other non-conviction dispositions.

(3) Licensees and Registered Agents shall remain suitable at all times a License or registration remains in effect. An individual subject to this section shall notify the Commission in writing of any charge or conviction of an offense that would result in a presumptive negative suitability determination or mandatory disqualification under 935 CMR 501.801: *Table A*, 935 CMR 501.802: *Table B* and 935 CMR 501.803: *Table C* within ten days of such individual's arrest or summons, and within ten days of the disposition on the merits of the underlying charge. Failure to make proper notification to the Commission may be grounds for disciplinary action. If the Commission lawfully finds a disqualifying event and the individual asserts that the record was sealed, the Commission may require the individual to provide proof from a court evidencing the sealing of the case.

Table A: MTC Licensees. Shall apply to applicants, Licensees and Persons or Entities Having Direct or Indirect Control in accordance with 935 CMR 501.101(1) and 935 CMR 501.103(4).

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

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501.801: continued

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

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501.801: continued

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

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501.801: continued

Time Period	Precipitating Issue	Result
Preceding Five Years	The applicant's or Licensee's prior actions posed or would likely pose a risk to the public health, safety, or welfare; and the risk posed by the applicant's or Licensee's actions relates or would likely relate to the operation of an MTC.	May make a Negative Suitability Determination in accordance with 935 CMR 501.800(8)

501.802: Suitability Standard for Registration as a Medical Marijuana Treatment Center Agent

(1) In accordance with M.G.L. c. 94G, § 4(a½)(iii), the Commission has established qualifications for licensure and minimum standards for employment that are directly and demonstrably related to the operation of an MTC and similar to qualifications for licensure and employment standards in connection with alcoholic Beverages as regulated under M.G.L. c. 138; provided, that a prior conviction solely for a Marijuana-related offense or for a violation of M.G.L. c. 94C, § 34 shall not disqualify an individual or otherwise affect eligibility for employment or licensure in connection with an MTC, unless the offense involved the distribution of a controlled substance, including Marijuana, to a minor.

(2) For purposes of determining suitability based on background checks in accordance with 935 CMR 501.030 and 501.101.

(a) All conditions, offenses, and violations are construed to include Massachusetts law or like or similar law(s) of Other Jurisdictions.

(b) All criminal disqualifying conditions, offenses, and violations include the crimes of attempt, accessory, conspiracy and solicitation.

(c) Juvenile dispositions shall not be considered as a factor for determining suitability.

(d) Where applicable, all look back periods for criminal conditions, offenses, and violations included in 935 CMR 501.802: *Table B* and 935 CMR 501.803: *Table C* commence on the date of disposition; provided however, that if disposition results in incarceration in any institution, the look back period shall commence on release from incarceration.

(e) Unless otherwise specified in 935 CMR 501.802: *Table B* and 935 CMR 501.803: *Table C*, a criminal condition, offense or violation shall include both convictions, which include guilty pleas and pleas of *nolo contendere*, and dispositions resulting in continuances without a finding or other disposition constituting an admission to sufficient facts, but shall exclude other non-conviction dispositions. All suitability determinations will be made in accordance with the procedures set forth in 935 CMR 501.800. In addition to the requirements established in 935 CMR 501.800, the Suitability Review Committee shall:

1. Consider whether offense(s) or information that would result in a Presumptive Negative Suitability Determination under 935 CMR 501.802: *Table B* and 935 CMR 501.803: *Table C* renders the subject unsuitable for registration, regardless of the determination of the Licensee; and

2. Consider appeals of determinations of unsuitability based on claims of erroneous information received as part of the background check during the application process in accordance with 803 CMR 2.17: *Requirement to Maintain a Secondary Dissemination Log* and 803 CMR 2.18: *Adverse Employment Decision Based on CORI or Other Types of Criminal History Information Received from a Source Other than the DCJIS*.

(3) Registered Agents shall remain suitable at all times a License or registration remains in effect. An individual subject to this section shall notify the Commission in writing of any charge or conviction of an offense that would result in a presumptive negative suitability determination or mandatory disqualification under 935 CMR 501.802: *Table B* and 935 CMR 501.803: *Table C* within ten days of such individual's arrest or summons, and within ten days of the disposition on the merits of the underlying charge. Failure to make proper notification to the Commission may be grounds for disciplinary action. If the Commission lawfully finds a disqualifying event and the individual asserts that the record was sealed, the Commission may require the individual to provide proof from a court evidencing the sealing of the case.

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501.801: continued

Table B: MTC Agents. Shall apply solely to applicants for registration as an MTC Agent at an MTC licensed pursuant to 935 CMR 501.101.

Time Period	Precipitating Issue	Result
Present (during time from start of application process through action on application or renewal).	**Open/Unresolved Criminal Proceedings**: Any outstanding or unresolved criminal proceeding, the disposition of which may result in a felony conviction under the laws of the Commonwealth or Other Jurisdictions, but excluding any criminal proceeding based solely on a Marijuana-related offense or a violation of M.G.L. c. 94C, § 32E(a) or § 34.	Presumptive Negative Suitability Determination
Present	**Open Professional or Occupational License Cases**	Presumptive Negative Suitability Determination
Present	**Open/Unresolved Marijuana License or Registration Violations (Massachusetts or Other Jurisdictions)**: An outstanding or unresolved violation of the regulations as included in 935 CMR 501.000 or a similar statute or regulations of Other Jurisdictions, which has either (a) remained unresolved for a period of six months or more; or (b) the nature of which would result in a determination of unsuitability for registration.	Presumptive Negative Suitability Determination
Present	**Submission of Untruthful Information to the Commission Including, but Not Limited to**: Submission of information in connection with an agent application, waiver request or other Commission action that is deceptive, misleading, false or fraudulent, or that tends to deceive or create a misleading impression, whether directly, or by omission or ambiguity, including lack of disclosure or insufficient disclosure; or Making statements during or in connection with a Commission inspection or investigation that are deceptive, misleading, false or fraudulent, or that tend to deceive or create a misleading impression, whether directly, or by omission or ambiguity, including lack of disclosure or insufficient disclosure.	Presumptive Negative Suitability Determination

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501.801: continued

Time Period	Precipitating Issue	Result
Indefinite	**Sex Offense**: Felony conviction for a "sex offense" as defined in M.G.L. c. 6, § 178C and M.G.L. c. 127, § 133E or like offenses in Other Jurisdictions.	Mandatory Disqualification
Indefinite	**Felony Convictions in Massachusetts or Other Jurisdictions** for trafficking crimes under M.G.L. c. 94C, § 32E, or like crimes in Other Jurisdictions, except convictions for solely Marijuana-related crimes under M.G.L. c. 94C, § 32E (a), or like crimes in Other Jurisdictions.	Mandatory Disqualification
Indefinite	**Conviction or Continuance without a Finding (CWOF) for Any Distribution of a Controlled Substance to a Minor**	Mandatory Disqualification
Indefinite	**Failure to Register as a Sex Offender in Any Jurisdiction**	Mandatory Disqualification
Indefinite	(**MTC Agents Engaging in Transportation or Home Delivery Operations Only)** **Multiple Crimes of Operating under the Influence**: Two offenses within a ten-year period; or Three or more offenses within any period of time.	Presumptive Negative Suitability Determination
Preceding Five Years	**Felony Convictions in Massachusetts or Other Jurisdictions** for crimes of violence against a person or crimes of dishonesty or fraud, "violent crime" to be defined the same way as under M.G.L. c. 140, § 121 and M.G.L. c. 127, § 133E.	Mandatory Disqualification
Preceding Five Years	The applicant's or Licensee's prior actions posed or would likely pose a risk to the public health, safety, or welfare; and the risk posed by the applicant's or Licensee's actions relates or would likely relate to the operation of an MTC.	May make a Negative Suitability Determination in accordance with 935 CMR 501.800(8)

501.803: Suitability Standard for Registration as a Laboratory Agent

(1) 935 CMR 501.803 shall apply to Laboratory Agents in their capacity as employees or volunteers for an Independent Testing Laboratory licensed pursuant to 935 CMR 501.029 registered with the DCJIS pursuant to 803 CMR 2.04: *iCORI Registration and the Commission* for purposes of determining suitability for registration as a Laboratory Agent with the Licensee.

(2) In accordance with M.G.L. c. 94G, § 15(b)(5), the Commission is prohibited from issuing a registration to a Laboratory Agent who has been convicted of a felony drug offense in the Commonwealth or Other Jurisdictions that would be a felony drug offense in the Commonwealth.

(3) For purposes of determining suitability based on background checks performed in accordance with 935 CMR 501.803:

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501.803: continued

(a) All conditions, offenses, and violations are construed to include Massachusetts law or similar law(s) of Other Jurisdictions.
(b) All criminal disqualifying conditions, offenses, and violations include the crimes of attempt, accessory, conspiracy, and solicitation.
(c) Juvenile dispositions shall not be considered as a factor for determining suitability.
(d) Where applicable, all look back periods for criminal conditions, offenses, and violations included in 935 CMR 501.803: *Table C* commence on the date of disposition; provided however, that if disposition results in incarceration in any institution, the look back period shall commence on release from incarceration.
(e) Unless otherwise specified in 935 CMR 501.803: *Table C*, a criminal condition, offense or violation shall include both convictions, which include guilty pleas and pleas of *nolo contendere*, and dispositions resulting in continuances without a finding or other disposition constituting an admission to sufficient facts, but shall exclude other non-conviction dispositions.
(f) All suitability determinations will be made in accordance with the procedures set forth in 935 CMR 501.800. In addition to the requirements established in 935 CMR 501.800 shall:

1. Consider whether offense(s) or information that would result in a Presumptive Negative Suitability Determination under 935 CMR 501.803: *Table C* renders the subject unsuitable for registration, regardless of the determination of the Licensee; and
2. Consider appeals of determinations of unsuitability based on claims of erroneous information received as part of the background check during the application process in accordance with 803 CMR 2.17: *Requirement to Maintain a Secondary Dissemination Log* and 803 CMR 2.18: *Adverse Employment Decision Based on CORI or Other Types of Criminal History Information Received from a Source Other than the DCJIS*.

Table C: Registration as a Laboratory Agent. Shall apply solely to applicants for registration as a Laboratory Agent in accordance with 935 CMR 501.803 at an MTC registered or licensed pursuant to 935 CMR 501.052, or 935 CMR 500.050: *Marijuana Establishments*.

Time Period	Precipitating Issue	Result
Present (during time from start of application process through action on application or renewal).	**Open/Unresolved Criminal Proceedings**: any outstanding or unresolved criminal proceeding, the disposition of which may result in a felony conviction under the laws of the Commonwealth or a similar law in Other Jurisdictions.	Mandatory Disqualification
Present	**Open/Unresolved Marijuana Business-related License Violations (Massachusetts or Other Jurisdictions)**: an outstanding or unresolved violation of the regulations as included in 935 CMR 501.000 or a similar statute or regulations in Other Jurisdictions that has either (a) remained unresolved for a period of six months or more; or (b) the nature of which would result in a determination of unsuitability for registration.	Presumptive Negative Suitability Determination

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501.803: continued

Time Period	Precipitating Issue	Result
Present	**Submission of False or Misleading Information to the Commission Including, but Not Limited to**: Submission of information in connection with an agent application, waiver request or other Commission action that is deceptive, misleading, false or fraudulent, or that tends to deceive or create a misleading impression, whether directly, or by omission or ambiguity including lack of disclosure or insufficient disclosure; or Making statements during or in connection with a Commission inspection or investigation that are deceptive, misleading, false or fraudulent, or that tend to deceive or create a misleading impression, whether directly, or by omission or ambiguity, including lack of disclosure or insufficient disclosure.	Presumptive Negative Suitability Determination
Present	**Open Professional or Occupational License Cases**	Mandatory Disqualification
Indefinite	**Felony Convictions in Massachusetts or Other Jurisdictions** for drug offenses or trafficking crimes under M.G.L. c. 94C, § 32E, or like crimes in Other Jurisdictions.	Mandatory Disqualification
Preceding Five Years	**Felony Convictions or CWOF in Massachusetts or Other Jurisdictions** for crimes of violence against a person, "violent crime" to be defined the same way as under M.G.L. c. 140, § 121 and M.G.L. c. 127, § 133E.	Presumptive Negative Suitability Determination
Preceding Seven Years	**Felony Convictions or CWOF in Massachusetts or Other Jurisdictions** for crimes of dishonesty or fraud.	Presumptive Negative Suitability Determination

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501.803: continued

Time Period	Precipitating Issue	Result
Preceding Five Years	The applicant's or Licensee's prior actions posed or would likely pose a risk to the public health, safety, or welfare; and the risk posed by the applicant's or Licensee's actions relates or would likely relate to the operation of an MTC.	May make a Negative Suitability Determination in accordance with 935 CMR 500.800(8)

501.820: Confidentiality

(1) All records made or received by the Commission shall be public records and shall be available for disclosure on request pursuant to 935 CMR 501.820, and 950 CMR 32.00: *Public Records Access*, except the following, which shall be exempt from disclosure to the extent permitted by law:

(a) All records exempt from disclosure pursuant to M.G.L. c. 4, § 7, cl. 26;
(b) All records to the extent that they contain "personal data" pursuant to M.G.L. c. 66, § 1;
(c) All records to the extent that they contain "personal information" pursuant to M.G.L. c. 93H, § 1;
(d) All records which contain CORI as defined by 803 CMR 2.02: *Definitions*;
(e) All records which contain CHRI as defined by 803 CMR 7.02: *Definitions*; and
(f) All Confidential Records as defined in 935 CMR 501.002.

(2) The Commission shall maintain the confidentiality of all medical records including, but not limited to:

(a) All Confidential Records and information contained in the Confidential Database, including applicants for registration as a Qualifying Patient, Personal Caregiver, Institutional Caregiver, Certifying Healthcare Provider, Card Holder; or Registered Qualifying Patients, Personal Caregivers, Institutional Caregivers, Certifying Healthcare Providers, Card Holders; and
(b) Other identifying patient information.

(3) All records protected from disclosure under 935 CMR 501.820(1) or pursuant to the laws of an Other Jurisdiction may be disclosed by the Commission:

(a) If disclosure is required pursuant to a state or federal law;
(b) To the individual or the individual's authorized representative, if the individual executes a written release in a form and manner determined by the Commission;
(c) To the Commission staff for the purpose of carrying out their official duties;
(d) To the Commission Delegee(s) as authorized by the Commission;
(e) To other government officials and agencies acting within their lawful jurisdiction, which includes, but is not limited to:
1. Law enforcement personnel for the sole purpose of verifying a cardholder's registration and certification; and
2. The Board of Registration in Medicine when necessary in connection with referrals to said Board concerning violations of 935 CMR 501.000.
(f) To a healthcare professional who has a *Bona Fide* Healthcare Professional-patient Relationship with the Qualifying Patient to facilitate dispensing of Medical-use Marijuana;
(g) To an MTC or any state agency to facilitate dispensing of medical-use Marijuana;
(h) To the Commission staff if required in the course of an administrative or a judicial proceeding; or
(i) If an individual or entity obtains an order from a court of competent jurisdiction.

(4) Nothing in 935 CMR 501.820 shall prevent the Commission from acting in accordance with its authority.

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501.830: Petitions for the Adoption, Amendment or Repeal of Regulations

(1) Any interested Person may file a petition with the Commission pursuant to M.G.L. c. 30A, § 4, for the adoption, amendment or repeal of any regulation. Such petition shall be submitted in written and electronic form, be signed by the petitioner or petitioner's representative, and include the following information:

(a) The name, address, and relevant contact information for the petitioner or the petitioner's representative;

(b) The petitioner's specific interest in the regulation;

(c) The petitioner's request for the adoption, amendment or repeal of a regulation, including proposed regulatory language;

(d) If the request is to amend an existing regulation, a copy of the existing regulation with changes clearly marked on paper and electronic copies; and

(e) The reasons for the request including, but not limited to, citation to any relevant legal authority, arguments and evidence, including data, that supports the request.

(2) After receipt of a petition for submitted in accordance with 935 CMR 501.830, the Commission may consider the petition at an open meeting pursuant to M.G.L. c. 30A, § 20, and determine, in its discretion, whether to take any action on or as a result of the petition. The Commission may also delegate the review of petitions to its Executive Director.

(3) Within a reasonable time, the Commission or a Commission Delegee will notify the petitioner as to its determination, if any, concerning the petition.

(4) The submission of a petition for the adoption, amendment or repeal of any regulation pursuant to 935 CMR 501.830(1), and any action, inaction, determination or notice by the Commission pursuant to 935 CMR 501.830(2) with respect thereto, shall not constitute the adoption, amendment or repeal of a regulation, unless or until regulations are duly promulgated by the Commission in accordance with M.G.L. c. 30A, *State Administrative Procedure Act*, and 950 CMR 20.00: *Preparing and Filing Regulations*.

501.840: Nonconflict with Other Laws

(1) Nothing in 935 CMR 501.000 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, except as otherwise provided in 935 CMR 501.000.

(2) Nothing in 935 CMR 501.000:

(a) Allows the operation of a motor vehicle, boat, or aircraft while under the influence of Marijuana;

(b) 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) Requires any healthcare professional to authorize the use of medical Marijuana for a Qualifying Patient;

(d) 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) Supersedes Massachusetts law prohibiting the possession, cultivation, transport, distribution, or sale of Marijuana for nonmedical purposes;

(f) Requires the violation of federal law or purports to give immunity under federal law; or

(g) Poses an obstacle to federal enforcement of federal law.

(3) Nothing in 935 CMR 501.000 shall be construed to limit the scope of practice of a nurse practitioner pursuant to M.G.L. c. 112, § 80I.

501.850: Waivers

(1) The Commission may delegate its authority to the Executive Director to waive a regulatory requirement promulgated under M.G.L. c. 94G, § 4 and M.G.L. c. 94I, § 7. The Executive Director may determine the form and manner of the waiver process. There can be no waiver of statutory requirements.

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The official version is the printed copy which is available from the State Bookstore at http://www.sec.state.ma.us/spr/sprcat/catidx.htm.

501.850: continued

(2) The Commission may waive applicability of one or more of the requirements imposed by 935 CMR 501.000 on the submission of written documentation and a finding that:

(a) Compliance would cause undue hardship to the requestor;

(b) If applicable, the implementation of compensating features acceptable to the Commission;

(c) The noncompliance with the regulatory requirement would not jeopardize the health, safety, or welfare of any Registered Qualifying Patient or the public; and

(d) The granting of the waiver would not constitute a waiver of any statutory requirements.

(3) Waiver of Security Requirements. Any waiver of security requirements under 935 CMR 501.820, shall be requested under 935 CMR 501.110(2)(b).

(4) An adverse decision on a waiver request does not entitle an applicant or Licensee to a hearing or judicial review.

501.860: Notice

(1) The Commission shall maintain a list of individuals or entities that request notice.

(2) Notice shall be provided, in a time and manner to be determined by the Commission, to those individuals or entities on the list in advance for:

(a) Meetings of the Cannabis Control Commission;

(b) Meetings of the Cannabis Advisory Board; and

(c) Other events determined by the Commission, in its discretion.

(3) The individual or entity is responsible for ensuring that the information provided to the Commission for the purpose of receiving notice remains current.

501.900: Severability

The provisions of 935 CMR 501.000 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

935 CMR 501.000: St. 2017, c. 55; M.G.L. c. 94G and M.G.L. c. 94I.

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NON-TEXT PAGE

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Docket # 8

THE COMMONWEALTH OF MASSACHUSETTS
William Francis Galvin
Secretary of the Commonwealth

Regulation Filing *To be completed by filing agency*

CHAPTER NUMBER: **935 CMR 502.000**

CHAPTER TITLE: **Colocated Adult-use and Medical-use Marijuana Operations**

AGENCY: **Cannabis Control Commission**

SUMMARY OF REGULATION: *State the general requirements and purposes of this regulation.*

These final regulations repeal Chapter 502.

REGULATORY AUTHORITY: **St. 2016, c. 334, as amended by St. 2017, c. 55; M.G.L. c. 94G; and M.G.L. c. 94I.**

AGENCY CONTACT: **Christine Baily, General Counsel** PHONE: **617-620-1181**

ADDRESS: **2 Washington Square Union Station, 2nd Floor, Worcester, MA 01604**

Compliance with M.G.L. c. 30A

EMERGENCY ADOPTION - *if this regulation is adopted as an emergency, state the nature of the emergency.*

PRIOR NOTIFICATION AND/OR APPROVAL - *If prior notification to and/or approval of the Governor, Legislature or others was required, list each notification, and/or approval and date, including notice to the Local Government Advisory Commission.*

On June 19, 2020, notification was sent to the Department of Housing and Community Development and to the Massachusetts Municipal Association. After the filing of the draft regulations, notification was also sent to interested stakeholders.

PUBLIC REVIEW - *M.G.L. c. 30A sections 2 and/or 3 requires notice of the hearing or comment period, including a small business impact statement, be filed with the Secretary of the Commonwealth, published in appropriate newspapers, and sent to persons to whom specific notice must be given at least 21 days prior to such hearing or comment period.*

Date of public hearing or comment period: **Comment period 7/24/20-8/14/20; Hearing 8/3/20**

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FISCAL EFFECT - *Estimate the fiscal effect of the public and private sectors.*

For the first and second year: _____

For the first five years: _____

No fiscal effect: **The requirements and provisions of this chapter have been incorporated into chapters 500 and 501, as applicable.**

SMALL BUSINESS IMPACT - *M.G.L. c. 30A section 5 requires each agency to file an amended small business impact statement with the Secretary of the Commonwealth prior to the adoption of a proposed regulation. If the purpose of this regulation is to set rates for the state, this section does not apply.*

Date amended small business impact statement was filed: **December 18, 2020**

CODE OF MASSACHUSETTS REGULATIONS INDEX - *List key subjects that are relevant to this regulation:*

Cannabis Control Commission
Colocated Adult Use and Medical Use of Marijuana Operations
Adult Use of Marijuana
Medical Use of Marijuana

PROMULGATION - *State the action taken by this regulation and its effect on existing provisions of the Code of Massachusetts Regulations (CMR) or repeal, replace or amend. List by CMR number:*

Chapter 935 CMR 502.000: Adult Use and Medical Use Marijuana Operations, effective January 8, 2021.

ATTESTATION - *The regulation described herein and attached hereto is a true copy of the regulation adopted by this agency.* ATTEST:

SIGNATURE: SIGNATURE ON FILE DATE: **Dec 21 2020**

Publication - *To be completed by the Regulations Division*

MASSACHUSETTS REGISTER NUMBER: **1434** DATE: **01/08/2021**

EFFECTIVE DATE: **01/08/2021**

CODE OF MASSACHUSETTS REGULATIONS

Remove these pages:	*Insert these pages:*
223 - 240	---------

A TRUE COPY ATTEST
WILLIAM FRANCIS GALVIN
SECRETARY OF THE COMMONWEALTH
DATE 12/21/2020 CLERK mrs

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