City of Worcester, Massachusetts
Planning Board

Andrew Truman
Chair

Stephen Rolle - Vice-Chair
Satya Mitra - Clerk
Robert Ochoa-Schutz
John Vigliotti

RECEIVED
WORCESTER CITY CLERK
2013 SEP 12 P 2: 3

September 12, 2013

ZONING ORDINANCE AMENDMENT
Registered Marijuana Dispensaries
Article I, Section 2 and Article IV, Section 2, Table 4.1

TO CITY COUNCIL:
The Planning Board, to whom was referred the petition of the City Manager to amend the City of Worcester Zoning Ordinance by inserting the definition for Registered Marijuana Dispensaries, amending the Business Use table to include the zones where this use will be allowed, and inserting a note regarding required buffers (please refer to Exhibit A for details) having considered the same at its meeting on September 4, 2013, **voted unanimously** (Andy Truman not present) to recommend approval of the petition, with members Robert Ochoa-Schutz and John Vigliotti voting to recommend approval of the petition as proposed by the administration, and members Stephen Rolle and Satya Mitra voting to recommend that the proposal be modified by additionally allowing registered marijuana dispensaries in Manufacturing Limited zoning districts by-right and by Special Permit as follows:

SECTION 2. The City of Worcester Zoning Ordinance is hereby amended by inserting in Article IV, Section 2, Table 4.1 – Business Uses, the following new line 30. Registered Marijuana Dispensary:

30. Registered Marijuana Dispensary (provided, not within 300 feet of a residential district in BG and MG districts. See, Notes to Table 4.1, Note 13.)

RS 10	RS 7	RL 7	RG 5	BO 1	BO 2	BL 1	BG 2	BG 3	BG 4	BG 6	ML 0.5	ML 1.0	ML 2.0	MG 0.5	MG 1.0	MG 2.0	IP .33	IN S	IN H	A 1
N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	Y	N

SECTION 3. The City of Worcester Zoning Ordinance is hereby amended by inserting in Article IV, Section 2, Table 4.1 – Business Uses, the following new line 31. Registered Marijuana Dispensary, without cultivation operations:

31. Registered Marijuana Dispensary, without cultivation operations and within 300' of a residential district (See, Notes to Table 4.1, Note 13.)

RS 10	RS 7	RL 7	RG 5	BO 1	BO 2	BL 1	BG 2	BG 3	BG 4	BG 6	ML 0.5	ML 1.0	ML 2.0	MG 0.5	MG 1.0	MG 2.0	IP .33	IN S	IN H	A 1
N	N	N	N	N	N	N	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	N	N	Y	N

The Board that recommended the proposal as written indicated that:

- There are too many unknown factors (i.e. potential security issues) to allow them in ML zones which often abut densely populated areas.

The Board members that recommended modifications indicated that:

- The RMD locations in ML districts proposed in Section 2. Table 4.1, Use # 30 would be appropriately buffered from the residential districts via required 300' buffer.
- The RMD locations in ML districts proposed in Section 2. Table 4.1, Use # 31, would only be allowed by a discretionary permit granted by the Zoning Board of Approvals and would be consistent with the original proposal for the BG and MG districts.

Respectfully submitted for the Planning Board,

JOHN VIGLIOTTI

List of Exhibits:

Exhibit A: City Council Transmittal - City Manager's Recommendation; prepared by City Manager Michael V. O'Brien; dated August 20, 2013.

Exhibit B: Memorandum from the City of Worcester Division of Planning & Regulatory Services to the Planning Board; re: Proposed Zoning Ordinance Amendment Related to Registered Dispensaries for the Humanitarian Medical Use of Marijuana; dated August 29, 2013.

Exhibit C: Policy Analysis Map – Proposed Potential Locations for Medical Marijuana Dispensaries and Cultivation Facilities; dated July 31, 2013, prepared by Luba Zhaurova.

Exhibit D: Policy Analysis Map – Proposed Potential Locations for Medical Marijuana Dispensaries and Cultivation Facilities, as amended by the Planning Board on September 4, 2013; dated July 31, 2013, revised September 5, 2013; prepared by Luba Zhaurova.

Exhibit E: State Regulations re: 105 CMR 725 .000: Implementation of an Act for the Humanitarian Medical Use of Marijuana; last revised May 8, 2013.

Exhibit F: FAQ Regarding the Medical Use of Marijuana in Massachusetts; Last Updated May 24, 2013.

Exhibit A

Michael V. O'Brien
City Manager

CITY OF WORCESTER

cm2013aug15021537 Attachment for Item # 10.4 H

August 20, 2013

TO THE WORCESTER CITY COUNCIL

COUNCILORS:

As City Council is aware, on November 6, 2012, Ballot Question 3, "An Initiative Petition for a Law for Humanitarian Medical Use of Marijuana" passed with a 63.3% vote and won a majority of votes in 349 of the State's 351 communities according to a briefing provided by the Commonwealth's Department of Public Health (DPH) Medical Marijuana Work Group. By doing so, the voters of the Commonwealth approved a law allowing for, but regulating, the cultivation, distribution, possession, and use of marijuana for medical purposes.

On May 8, 2013 the Commonwealth's Public Health Council unanimously approved regulations related to the medicinal use of marijuana, which became effective on May 24, 2013. These regulations provide guidance on restrictions related to medical marijuana, including the use of land for Registered Medical Marijuana Dispensaries (RMDs) and related cultivation that impacts localities. While primary responsibility for medical marijuana regulation and control lies with the Commonwealth and the Massachusetts DPH, I am encouraged that State regulations allow communities to regulate siting through local zoning controls.

I assembled a multidisciplinary "working group" of key internal staff to consider this new law and its implications. The issues presented by this new law are complex. Balancing medical needs (with legal limitations and the potential for abuse) requires careful oversight by the Commonwealth and ongoing attention by the City. If the City fails to act quickly, we recognize that the "hardship provision" of the law allows qualifying patients unable to access Medical Marijuana Dispensaries due to financial, physical, or

OFFICE OF THE CITY MANAGER, CITY HALL, WORCESTER, MA 01608
TELEPHONE (508) 799-1175 | FAX (508) 799-1208
EMAIL: citymanager@worcesterma.gov

transportation issues, to cultivate marijuana anywhere within the city in an enclosed, locked facility. Given safety concerns related to home cultivation, with recognition of the medical exigencies behind the law, the working group has expedited its research and development of local regulations appropriate to the situation. At this time, we believe it is important for the City to establish clear zoning controls to ensure the proper location and operation for RMDs and related cultivation.

At a minimum, the City's Zoning Ordinance must be amended to allow both RMDs and related marijuana cultivation facilities since neither use exists within our Zoning Ordinance and is therefore not allowed. Since the State will begin accepting applications for RMDs on August 22, 2013, **it is very important that the City begin its formal consideration of land use regulations immediately to allow this use as required by State Law. If there is no local zoning restriction, RMDs will be authorized under State law to site in most areas of the city**.

Therefore, I respectfully recommend the attached proposed zoning ordinance forwarded by Timothy J. McGourthy, Chief Development Officer, be referred to Planning Board to begin the formal consideration process. By beginning the advertising and review process, these attached zoning recommendations will be applicable as of the date of first advertisement.

I want to thank the internal working group and especially commend Joel Fontane, Director of Planning & Regulatory Services, and Michael Traynor, Deputy City Solicitor, for their efforts to review the demands of this new State Law. Other regulations may be forthcoming, as the group continues its efforts.

Respectfully submitted,

Michael V. O'Brien
City Manager

CITY OF WORCESTER, MASSACHUSETTS
Executive Office of Economic Development
Planning and Regulatory Services Division

Timothy J. McGourthy
Chief Development Officer

Joel J. Fontane, Jr
Director of Planning and
Regulatory Services

To: Michael V. O'Brien , City Manager

From: Timothy J. McGourthy, Chief Development Officer

Date: August 20, 2013

Re: Registered Medical Marijuana Dispensaries

As you know, on November 6, 2012, the voters of the Commonwealth of Massachusetts approved "An Initiative Petition for a Law for Humanitarian Medical Use of Marijuana," providing for the cultivation, distribution, possession, and use of marijuana for medical purposes. The law required the Commonwealth's Department of Public Health (DPH) to craft regulations that allow for the implementation of a medical marijuana program throughout Massachusetts. On May 24, 2013, the final regulations went into effect. While primary responsibility for medical marijuana regulation and control lies with the Commonwealth and its DPH, the regulations do provide localities some involvement through local zoning controls and ordinances.

At your request, a working group composed of staff from key Departments including Economic Development, Law, Public Health, Inspectional Services, Worcester Public Schools, Police, and Fire, reviewed the municipal implications of the recent medical marijuana regulations. Members considered issues related to land use, public health, and public safety. Importantly, the working group focused on the research and development of local regulations related to the location and operation of Registered Medical Marijuana Dispensaries (RMDs) and related cultivation. While there are other issues to address moving forward – local licensing obligations, monitoring, enforcement – the Commonwealth will begin accepting applications for RMDs on August 22, 2013.

It is clear that land use regulations are needed to ensure that RMDs and related marijuana cultivation facilities are located appropriately. From a land use perspective, dispensaries and cultivation are distinct uses. Under the law, the State will license up to thirty-five (35) RMDs across Massachusetts, with no more than five (5) per county. Municipalities are not allowed to ban the facilities. If there is no local zoning restriction, RMDs may locate anywhere within Worcester, except for "...five hundred feet of a school, daycare center, or any facility in which children commonly congregate."[1] This would allow the siting of RMDs in most residential neighborhoods of Worcester.

---

[1] CMR 725.110 (A)(14)

To address this concern, we are proposing that RMDs, which will function essentially as a commercial/medical use, be limited to business general, manufacturing, or institutional-hospital zones. This will allow RMDs in most higher-density areas of the city including the downtown and primary commercial/industrial corridors, but restrict their presence in neighborhood centers. In light of the proposed limitations outlined in the regulations related to youth, we are also proposing a 300 foot buffer[2] from any public or private primary or secondary school, licensed daycare center, public library, public park, or playground, as well as a residential zone. We also recommend a 300 foot buffer between any two RMDs. If operated properly, RMDs will have similar characteristics to clinic and drug store uses which do not require buffers. However, buffering was included in the regulations adopted by the State presumably as a prudent first step until the uncertainty associated with the proper implementation and enforcement of these new regulations has been demonstrated. We agree with this approach. Through a special permit process, the Zoning Board of Appeals could consider an RMD proposal for a particular location within the 300 foot buffer from a residential district within the context of the criteria for granting a special permit, including neighborhood character and social structure.

As such, I respectfully recommend the attached zoning ordinance amendment be forward to City Council and Planning Board for adoption that defines each of these uses and the allowed zoning districts.

Specifically, the proposed ordinance allows dispensaries and cultivation, by-right, in all Business General (BG) and Manufacturing General (MG) zones provided that any such use is 300' away from any residential district and allows dispensaries without cultivation within 300' of a residential zone by special permit. Both dispensaries and cultivation facilities are allow by-right in Institutional Hospital zones. RMDs shall not be permitted within 300' of a public or private, primary or secondary school, licensed daycare center, public library, public park, or playground.

I want to highlight the contributions of Joel Fontane, Director of Planning and Regulatory Services, and Michael Traynor, Deputy City Solicitor, for their committed efforts to research and review the new regulatory framework and provide the attached recommendations.

Please do not hesitate to contact me with any questions.

Sincerely,

Timothy J. McGourthy
Chief Development Officer

[2] Not as large as the 500 foot buffer outlined in the DPH regulations, but similar to the 300 foot buffer outlined in the Massachusetts Drug Free School Zone law.

AN ORDINANCE AMENDING THE WORCESTER ZONING ORDINANCE ADOPTED APRIL 2, 1991, RELATIVE TO REGISTERED MARIJUANA DISPENSARIES

Be it ordained by the City Council of the City of Worcester as follows:

SECTION 1. The City of Worcester Zoning Ordinance is hereby amended by inserting in Article I, Section 2 after the definition of "REFUSE TRANSFER STATION FACILITY," the following new definition:

REGISTERED MARIJUANA DISPENSARY (RMD) – A building or structure used for a medical marijuana treatment center approved and licensed by the Massachusetts Department of Public Health pursuant to 105 CMR 725.000, owned and operated by a not-for-profit entity registered under 105 CMR 725.100, that acquires, cultivates, possesses, processes (including development of related products such as marijuana-infused products, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of marijuana.

SECTION 2. The City of Worcester Zoning Ordinance is hereby amended by inserting in Article IV, Section 2, Table 4.1 – Business Uses, the following new line 30. Registered Marijuana Dispensary:

30. Registered Marijuana Dispensary (provided, not within 300 feet of a residential district in BG and MG districts. See, Notes to Table 4.1, Note 13.)

RS 10	RS 7	RL 7	RG 5	BO 1	BO 2	BL 1	BG 2	BG 3	BG 4	BG 6	ML 0.5	ML 1.0	ML 2.0	MG 0.5	MG 1.0	MG 2.0	IP .33	IN S	IN H	A 1
N	N	N	N	N	N	N	Y	Y	Y	Y	N	N	N	Y	Y	Y	N	N	Y	N

SECTION 3. The City of Worcester Zoning Ordinance is hereby amended by inserting in Article IV, Section 2, Table 4.1 – Business Uses, the following new line 31. Registered Marijuana Dispensary, without cultivation operations:

31. Registered Marijuana Dispensary, without cultivation operations and within 300' of a residential district (See, Notes to Table 4.1, Note 13.)

RS 10	RS 7	RL 7	RG 5	BO 1	BO 2	BL 1	BG 2	BG 3	BG 4	BG 6	ML 0.5	ML 1.0	ML 2.0	MG 0.5	MG 1.0	MG 2.0	IP .33	IN S	IN H	A 1
N	N	N	N	N	N	N	SP	SP	SP	SP	N	N	N	SP	SP	SP	N	N	Y	N

SECTION 4. The City of Worcester Zoning Ordinance is hereby amended by inserting in Article IV, Section 2, Table 4.1, Notes to Table 4.1, the following new Note 13:

Note 13. No Registered Marijuana Dispensary, with or without cultivation operations shall be sited within a radius of three hundred feet of a public or private, primary or secondary school, licensed daycare center, public library, public park or playground, or another RMD. The 300' distance under this note shall be measured in a straight line from the nearest point of the facility in question to the nearest point of the proposed RMD.

Exhibit B

City of Worcester, Massachusetts

Michael V. O'Brien
City Manager

Timothy J. McGourthy
Chief Development Officer
Executive Office of Economic Development

Joel J. Fontane
Director
Planning & Regulatory Services Division

Memorandum

To: Andrew Truman, Chairman

CC: Planning Board Members

From: Joel Fontane, AICP - Director, Planning & Regulatory Services Division *JJF*

Date: August 29, 2013

Re: Proposed Zoning Ordinance Amendment Related to Registered Dispensaries for the Humanitarian Medical Use of Marijuana

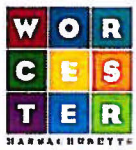
Background. On November 6, 2012, Ballot Question 3, "An Initiative Petition for a Law for Humanitarian Medical Use of Marijuana" passed with a 63.3% vote and won a majority of votes in 349 of the State's 351 communities according to a briefing provided by the Dept. of Public Health Medical Marijuana Work Group. By doing so, the voters of the Commonwealth approved a law regulating the cultivation, distribution, possession and use of marijuana for medical purposes. This law required the State Dept. of Public Health (DPH) to issue regulations by May 2013.

On May 8th, 2013 the state Public Health Council unanimously approved regulations for the medicinal use of marijuana, which became effective on May 24th, 2013. These State regulations provide guidance regarding the regulation of the use of marijuana, including the use of land for Registered Medical Marijuana Dispensaries (RMDs) and related cultivation that shapes the scope of local regulations. I am encouraged to find that the State regulations allow for local land use regulations.

The Administration assembled a multidisciplinary "working group" of key internal staff to consider this new law and its implications. The issues presented by this new law are varied and complex. The hardship provision of the State law and regulations allows qualifying patients unable to access Medical Marijuana Dispensaries due to financial, physical or transportation issues, to cultivate their own marijuana in an enclosed, locked facility. Given the medical nature of this use, and safety concerns related to home cultivation, the Division of Planning & Regulatory Services expedited its research, review and development of local land use regulations once the State's regulations became available to inform that effort. However, given the short timeframe to review the State's regulations, the working group is still considering what, if any, non-zoning related local controls may be needed to ensure the proper operation of these establishments. That work is ongoing.

Recommendation. At a minimum, the City's Zoning Ordinance must be amended to allow both RMDs and related marijuana cultivation facilities since neither use is included in our Zoning Ordinance and is therefore not allowed. From a land use perspective, dispensaries and cultivation are distinct uses. Based on State law, medical marijuana dispensing and marijuana cultivation can occur at one location or at separate locations and still be considered one license for the purposes of the licensing quotas. As such, I respectfully recommend the attached zoning ordinance amendment as transmitted to City Council by the City Manager on Aug. 20th, 2013 that defines each of these uses and what zoning districts they will be allowed in (see attached).

Executive Office of Economic Development
Planning & Regulatory Services Division
Worcester City Hall, 455 Main Street, Worcester, Massachusetts 01608
Telephone: (508) 799-1400 Fax: (508) 799-1406
Email: planning@worcesterma.gov
Website: www.worcesterma.gov/development



Specifically, the proposed ordinance allows dispensaries and cultivation, by-right, in all Business General (BG), Manufacturing General (MG) provided that any such use is 300' away from any residential district and allows dispensaries without cultivation within 300' of a residential zone by special permit. Both dispensaries and cultivation facilities are allow by-right in Institutional Hospital zones. RMDs shall not be permitted within 300' of a public or private, primary or secondary school, licensed daycare center, public library, public park, playground or another RMD.

The following policy analysis provides a discussion of the rationale for the attached proposed zoning ordinance. For reference, I have also included the State's regulations and a frequently asked questions document from the State on the matter (see attachments).

Policy Discussion. Given the medical nature of this use, safety concerns related to hardship cultivation, and to be in compliance with State law, it is important that the City adopt a zoning amendment to allow dispensaries and cultivation at certain locations[1]. This will help minimize the number of hardship cultivation registrations since lack of access to a dispensary is among the reasons for approval of a hardship cultivation registration. The issues presented by the Medical Marijuana law are varied and complex. In addition to land use considerations, the working group is considering four other key regulatory areas: 1) enforcement, 2) licensing[2], 3) edible marijuana-infused products (MIPs) and 4) self-service dispensaries. All need further review within the context of the recently adopted State regulations (May 8th, 2013) to determine the scope of local oversight, if any[3]. The working group has not finished considering these topics.

Key Land Use Policy Considerations. Based on our review of the State's regulations, the sentiment of the City Council, the characteristics of these uses, and the City's land use policy I have identified the following key policy considerations:

1) Can municipalities explicitly regulate the number of registered medical dispensaries (RMD)?
2) What zoning districts to allow dispensaries and cultivation uses in and whether to allow them by-right or by special permit.
3) Whether to modify the buffer requirements provided by State regulations, and, if so, what distance should be used and what uses should be buffered?

Local Limitations on the Number of RMDs. The State has imposed a quota on the number of dispensaries at 35 Statewide and not more than five (5) per county[4][5], therefore municipalities cannot further limit the number of facilities within their jurisdiction given the State's licensing

---

[1] According to the AG's office municipalities cannot ban medical marijuana dispensaries / cultivation.

[2] Depending on whether the City considers the State's regulations sufficient to meet local needs the working group may determine that the City should regulate the operation and management of "dispensaries" and cultivation within the city – provided it has the authority to do so. If so, the City should consider requiring some form of licensing either through the License Commission or Police. For example, it could require, among other information, proof of non-profit status and State registration, background checks for employees, security and operational plans, and require regular inspections by Police and building officials. Lastly, as part of other ordinances, the working group may want to consider banning any self-service distribution such as through vending machines and roll your own dispensers. Moreover, the City's ordinances should address mobile sales and coupon redemption offerings etc. These distribution methods and whether they are already addressed by the State regulations need further research, definition and identification.

[3] According to 105 CMR 725.600 – Municipal Requirements, dispensaries and other registered persons shall comply with all local rules, regulations, ordinances etc. Moreover, nothing in 105 CMR 725.000 shall be construed so as to prohibit lawful local oversight and regulation, including fee requirements, that does not conflict or interfere with the operation of 105 CMR 725.000.

[4] Section 9 (C) of the Act (c.369 of the Acts of 2012) "In the first year after the effective date, the Department shall issue registrations for up to thirty-five non-profit medical marijuana treatment centers, provided that at least one treatment center shall be located in each county, and not more than five shall be located in any one county. In the event the Department determines in a future year that the number of treatment centers is insufficient to meet patient needs, the Department shall have the power to increase or modify the number of registered treatment centers."

[5] FAQ regarding Medical Marijuana in Massachusetts updated May 24, 2013. http://www.mass.gov/eohhs/docs/dph/quality/drugcontrol/medical-marijuana/medical-marijuana-faq.pdf

scheme. The Law also empowers the State to increase the number of registered treatment centers (dispensaries) in the future based on its assessment of whether there are a sufficient number to meet patient needs. I note, however, that per CMR 725.100(B)(5) regarding Application Requirements for siting that DPH will score applications using, among other criteria, "[...] desired geographical distribution of dispensaries (i.e. convenience for and proximity to Massachusetts Residents, and avoidance of clustering of dispensaries in one area), [and] local support for the RMD application [...]". Given the above regulation, it appears that should the State's regulations regarding the desired geographical distribution of dispensaries not meet local needs, municipalities can avoid the clustering of dispensaries by instituting reasonable local regulations to that effect through, for example, a required buffer between RMDs. I have requested an opinion from the Law Dept. whether this is consistent with State Law.

Consideration of Zoning Districts. The State's regulations provide a number of controls that will help ensure the proper operation of these facilities and limit the use of dispensaries to those who have a debilitating heath problem or their caregivers – both are required to register with the State. The State's regulations also call for security measures for these facilities and the handling of medical marijuana in general. Within this context the City must develop a zoning ordinance amendment that avoids creating what is referred to as an effective ban. This is why a proposal to limit these uses to Institutional Hospital Zones, while logical because these dispensaries are for "medical" purposes, may constitute an effective ban since there are only a few such zoning districts with few unique property owners.

From a land use perspective, dispensaries and cultivation are distinct uses. Our understanding is that medical marijuana dispensaries and marijuana cultivation can occur at one location or at separate locations and still be considered one license for the purposes of State licensing quotas. This is why the attached proposal defines and regulates these uses separately. Based on City Council sentiment[6], the characteristics of RMD uses, and the City's land use policy, the attached proposal allows RMDs in all Business General, Manufacturing and Institutional-Hospital Zones. It is from this vantage point that we then considered the need for land use buffers, if any, from particular uses.

Consideration of Buffers. The State's regulations include a provision for buffering dispensaries from facilities in which children commonly congregate as follows:

CMR 725.110 (A)(14) – Security Requirements for Registered Marijuana Dispensaries states:

> "A RMD shall comply with all local requirements regarding siting, provided however that if no local requirements exist, a RMD shall not be sited within a radius of five hundred feet of a school, daycare center, or any facility in which children commonly congregate. The 500 foot distance under this section is measured in a straight line from the nearest point of the facility in question to the nearest point of the proposed RMD."

Staff conducted an analysis of the geographic effect of this buffer in combination with various local requirements to ensure that an effective ban is not inadvertently imposed by either the State regulations, local regulations, or both. Whether it is incumbent on municipalities to adopt local requirements to correct an effective ban created by this State regulation is unclear, but given the City's intent to allow these uses we analyzed the geographic impact of the above State regulation in combination with additional proposed local regulations.

---

[6] January 15, 2013 city council discussion regarding medical marijuana dispensaries and comments regarding prohibition of these uses in residential districts.

Any analysis of this regulation is frustrated by the lack of specificity of the phrase "any facility in which children commonly congregate" included in the above regulation. This phrase implies libraries, parks and playgrounds, and perhaps, other facilities and establishments such as churches, roller / ice skating rinks, gyms, clubs and Chucky E Cheese etc. How this vague provision is interpreted could have a substantial effect on the locations available. However, the City is unable to analyze this geographic effect given the State regulations' lack of specificity and absence of the data needed to identify all establishments in which children commonly congregate.

To overcome this challenge, we further specified the "any facility in which children commonly congregate" clause of the State regulations to include public and private[7], primary and secondary schools, licensed daycare centers[8], public libraries, public parks and playgrounds[9]. As for the required buffer from these uses we examined the 500' buffer required by State regulations, and a shorter distance, 300', consistent with the State's Drug Free School Zones and the alternative of no buffering from any uses (see attached maps).

If operated properly, dispensaries will have similar characteristics to clinic and drug store uses, which locally do not have any required buffers. However, buffers may be a prudent first step until the uncertainty associated with the proper implementation and enforcement of these new regulations has been demonstrated. Buffering was included in the regulations adopted by the State presumably for similar reasons. The State's buffering centered on children and did not include a buffer from residential districts, or require that RMDs be separated by a specific distance. We included both in the proposed ordinance, which provides control through a special permit process for RMDs within 300' of a residential district and requires that RMDs be no closer than 300' feet from one another. Through the special permit process the Zoning Board of Appeals would consider an RMD proposal for a particular location near a residential district within the context of the criteria for granting a special permit, including among other criteria, neighborhood character and social structure[10].

Our geographic analysis of the attached regulation reveals that a 300' buffer would increase the area available for RMDs about 20% from 2,451 to 2,933 acres when compared with a 500' buffer (per State regulations) from the sensitive uses as defined. Assuming the attached proposal, a 300' buffer would also greatly increase the area that these uses would be allowed by-right from 1,148 acres to 1,968 acres a 42% increase.

Conflicting Intergovernmental Policies & Locational Choice. Regardless of local regulation, Drug Free School Zones may influence the locational choice of RMD's. Since Federal Drug Free School zones[11] provide greater penalties for drug related offences within 1,000' from

---

[7] See attached list of public and private schools.

[8] As of July 5, 2013 there were 300 licensed (by Mass Dept. of Early Educ. & Care) daycare facilities in the City of Worcester.

[9] All parks and 13 playgrounds were included.

[10] Special Permits are granted by Special Permit Granting Authority upon its determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the city or the neighborhood. The SPGA shall be made within the context of the characteristics of the site and its vicinity, and shall include consideration of each of the following: (a) Social, economic, or community needs that are served by the proposal; (b) Traffic flow and safety, including access, parking and loading areas; c) Adequacy of utilities and other public services; (d) Neighborhood character and social structure; e) Impacts on the natural environment; and (f) Potential fiscal impact, including city services needed, tax base, and employment.

[11] "The United States Congress has supplemented the core offenses under the Controlled Substances Act (21 U.S.C. ' 841) with several additional offenses carrying increased maximum penalties, when the crimes are committed under certain specified circumstances. For example section 21 U.S.C.'860 provides that the penalties for manufacturing, distributing, and possessing with intent to distribute are doubled or tripled when the offense is committed within a specified distance of a school or other facility regularly used by children. Under Federal law the affected areas can include illegal federal drug sales on, or within one thousand feet of, real property comprising a public or private elementary, vocational, or secondary school or a public or private college, junior college, or university, or a playground, or housing facility owned by a public housing authority, or within 100 feet of a public or private youth center, public swimming pool, or video arcade facility." - https://en.wikipedia.org/wiki/Drug-free_school_zone

primary and secondary school properties among other things, proponents of dispensaries indicated to staff that they would probably not locate close to schools.

In terms of distance, the buffer required by CMR 725 is more restrictive than the State's most recently modified[12] Drug Free School Zone buffer of 300'. The State's school zone policy also increases penalties for drug offences[13], but its role in the State's consideration of RMD siting is unclear.

Attachments.

- Proposed Ordinance
- Frequently Asked Questions
- State Regulations May 8th, 2013
- City Council Transmittal – City Manager's Recommendation
- Policy Analysis Map.

---

[12] The State of Massachusetts adopted in August 2012 a shorter distance, just 300', and modified applicability of these zones to exclude late night hours[12]. In general, there appears to be an ongoing debate about the effectiveness of these drug free zones and whether the 1,000' zone is too expansive and disproportionately affects urban residents[12]. According to various newspaper and website articles, many law enforcement officials opposed the Governor's proposal to reduce the size of these zones.

[13] Massachusetts Drug free school zones. Any person who violates the provisions of section thirty-two, thirty-two A, thirty-two B, thirty-two C, thirty-two D, thirty-two E, thirty-two F or thirty-two / while in or on, or within 300 feet of the real property comprising a public or private accredited preschool, accredited headstart facility, elementary, vocational, or secondary school if the violation occurs between 5:00 a.m. and midnight, whether or not in session, or within one hundred feet of a public park or playground shall be punished by a term of imprisonment in the state prison for not less than two and one-half nor more than fifteen years or by imprisonment in a jail or house of correction for not less than two nor more than two and one-half years. No sentence imposed under the provisions of this section shall be for less than a mandatory minimum term of imprisonment of two years. A fine of not less than one thousand nor more than ten thousand dollars may be imposed but not in lieu of the mandatory minimum two year term of imprisonment as established herein. In accordance with the provisions of section eight A of chapter two hundred and seventy-nine such sentence shall begin from and after the expiration of the sentence for violation of section thirty-two, thirty-two A, thirty-two B, thirty-two C, thirty-two D, thirty-two E, thirty-two F or thirty-two. Lack of knowledge of school boundaries shall not be a defense to any person who violates the provisions of this section. – MGL.

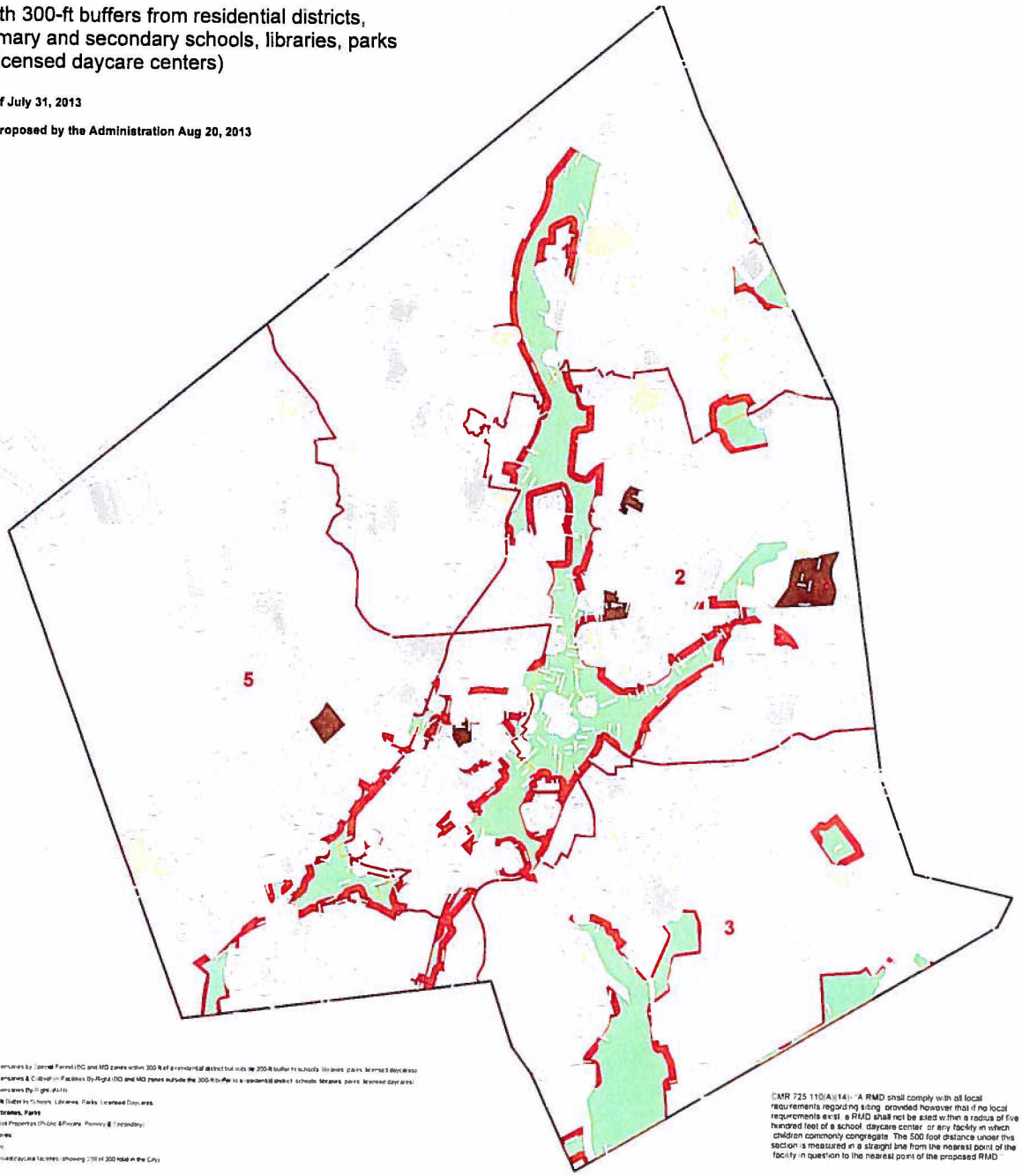
Exhibit C

Analysis Map - Proposed Potential Locations for Medical Marijuana Dispensaries and Cultivation Facilities

(with 300-ft buffers from residential districts, primary and secondary schools, libraries, parks & licensed daycare centers)

As of July 31, 2013

As proposed by the Administration Aug 20, 2013



Legend

Dispensaries by Special Permit (BG and MG zones within 300 ft of a residential district but outside the 300-ft buffer to schools, libraries, parks, licensed daycares)

Dispensaries & Cultivation Facilities By-Right (BG and MG zones outside the 300-ft buffer to a residential district, schools, libraries, parks, licensed daycares)

Dispensaries By-Right (IH)

300 ft Buffer to Schools, Libraries, Parks, Licensed Daycares

Schools, Libraries, Parks

Tax Exempt Properties (Public & Private, Primary & Secondary)

Libraries

Parks

Licensed daycare facilities (showing 2 of 300 total in the City)

CMR 725.110(A)(14): "A RMD shall comply with all local requirements regarding siting, provided however that if no local requirements exist, a RMD shall not be sited within a radius of five hundred feet of a school, daycare center, or any facility in which children commonly congregate. The 500 foot distance under this section is measured in a straight line from the nearest point of the facility in question to the nearest point of the proposed RMD.

WORCESTER

N W E S

1:15,000

1 inch = 1,250 feet

0 1,250 2,500 5,000 7,500 10,000 Feet

0 0.25 0.5 1 1.5 2 Miles

Produced by City of Worcester
Executive Office of Economic Development
Division of Planning and Regulatory Services

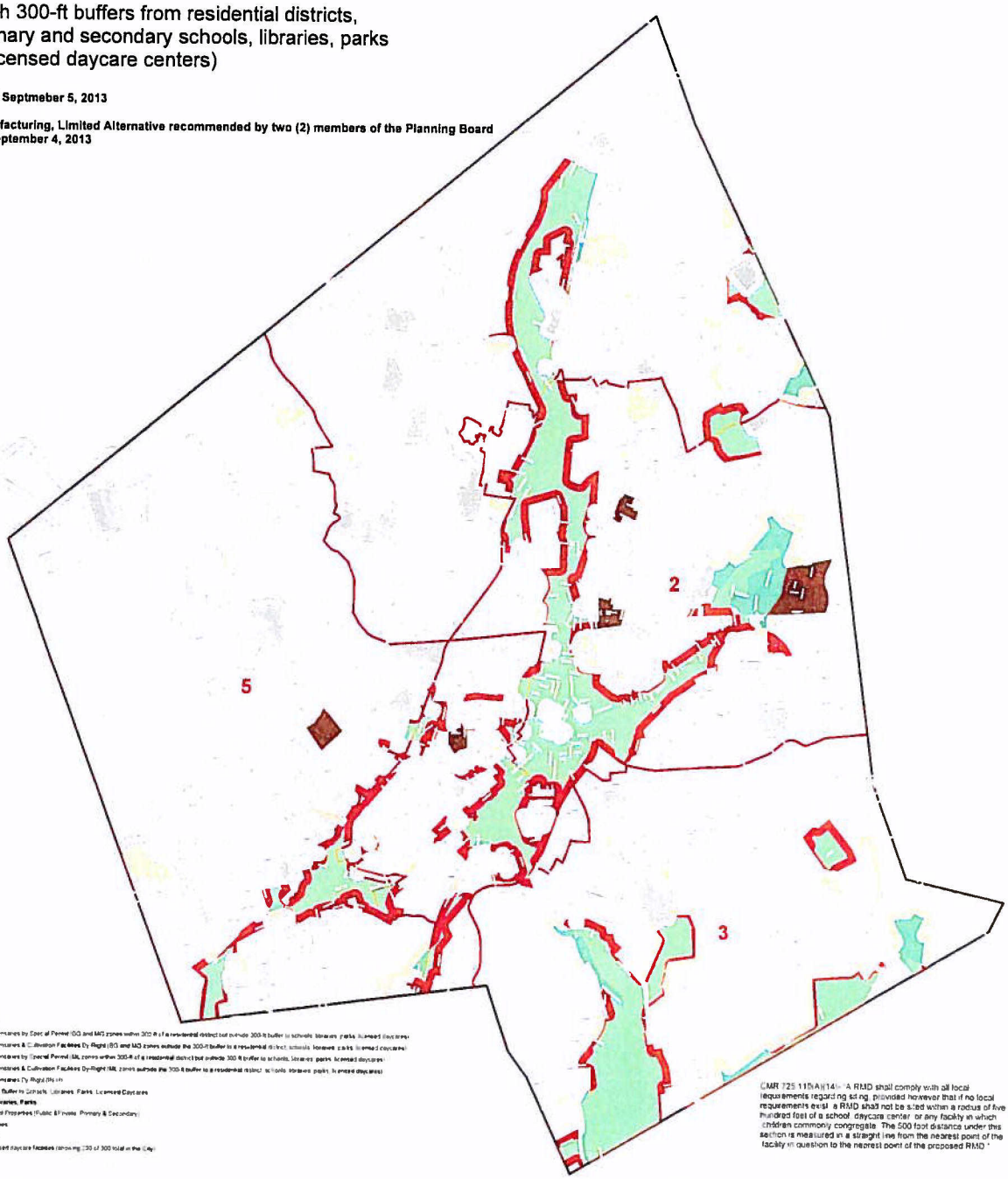
Exhibit D

Analysis Map - Proposed Potential Locations for Medical Marijuana Dispensaries and Cultivation Facilities

(with 300-ft buffers from residential districts, primary and secondary schools, libraries, parks & licensed daycare centers)

As of Septmeber 5, 2013

Manufacturing, Limited Alternative recommended by two (2) members of the Planning Board on September 4, 2013



Legend

- Dispensaries by Spec al Permit (BG) and MG zones within 300 ft of a residential district but outside 300-ft buffer to schools, libraries, parks, licensed daycares
- Dispensaries & Cultivation Facilities By Right (BG) and MG zones outside the 300-ft buffer to a residential district, schools, libraries, parks, licensed daycares
- Dispensaries by Special Permit (ML) zones within 300-ft of a residential district but outside 300-ft buffer to schools, libraries, parks, licensed daycares
- Dispensaries & Cultivation Facilities By-Right (ML) zones outside the 300-ft buffer to a residential district, schools, libraries, parks, licensed daycares
- Dispensaries By Right (IN)
- 300 ft Buffer to Schools, Libraries, Parks, Licensed Daycares

Schools, Libraries, Parks

- Schools (Public & Private, Primary & Secondary)
- Libraries
- Parks
- Licensed daycare facilities (showing 230 of 300 total in the City)

CMR 725.110(A)(14): "A RMD shall comply with all local requirements regarding siting, provided however that if no local requirements exist, a RMD shall not be sited within a radius of five hundred feet of a school, daycare center, or any facility in which children commonly congregate. The 500 foot distance under this section is measured in a straight line from the nearest point of the facility in question to the nearest point of the proposed RMD."

WORCESTER

N W E S

1:18,000

1 inch = 1,250 feet

0 1,250 2,500 5,000 7,500 10,000 Feet

0 0.25 0.5 1 1.5 2 Miles

Produced by City of Worcester
Executive Office of Economic Development
Division of Planning and Regulatory Services

Exhibit E

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

725.001: Purpose
725.002: Scope
725.003: Authority
725.004: Definitions
725.005: Registration of Certifying Physicians
725.010: Certifying Physician's Certification of a Debilitating Medical Condition for a Qualifying Patient
725.015: Registration of Qualifying Patients
725.020: Registration of Personal Caregivers
725.025: Responsibilities of Personal Caregivers
725.030: Registration of Dispensary Agents
725.035: Hardship Cultivation Registration
725.100: Registration of Registered Marijuana Dispensaries
725.105: Operational Requirements for Registered Marijuana Dispensaries
725.110: Security Requirements for Registered Marijuana Dispensaries
725.200: Confidentiality
725.300: Inspection of Registered Marijuana Dispensaries
725.305: Deficiency Statements
725.310: Plan of Correction
725.400: Registered Marijuana Dispensary: Grounds for Denial of Initial Application for Registration
725.405: Registered Marijuana Dispensary Registration: Grounds for Denial of Renewal Applications and Revocation
725.410: Void Registered Marijuana Dispensary Registration
725.415: Registered Marijuana Dispensary Registration: Limitation of Sales by Registered Marijuana Dispensaries
725.420: Denial of a Registration Card or Hardship Cultivation Registration
725.425: Revocation of a Registration Card or Hardship Cultivation Registration
725.430: Revocation of a Certifying Physician Registration
725.435: Void Certifying Physician Registration
725.440: Void Registration Cards
725.445: Summary Cease and Desist Order and Quarantine Order
725.450: Summary Suspension Order
725.500: Administrative Review: Non-Selection of a Registered Marijuana Dispensary's Application for Initial Registration
725.505: Hearings
725.510: Effect of Denial of Renewal or Revocation of Registered Marijuana Dispensary Registration, Revocation of Dispensary Agent Registration, and Surrender of a Registration
725.600: Municipal Requirements
725.650: Non-Conflict with Other Law
725.700: Waivers
725.800: Severability

725.001: Purpose

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

725.002: Scope

105 CMR 725.000 applies to every person who:

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

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

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

725.003: Authority

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

725.004: Definitions

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

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

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

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

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

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

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

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

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

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

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

Department means the Massachusetts Department of Public Health.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Person means an individual or a non-profit entity.

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

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

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

Qualifying Patient means a Massachusetts resident 18 years of age or older who has been diagnosed by a Massachusetts licensed certifying physician as having a debilitating medical condition, or a Massachusetts resident under 18 years of age who has been diagnosed by two Massachusetts licensed certifying physicians, at least one of whom is a board-certified pediatrician or board-certified pediatric subspecialist, as having a debilitating medical condition that is also a life-limiting illness, subject to 105 CMR 725.010(J).

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

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

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

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

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

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

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

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

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

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

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

725.005: Registration of Certifying Physicians

(A) A physician who wishes to issue a written certification for a qualifying patient shall have at least one established place of practice in Massachusetts and shall hold:
  (1) An active full license, with no prescribing restriction, to practice medicine in Massachusetts; and
  (2) A Massachusetts Controlled Substances Registration from the Department.

(B) To register as a certifying physician, a physician shall submit, in a form and manner determined by the Department, the physician's:
  (1) Full name and business address;
  (2) License number issued by the Massachusetts Board of Registration in Medicine;
  (3) Massachusetts Controlled Substances Registration number; and
  (4) Any other information required by the Department.

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

(D) After registering, a certifying physician is responsible for notifying the Department, in a form and manner determined by the Department, within five business days after any changes to the physician's information.

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

(A) A certifying physician issuing a written certification on or after July 1, 2014, must have completed a minimum of 2.0 Category 1 continuing professional development credits as defined in 243 CMR 2.06(6)(a)1. Such program must explain the proper use of marijuana, including side effects, dosage, and contraindications, including with psychotropic drugs, as well as on substance abuse recognition, diagnosis, and treatment related to marijuana.

(B) A certifying physician issuing a written certification shall comply with generally accepted standards of medical practice, including regulations of the Board of Registration in Medicine at 243 CMR 1.00, 2.00, and 3.00.

(C) A certifying physician may not delegate to any other health care professional or any other person, authority to diagnose a patient as having a debilitating medical condition.

(D) A certifying physician may issue a written certification only for a qualifying patient with whom the physician has a bona fide physician-patient relationship.

(E) Before issuing a written certification, a certifying physician must utilize the Massachusetts Prescription Monitoring Program, unless otherwise specified by the Department, to review the qualifying patient's prescription history.

(F) A patient who has had a diagnosis of a debilitating medical condition in the past but does not have an active condition, unless the symptoms related to such condition are mitigated by marijuana for medical use, and is not undergoing treatment for such condition is not

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

(G) An initial written certification submitted before a clinical visit is prohibited. A renewal written certification may be submitted after a clinical visit or a telephonic consultation, however a clinical visit must occur no less than once per year.

(H) A certification must indicate the time period for which the certification is valid, and shall not be less than 15 calendar days or longer than one year.

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

(J) A qualifying patient who is under 18 years of age and has been diagnosed by two Massachusetts licensed certifying physicians, at least one of whom is a board-certified pediatrician or a board-certified pediatric subspecialist, with a debilitating life-limiting illness, may receive a written certification, provided however that the physicians may certify a qualifying patient who is under 18 years of age who has a debilitating medical condition that is not a life-limiting illness if those physicians determine that the benefits of the medical use of marijuana outweigh the risks. This must include a discussion of the potential negative impacts on neurological development with the parent or legal guardian of the qualifying patient, written consent of the parent or legal guardian, and documentation of the rationale in the medical record and the written certification.

(K) A certifying physician, and such physician's co-worker, employee, or immediate family member, shall not:

(1) Have ever directly or indirectly accepted or solicited from, or offered to a RMD, a board member or executive of a RMD, any RMD personnel, or any other person associated with a RMD, or a personal caregiver, anything of value;
(2) Offer a discount or any other thing of value to a qualifying patient based on the patient's agreement or decision to use a particular personal caregiver or RMD;
(3) Examine or counsel a patient, or issue a written certification, at a RMD;
(4) Have a direct or indirect financial interest in a RMD; or
(5) Directly or indirectly benefit from a patient obtaining a written certification, which shall not prohibit the physician from charging an appropriate fee for the clinical visit.

(L) A certifying physician shall not issue a written certification for himself or herself or for his or her immediate family members.

(M) A certifying physician issuing a written certification for his or her employees or co-workers shall do so in accordance with 105 CMR 725.010, including conducting a clinical visit, completing and documenting a full assessment of the patient's medical

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

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

725.015: Registration of Qualifying Patients

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

(B) A registration card will be valid for one year from the date of issue, and may be renewed, in a form and manner determined by the Department, by meeting the requirements in 105 CMR 725.015(A).

(C) A qualifying patient who received written certification from a physician prior to the effective date of 105 CMR 725.000, or prior to the Department accepting applications for qualifying patient registrations, and who used that written certification as his or her qualifying patient registration card, must apply for a registration card according to the procedures set out in 105 CMR 725.015 no later than January 1, 2014, unless otherwise specified by the Department; however the initial certification will remain valid until the application for the registration card is approved or denied by the Department.

(D) After obtaining a registration card, a qualifying patient is responsible for notifying the Department, in a form and manner determined by the Department, within five business days after any change to the information that he or she was previously required to submit to the Department, or after he or she discovers that his or her registration card has been lost or stolen.

(E) A registered qualifying patient must carry his or her registration card at all times while in possession of marijuana.

725.020: Registration of Personal Caregivers

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

(B) An individual must be granted a registration card by the Department prior to serving as a personal caregiver for any registered qualifying patient.

(C) With respect to a personal caregiver who was registered with the Department prior to the effective date of 105 CMR 725.000, or prior to the Department accepting qualifying patient and personal caregiver registrations, his or her registered qualifying patient must

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

(D) Except in the case of an employee of a hospice provider, nursing facility, or medical facility providing care to a qualifying patient admitted to or residing at that facility, or a visiting nurse, home health aide, personal care attendant, or immediate family member of more than one registered qualifying patient, an individual may not serve as a personal caregiver for more than one registered qualifying patient at one time.

(E) A registered qualifying patient may designate up to two personal caregivers. If the registered qualifying patient has been granted a hardship cultivation registration, the personal caregiver(s) may cultivate marijuana on behalf of the registered qualifying patient at only one location. Cultivation pursuant to a hardship cultivation registration by a personal caregiver constitutes consent for such inspection of the cultivation site.

(F) A registered qualifying patient may add a second caregiver or change personal caregiver(s) by providing notification in a form and manner determined by the Department, and providing the information required in 105 CMR 725.020(A) for registration of personal caregivers.

(G) A personal caregiver may not receive payment or other compensation for services rendered as a personal caregiver other than reimbursement for reasonable expenses incurred in the provision of services as a caregiver, provided however that a caregiver's time is not considered a reasonable expense. In the case of an employee of a hospice provider, nursing facility, or medical facility, or a visiting nurse, personal care attendant, or home health aide serving as a personal caregiver, such person may not receive payment or compensation above and beyond his or her regular wages.

(H) A registration card will be valid for one year from the date of issue, and may be renewed, in a form and manner determined by the Department, by meeting the requirements in 105 CMR 725.020(A).

(I) After obtaining a registration card, the personal caregiver is responsible for notifying the Department, in a form and manner determined by the Department, within five business days after any change to the information that his or her registered qualifying patient was previously required to submit to the Department, or after the personal caregiver discovers that his or her registration card has been lost or stolen.

(J) A personal caregiver must carry his or her registration card at all times while in possession of marijuana.

<u>725.025: Responsibilities of Personal Caregivers</u>

(A) A personal caregiver may:

(1) Transport a registered qualifying patient to and from a RMD;
(2) Obtain and transport marijuana from a RMD on behalf of a registered qualifying patient;
(3) Cultivate marijuana on behalf of a registered qualifying patient who has obtained a hardship cultivation registration;
(4) Prepare marijuana for consumption by a registered qualifying patient; and
(5) Administer marijuana to a registered qualifying patient.

(B) A personal caregiver may not:
(1) Consume, by any means, marijuana that has been dispensed to or cultivated on behalf of a registered qualifying patient;
(2) Sell, provide, or otherwise divert marijuana that has been dispensed to or cultivated on behalf of a registered qualifying patient;
(3) Cultivate marijuana for the personal caregiver's own use, unless the personal caregiver is also a registered qualifying patient who has obtained a hardship cultivation registration;
(4) Cultivate marijuana for purposes of selling or providing marijuana to anyone other than the registered qualifying patient; or
(5) Allow a registered qualifying patient who is under 18 years of age to possess marijuana at any time when not in the presence of the personal caregiver.

(C) An employee of a hospice provider, nursing facility, or medical facility serving as a personal caregiver for a registered qualifying patient admitted to or residing at that facility, or a visiting nurse, home health aide, or personal care attendant, may not cultivate marijuana for that patient.

(D) Upon the death of a personal caregiver's registered qualifying patient, the personal caregiver must notify the Department within five calendar days.

725.030: Registration of Dispensary Agents

(A) A RMD shall apply for dispensary agent registration for all board members, directors, employees, executives, managers, and volunteers who are associated with that RMD. All such individuals must:
(1) Be at least 21 years old; and
(2) Have not been convicted of a felony drug offense in the Commonwealth, or a like violation of the laws of another state, the United States or a military, territorial, or Indian tribal authority.

(B) An application for registration of a dispensary agent, in a form and manner determined by the Department, shall include:
(1) The full name, date of birth, and address of the individual;
(2) Written acknowledgement by the individual of the limitations on his or her authorization to cultivate, harvest, prepare, package, possess, transport, and dispense marijuana for medical purposes in the Commonwealth;

(3) A copy of the dispensary agent's driver's license, government-issued identification card, or other verifiable identity document acceptable to the Department;
(4) An attestation that the individual will not engage in the diversion of marijuana;
(5) A non-refundable application fee; and
(6) Any other information required by the Department.

(C) A RMD executive registered with the Department of Criminal Justice Information Systems pursuant to 105 CMR 725.100(A)(7) must submit to the Department a Criminal Offender Record Information (CORI) report for each individual for whom the RMD seeks a dispensary agent registration, obtained within 30 calendar days prior to submission.

(D) A RMD must notify the Department no more than one business day after a dispensary agent ceases to be associated with the RMD. The dispensary agent's registration shall be immediately void when he or she is no longer associated with the RMD.

(E) A registration card will be valid for one year from the date of issue, and may be renewed, in a form and manner determined by the Department, on an annual basis by meeting the requirements in 105 CMR 725.030 (A)-(C).

(F) After obtaining a registration card for a dispensary agent, a RMD is responsible for notifying the Department, in a form and manner determined by the Department, as soon as possible, but in any event, within five business days after any changes to the information that the RMD was previously required to submit to the Department, or after discovery that a registration card has been lost or stolen.

(G) A dispensary agent must carry his or her registration card at all times while in possession of marijuana, including at all times while at a RMD or while transporting marijuana.

(H) A dispensary agent affiliated with multiple RMDs must be registered as a dispensary agent by each RMD.

<u>725.035: Hardship Cultivation Registration</u>

(A) A qualifying patient registered with the Department pursuant 105 CMR 725.015 may apply for a hardship cultivation registration if such patient can demonstrate that his or her access to a RMD is limited by:
(1) Verified financial hardship; or
(2) Physical incapacity to access reasonable transportation, as demonstrated by an inability to use public transportation or drive oneself, lack of a personal caregiver with a reliable source of transportation, and lack of a RMD that will deliver marijuana to the patient's or personal caregiver's primary address; or
(3) Lack of a RMD within a reasonable distance of the patient's residence and lack of a RMD that will deliver marijuana to the patient's or personal caregiver's primary address.

(B) To obtain a hardship cultivation registration, a registered qualifying patient shall, in a form and manner determined by the Department, submit the following:
  (1) A non-refundable registration fee, unless waived pursuant to 105 CMR 725.015(A)(7);
  (2) Information supporting a claim that access is limited due to one or more of the circumstances listed in 105 CMR 725.035(A);
  (3) An explanation including lack of feasible alternatives to mitigate the limitation claimed under 105 CMR 725.035(A);
  (4) A description and address of the single location that shall be used for the cultivation of marijuana, which shall be either the registered qualifying patient's or one personal caregiver's primary residence;
  (5) A written explanation of how the qualifying patient will cultivate marijuana in accordance with the requirements of 105 CMR 725.035;
  (6) A description of the device or system that will be used to ensure security and prevent diversion of the marijuana plants being cultivated;
  (7) Written acknowledgement of the limitations on his or her authorization to cultivate, possess, and use marijuana for medical purposes in the Commonwealth; and
  (8) Any other information required by the Department.

(C) The Department shall review and approve or deny an application for a hardship cultivation registration within 30 calendar days of receipt of a completed application.

(D) A registered qualifying patient with a hardship cultivation registration, or his or her personal caregiver(s), may cultivate only at the location specified in the application approved by the Department.

(E) At any given location, cultivation may occur pursuant to only one hardship cultivation registration, absent proof that more than one registered qualifying patient resides at the location.

(F) A hardship cultivation registration will be valid for one year from the date of issue, and may be renewed, in a form and manner determined by the Department, on an annual basis by meeting the requirements in 105 CMR 725.035(B).

(G) A hardship cultivation registration shall allow the registered qualifying patient or his or her personal caregiver(s) to cultivate a limited number of plants sufficient to maintain a 60-day supply of marijuana solely for that patient's use, or as further specified by the Department.

(H) Cultivation and storage of marijuana shall be in an enclosed, locked area accessible only to the registered qualifying patient or his or her personal caregiver(s), subject to 105 CMR 725.650. Marijuana shall not be visible from the street or other public areas.

(I) A registered qualifying patient or his or her personal caregiver(s) cultivating marijuana pursuant to a hardship cultivation registration shall adhere to industry best practices in the cultivation of marijuana plants and storage of finished product, and any standards specified by the Department.

(J) A registered qualifying patient and his or her personal caregiver(s) is prohibited from selling, bartering, giving away or distributing in any manner marijuana or paraphernalia.

(K) The Department may inspect the cultivation site of a registered qualifying patient with a hardship cultivation registration, or the cultivation site of his or her personal caregiver(s), at any time. Acceptance of a hardship cultivation registration by a registered qualifying patient constitutes consent for such inspection of the cultivation site.

(L) A registered qualifying patient who received written certification of a debilitating medical condition from a physician prior to enactment of 105 CMR 725.000, or prior to the Department accepting applications for hardship cultivation registration, and who used that written certification as a limited cultivation registration, must apply for a hardship cultivation registration according to the procedures set out in 105 CMR 725.035(B) no later than January 1, 2014, if he or she intends to continue to cultivate marijuana; however the initial limited cultivation registration will remain valid until the application for the hardship cultivation registration card is approved or denied by the Department.

(M) After obtaining a hardship cultivation registration, a registered qualifying patient is responsible for notifying the Department, in a form and manner determined by the Department, within five business days after any change to the information that he or she or his or her personal caregiver(s) was previously required to submit to the Department.

(N) A registered qualifying patient with a hardship cultivation registration, or his or her personal caregiver(s) if applicable, must have the registration available at the site of cultivation. Such registration must be made available upon request of the Department or other government agency acting within their lawful authority.

(O) A registered qualifying patient with a hardship cultivation registration, or his or her personal caregiver(s) if applicable, is prohibited from purchasing marijuana from a RMD, provided however that such individuals may purchase seeds.

725.100: Registration of Registered Marijuana Dispensaries

(A) General Requirements

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

(2) No executive, member, or any entity owned or controlled by such executive or member, may directly or indirectly control more than three RMDs.

(3) A RMD must make vaporizers available for sale to registered qualifying patients.

(4) A RMD may not have more than two locations in Massachusetts at which marijuana is cultivated, MIPs are prepared, and marijuana is dispensed. Each of these activities may occur at only one such location, which may be either the RMD's principal place of business or one Department-approved alternate location in Massachusetts, but not both.

(5) All dispensary agents of the RMD must be registered pursuant to 105 CMR 725.030.

(6) A RMD must have a program to provide reduced cost or free marijuana to patients with documented verified financial hardship.

(7) At least one executive of a non-profit corporation seeking registration as a RMD must register with the Massachusetts Department of Criminal Justice Information Services (DCJIS) on behalf of the entity as an organization user of iCORI.

(B) Application Requirements

(1) Phase 1 – Request to Submit Application: As necessary, the Department shall publish a Notice of Application Opportunity (Notice) for entities that seek authority to apply for a certificate of registration. Every applicant responding to the Notice shall file, with respect to each application, a response in a form and manner specified by the Department, and must at a minimum provide:

(a) Documentation that is it a non-profit entity incorporated in Massachusetts as specified in 105 CMR 725.100(A)(2), as well as a list of all executives of the proposed RMD, and a list of all members, if any, of the non-profit corporation;

(b) Documentation that it has at least $500,000 in its control and available, as evidenced by bank statements, lines of credit, or the equivalent, to ensure that the applicant has sufficient resources to operate. This provision may be fulfilled through demonstration of pooled resources among the individuals or entities affiliated with the applicant. If an entity is submitting more than one application, the capital requirement shall be $400,000 for each subsequent application;

(c) Documentation that no member of the non-profit corporation, no executive of the applicant, and no prospective employee or volunteer of the RMD, has been convicted of a felony drug offense in the Commonwealth, or a like violation of the laws of another state, the United States or a military, territorial, or Indian tribal authority;

(d) A description of any past or pending legal or enforcement actions in any other state against any officer, executive, director, or board member of the applicant or its members, or against any other entity owned or controlled in whole or in part by them, related to the cultivation, processing, distribution, or sale of marijuana for medical purposes;

(e) A description of any past or pending denial, suspension, or revocation of a license or registration, or the denial of a renewal of a license or registration, for

any type of business or profession, by any federal, state, or local government, or any foreign jurisdiction, including denial, suspension, revocation, or refusal to renew certification for Medicaid or Medicare or failure to follow non-profit procedures or rules;
(f) An attestation signed by an authorized designee of the entity that if the entity is allowed to proceed to Phase 2 of the application process, the entity is prepared to pay a non-refundable application fee as specified in the Notice;
(g) A description of any past discipline by, or a pending disciplinary action or unresolved complaint by, the Commonwealth, or a like action or complaint by another state, the United States or a military, territorial, or Indian tribal authority with regard to any professional license or registration of an executive of the applicant, as well as by any member of the non-profit corporation, if any;
(h) Prescribing for or distributing controlled substances or legend drugs by any executive, including of the members of the non-profit corporation, if any, except for therapeutic or other proper medical or scientific purpose;
(i) The requisite non-refundable application fee; and
(j) Any other information required by the Department.

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

(3) Phase 2 – Application: Within 45 days after receipt of an invitation to submit an application pursuant to 105 CMR 725.100(B)(2), each applicant that proceeds to Phase 2 shall submit, with respect to each application, a response in a form and manner specified by the Department, which includes:
(a) A non-refundable application fee;
(b) Detailed information regarding the non-profit corporation, including the legal name, a copy of the articles of organization and bylaws;
(c) The county, city, or town in which the proposed RMD would be sited, and if known, the physical address of the proposed RMD. If marijuana will be cultivated or MIPs will be prepared at any location other than the dispensing location of the proposed RMD, the physical address of the one additional location where marijuana will be cultivated or MIPs will be prepared, if known;
(d) If the applicant has identified the physical address of the proposed RMD pursuant to 105 CMR 725.100(B)(3)(c), the applicant shall provide evidence of interest in the subject property, and the additional cultivation location, if any. Interest may be demonstrated by one of the following:
1. Clear legal title to the proposed site;
2. An option to purchase the proposed site;
3. A lease;

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

(e) A description of plans to ensure that the RMD is or will be compliant with requirements of the Americans with Disabilities Act (ADA) Accessibility Guidelines;
(f) If available at the time of submission, pursuant to 105 CMR 725.100(B)(3)(c), a description of plans to ensure that the RMD is or will be compliant with local codes, ordinances, and bylaws for the physical address of the RMD and for the physical address of the additional location, if any, including any demonstration of support or non-opposition furnished by the local municipality;
(g) A proposed timeline for achieving operation of the RMD and evidence that the RMD will be ready to operate within the proposed timeline after notification by the Department that the applicant qualifies for registration;
(h) The name, address, date of birth, and résumés of each executive of the applicant and of the members, if any, of the non-profit corporation, along with a photocopy of their driver's licenses or other government-issued identification cards, and CORI reports obtained from the DCJIS within 30 calendar days prior to submission to the Department, pursuant to the RMD's registration with DCJIS under M.G.L. c. 6, s. 172;
(i) The name, address, and date of birth of all dispensary agents that the RMD intends to employ, to the extent that they are known;
(j) A list of all persons or entities having direct or indirect authority over the management or policies of the RMD, including the members of the non-profit corporation, if any, and a list of all persons or entities contributing 5% or more of the initial capital to operate a RMD, including capital that is in the form of land or buildings;
(k) If applicable, the identity of any creditor holding an interest in the premises of the proposed RMD or the additional cultivation location, if any;
(l) A description of the RMD's plan to obtain a liability insurance policy or otherwise meet the requirements of 105 CMR 725.105(Q);
(m) If available at the time of submission, pursuant to 105 CMR 725.100(B)(3)(c), a detailed floor plan of the premises of the proposed RMD that identifies the square footage available and describes the functional areas of the RMD, including areas for any preparation of MIPs, and, if applicable, such information for the single allowable off-premises location in Massachusetts where marijuana will be cultivated or MIPs will be prepared;
(n) A detailed summary of the business plan for the RMD;
(o) An operational plan for the cultivation of marijuana, including a detailed summary of policies and procedures for cultivation;
(p) If the RMD intends to produce MIPs, a description of the types and forms of MIPs that the RMD intends to produce, and the methods of production;
(q) A detailed summary of operating policies and procedures for the RMD, which shall include but not be limited to provisions for security, prevention of diversion,

storage of marijuana, transportation of marijuana, inventory procedures, procedures for quality control and testing of product for potential contaminants, procedures for maintaining confidentiality as required by law, personnel policies, dispensing procedures, record-keeping procedures, plans for patient education, and any plans for patient or personal caregiver home-delivery;
(r) A detailed summary of the RMD's policies and procedures for the provision of marijuana to registered qualifying patients with verified financial hardship without charge or at less than the market price, as required by 105 CMR 725.100(A)(6);
(s) An analysis of the projected patient population and projected need in the service area of the proposed RMD;
(t) A detailed description of all intended training(s) for dispensary agents;
(u) Evidence that the applicant is responsible and suitable to maintain a RMD. Information including but not limited to the following factors shall be considered in determining the responsibility and suitability of the applicant to maintain a RMD:

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

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

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

(5) Action on Phase 2 Submissions
(a) The Department shall not consider an application that is submitted after the due date specified.
(b) The Department may conduct a site visit to the proposed location, if applicable, of the RMD, to determine the appropriateness of the site(s).
(c) A selection committee established by the Department shall evaluate and score applications for the purpose of granting registrations. Decisions will be based on the thoroughness and quality of the applicants' responses to the required criteria, and the applicants' ability to meet the overall health needs of registered qualifying patients and the safety of the public.
(d) For purposes of scoring, the Department may take into account desired geographical distribution of RMDs (i.e., convenience for and proximity to Massachusetts residents, and avoidance of clustering of RMDs in one area), local support for the RMD application, likelihood of successful siting of the RMD in the proposed location, the presence of a home-delivery system, and other mechanisms to ensure appropriate patient access, as well as other factors as described in the application form.
(e) The Department shall grant registrations with the goal of ensuring that the needs of the Commonwealth are met with regard to access, quality, and community safety.
(f) The Department shall review architectural plans for the building or renovation of a RMD. Submission of such plans shall occur in a manner and form established by the Department and shall be accompanied by a requisite fee. Construction or renovation related to such plans shall not begin until the Department has granted approval.
(g) Nothing in 105 CMR 725.000 is intended to confer a property or other right or interest entitling an applicant to a hearing before an application may be denied.

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

(2) No person shall operate a RMD without a certificate of registration issued by the Department.

(3) A certificate of registration may not be assigned or transferred without prior Department approval.

(4) A registration shall be immediately null and void if the RMD ceases to operate, or if, without the permission of the Department, it relocates.

(5) Acceptance of a certificate of registration constitutes an agreement by the RMD that it will adhere to the practices, policies, and procedures that are described in its application materials, as well as all relevant laws, regulations, and any conditions imposed by the Department as part of registration.

(6) The RMD shall post the certificate of registration in a conspicuous location on the premises at each Department-approved location.

(7) The RMD shall conduct all activities authorized by 105 CMR 725.000 at the address(es) identified on the certificate of registration issued by the Department. Except for the two permitted locations, no operations are permitted at any other locations, except surveillance activities in accordance with 105 CMR 725.110(D).

(D) The RMD must be operational within the time indicated in 105 CMR 725.100(B)(3)(g) or as otherwise amended through the application process, and approved by the Department through the issuance of a certificate of registration.

(E) Expiration and Renewal of Registration. The RMD's certificate of registration shall expire one year after the date of issuance and may be renewed as follows unless an action has been taken based upon the grounds set forth in 105 CMR 725.405:

(1) No later than 60 calendar days prior to the expiration date, a RMD shall submit a completed renewal application to the Department in a form and manner determined by the Department, as well as the required fee; and

(2) The RMD shall update as needed, and ensure the accuracy of, all information that it submitted on its initial application for a certificate of registration.

(F) Notification to Department and Department Approval of Changes

(1) Prior to changing location(s), the RMD shall submit a request for such change to the Department and shall pay the appropriate fee. No such change shall be permitted until approved by the Department.

(2) Prior to any modification, remodeling, expansion, reduction, or other physical, non-cosmetic alteration of the RMD, the RMD shall submit an application for such change to the Department and shall pay the appropriate fee. No such change shall be permitted until approved by the Department.

(3) Prior to changing its name, the RMD shall notify the Department and shall pay the appropriate fee. No such change shall be permitted until approved by the Department.

(4) The RMD shall keep current all information required by 105 CMR 725.000 or otherwise required by the Department. The RMD shall report any changes in or additions to the content of the information contained in any document to the Department within five business days after such change or addition.

725.105: Operational Requirements for Registered Marijuana Dispensaries

(A) Every RMD shall have and follow a set of detailed written operating procedures. If the RMD has a second location, it shall develop and follow a set of such operating procedures for that facility. Operating procedures shall include but need not be limited to the following:

(1) Security measures in compliance with 105 CMR 725.110;

(2) Employee security policies, including personal safety and crime prevention techniques;

(3) A description of the RMD's:

(a) Hours of operation and after-hours contact information, which shall be provided to the Department, made available to law enforcement officials upon request, and updated pursuant to 105 CMR 725.100(F)(4); and

(b) Price list for marijuana, MIPs, and any other available products, and alternate price lists for patients with documented verified financial hardship as required by 105 CMR 725.100(A)(6);

(4) Storage of marijuana in compliance with 105 CMR 725.105(D);

(5) Description of the various strains of marijuana to be cultivated and dispensed, and the form(s) in which marijuana will be dispensed;

(6) Procedures to ensure accurate recordkeeping, including inventory protocols;

(7) Plans for quality control, including product testing for contaminants in compliance with 105 CMR 725.105(C)(2);

(8) A staffing plan and staffing records in compliance with 105 CMR 725.105(I)(4)(c);

(9) Emergency procedures, including a disaster plan with procedures to be followed in case of fire or other emergencies;

(10) Alcohol, smoke, and drug-free workplace policies;

(11) A plan describing how confidential information will be maintained in accordance with 105 CMR 725.200;

(12) A description of the RMD's patient education activities in accordance with 105 CMR 725.105(K);

(13) The standards and procedures by which the RMD determines the price it charges for marijuana, and a record of the prices charged, including the RMD's policies and procedures for the provision of marijuana to registered qualifying patients with verified financial hardship without charge or at less than the market price, as required by 105 CMR 725.100(A)(6);

(14) Written policies and procedures for the production and distribution of marijuana, which shall include but not be limited to:

(a) Methods for identifying, recording, and reporting diversion, theft, or loss, and for correcting all errors and inaccuracies in inventories;

(b) A procedure for handling voluntary and mandatory recalls of marijuana. Such procedure shall be adequate to deal with recalls due to any action initiated at the request or order of the Department, and any voluntary action by a RMD to remove defective or potentially defective marijuana from the market, as well as any action undertaken to promote public health and safety;

(c) A procedure for ensuring that any outdated, damaged, deteriorated, mislabeled, or contaminated marijuana is segregated from other marijuana and destroyed. This procedure shall provide for written documentation of the disposition of the marijuana;

(d) Policies and procedures for patient or personal caregiver home-delivery; and

(e) Policies and procedures for the transfer, acquisition, or sale of marijuana between RMDs.

(15) A policy for the immediate dismissal of any dispensary agent who has:

(a) Diverted marijuana, which shall be reported to law enforcement officials and to the Department; or

(b) Engaged in unsafe practices with regard to operation of the RMD, which shall be reported to the Department; and

(16) A list of all board members and executives of a RMD, and members, if any, of the non-profit corporation, must be made available upon request by any individual. This requirement may be fulfilled by placing this information on the RMD's website.

(B) <u>Cultivation, Acquisition, and Distribution Requirements</u>

(1) The following requirements pertain to cultivation of marijuana for medical use:

(a) Only a RMD is permitted to cultivate marijuana, with the exception of a registered qualifying patient granted a hardship cultivation registration or that patient's personal caregiver;

(b) A cultivation location of a RMD may cultivate marijuana for only that RMD, and up to two additional RMDs under a common non-profit corporation;

(c) All phases of the cultivation of marijuana shall take place in designated, locked, limited access areas that are monitored by a surveillance camera system in accordance with 105 CMR 725.110(D)(1)(d)–(i);

(d) Application of any non-organic pesticide in the cultivation of marijuana is prohibited. All cultivation must be consistent with U.S. Department of Agriculture organic requirements at 7 CFR Part 205;
(e) Soil for cultivation shall meet the U.S. Agency for Toxic Substances and Disease Registry's Environmental Media Evaluation Guidelines for residential soil levels; and
(f) The cultivation process shall use best practices to limit contamination, including but not limited to mold, fungus, bacterial diseases, rot, pests, non-organic pesticides, mildew, and any other contaminant identified as posing potential harm.

(2) A RMD may acquire marijuana from or distribute marijuana to another RMD when:
(a) An documented emergency situation occurs such as loss of crop, vandalism, or theft, or other circumstance as approved by the Department; or
(b) A specific registered qualifying patient's needs cannot otherwise be met by the acquiring RMD, as documented by the acquiring RMD; and
(c) The distribution and acquisition of marijuana to and from all other RMDs does not exceed, cumulatively, 30% of the RMD's total annual inventory.

(C) Requirements for Handling and Testing Marijuana and for Production of MIPs
(1) Except for a registered qualifying patient or personal caregiver, who are not subject to 105 CMR 725.105, only a registered RMD is permitted to produce MIPs. A MIP production facility of a RMD may produce MIPs for only that RMD, and up to two additional RMDs under a common non-profit corporation.

(2) The RMD is responsible for having all marijuana cultivated by the RMD tested in accordance with the following:
(a) Marijuana shall be tested for the cannabinoid profile and for contaminants as specified by the Department, including but not limited to mold, mildew, heavy metals, plant-growth regulators, and the presence of non-organic pesticides. The Department may require additional testing;
(b) The RMD shall maintain the results of all testing for no less than one year;
(c) The RMD must have and follow a policy and procedure for responding to results indicating contamination, which shall include destruction of contaminated product and assessment of the source of contamination. Such policy shall be available to registered qualifying patients and personal caregivers;
(d) All testing must be conducted by an independent laboratory that is:
1. Accredited to International Organization for Standardization (ISO) 17025 by a third party accrediting body such as A2LA or ACLASS; or
2. Certified, registered, or accredited by an organization approved by the Department.
(e) The RMD shall arrange for testing to be conducted in accordance with the frequency required by the Department;
(f) A RMD must have a contractual arrangement with a laboratory for the purposes of testing marijuana, including a stipulation that those individuals

responsible for testing at the laboratory be registered as dispensary agents by the RMD pursuant to 105 CMR 725.030;
(g) An executive of a RMD, or a member, if any, of the non-profit corporation, is prohibited from having any financial or other interest in a laboratory providing testing services for any RMD;
(h) No individual employee of a laboratory providing testing services for RMDs may receive direct financial compensation from any RMD;
(i) All transportation of marijuana to and from laboratories providing marijuana testing services shall comply with 105 CMR 725.110(E);
(j) All storage of marijuana at a laboratory providing marijuana testing services shall comply with 105 CMR 725.105(D); and
(k) All excess marijuana must be returned to the source RMD and be disposed of pursuant to 105 CMR 725.105(J).

(3) All marijuana in the process of cultivation, production, preparation, transport, or analysis shall be housed and stored in such a manner as to prevent diversion, theft, or loss.
(a) Such items shall be accessible only to the minimum number of specifically authorized dispensary agents essential for efficient operation.
(b) Such items shall be returned to a secure location immediately after completion of the process or at the end of the scheduled business day.
(c) If a manufacturing process cannot be completed at the end of a working day, the processing area or tanks, vessels, bins, or bulk containers containing marijuana shall be securely locked inside an area or building that affords adequate security.

(4) A RMD shall process marijuana in a safe and sanitary manner. A RMD shall process the leaves and flowers of the female marijuana plant only, which shall be:
(a) Well cured and free of seeds and stems;
(b) Free of dirt, sand, debris, and other foreign matter;
(c) Free of contamination by mold, rot, other fungus, and bacterial diseases;
(d) Prepared and handled on food-grade stainless steel tables; and
(e) Packaged in a secure area.

(5) Production of edible MIPs shall take place in compliance with the following:
(a) All edible MIPs shall be prepared, handled, and stored in compliance with the sanitation requirements in 105 CMR 500.000: Good Manufacturing Practices for Food, and with the requirements for food handlers specified in 105 CMR 300.000: Reportable Diseases, Surveillance, and Isolation and Quarantine Requirements; and
(b) Any edible MIP that is made to resemble a typical food or beverage product must be packaged in an opaque package and labeled as required by 105 CMR 725.105(E)(3).

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

(a) Any dispensary agent whose job includes contact with marijuana or non-edible MIPs, including cultivation, production, or packaging, is subject to the requirements for food handlers specified in 105 CMR 300.000: Reportable Diseases, Surveillance, and Isolation and Quarantine Requirements;
(b) Any dispensary agent working in direct contact with preparation of marijuana or non-edible MIPs shall conform to sanitary practices while on duty, including:

1. Maintaining adequate personal cleanliness; and
2. Washing hands thoroughly in an adequate hand-washing area before starting work, and at any other time when hands may have become soiled or contaminated.

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

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

(D) RMD Storage Requirements

(1) A RMD shall provide adequate lighting, ventilation, temperature, humidity, space, and equipment, in accordance with applicable provisions of 105 CMR 725.105 and 725.110.

(2) A RMD shall have separate areas for storage of marijuana that is outdated, damaged, deteriorated, mislabeled, or contaminated, or whose containers or packaging have been opened or breached, until such products are destroyed.

(3) RMD storage areas shall be maintained in a clean and orderly condition.

(4) RMD storage areas shall be free from infestation by insects, rodents, birds, and pests of any kind.

(5) RMD storage areas shall be maintained in accordance with the security requirements of 105 CMR 725.110.

(E) Packaging and Labeling

(1) Marijuana shall be packaged in plain, opaque, tamper-proof, and child-proof containers without depictions of the product, cartoons, or images other than the RMD's logo. Edible MIPs shall not bear a reasonable resemblance to any product available for consumption as a commercially available candy.

(2) Labeling of Marijuana (Excluding MIPs). The RMD shall place a legible, firmly affixed label on which the wording is no less than 1/16 inch in size on each package of marijuana that it prepares for dispensing, containing at a minimum the following information:

(a) The registered qualifying patient's name;
(b) The name and registration number of the RMD that produced the marijuana, together with the RMD's telephone number and mailing address, and website information, if any;
(c) The quantity of usable marijuana contained within the package;
(d) The date that the RMD packaged the contents;
(e) A batch number, sequential serial number, and bar code when used, to identify the batch associated with manufacturing and processing;
(f) The cannabinoid profile of the marijuana contained within the package, including THC level;
(g) A statement that the product has been tested for contaminants, that there were no adverse findings, and the date of testing in accordance with 105 CMR 725.105(C)(2); and
(h) This statement, including capitalization: "This product has not been analyzed or approved by the FDA. There is limited information on the side effects of using

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

(3) Labeling of MIPs. The RMD shall place a legible, firmly affixed label on which the wording is no less than 1/16 inch in size on each MIP that it prepares for dispensing, containing at a minimum the following information:

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

(F) Dispensing Marijuana.

(1) Registered qualifying patients and personal caregivers shall be identified as follows:

(a) A RMD shall refuse to sell marijuana to any registered qualifying patient or personal caregiver who is unable to produce a registration card and valid proof of identification, or who does not have a valid certification in the Department-supported interoperable database. The identification must contain a name, photograph, and date of birth, and shall be limited to one of the following:

1. A drivers license;
2. A government-issued identification card;
3. A military identification card; or
4. A passport.

(b) Upon entry into a RMD by a registered qualifying patient or personal caregiver, a dispensary agent shall immediately inspect the patient's or caregiver's registration card and proof of identification.

(2) A RMD may dispense only to a registered qualifying patient who has a current valid certification, or to his or her personal caregiver. Pursuant to 105 CMR 725.010(H), a certifying physician shall have defined the calendar day length of valid certification of a qualifying patient.

(a) For a registered qualifying patient certified for less than 60 days, the amount of marijuana dispensed, including marijuana contained in MIPs, shall be no more than the appropriate proportion of a 60-day supply, as defined in 105 CMR 725.004 (e.g., a patient certified for 15 days may receive up to 2.5 ounces of marijuana).

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

(c) For a registered qualifying patient whose certifying physician has determined that he or she requires a 60-day supply in excess of 10 ounces in accordance with 105 CMR 725.010(I), the amount of marijuana dispensed, including marijuana contained in MIPs, pursuant to 105 CMR 725.105(F)(2)(a) or (b) shall be adjusted accordingly.

(3) A RMD shall make interpreter services available that are appropriate to the population served, including for the visually- and hearing-impaired. Such services may be provided by any effective means.

(4) A RMD may refuse to dispense to a registered qualifying patient or personal caregiver if in the opinion of the dispensary agent, the patient or the public would be placed at risk. In any instance of denial, a RMD must notify the patient's certifying physician within 24 hours.

(G) Inventory

(1) A RMD must limit its inventory of seeds, plants, and usable marijuana to reflect the projected needs of registered qualifying patients.

(2) Real-time inventory shall be maintained as specified by the Department and in 105 CMR 725.105(G)(3) and (4), including, at a minimum, an inventory of marijuana plants; marijuana plant-clones in any phase of development such as propagation, vegetation, and flowering; marijuana ready for dispensing; all MIPs; and all damaged, defective, expired, or contaminated marijuana and MIPs awaiting disposal.

(3) A RMD shall:

(a) Establish inventory controls and procedures for the conduct of inventory reviews, and comprehensive inventories of marijuana and MIPs in the process of cultivation, and finished, stored marijuana;

(b) Conduct a monthly inventory of marijuana in the process of cultivation and finished, stored marijuana;

(c) Conduct a comprehensive annual inventory at least once every year after the date of the previous comprehensive inventory; and
(d) Promptly transcribe inventories if taken by use of an oral recording device.

(4) The record of each inventory shall include, at a minimum, the date of the inventory, a summary of the inventory findings, and the names, signatures, and titles of the individuals who conducted the inventory.

(5) A RMD shall tag and track all marijuana seeds, plants, and products, using a seed-to-sale methodology.

(H) Dispensary Agent Training. RMDs shall ensure that all dispensary agents complete training prior to performing job functions. Training shall be tailored to the roles and responsibilities of the job function of each dispensary agent, and at a minimum must include training on confidentiality, and other topics as specified by the Department. At a minimum, staff shall receive 8 hours of on-going training annually.

(I) Record Keeping. Records of a RMD must be available for inspection by the Department, upon request. Written records that are required and are subject to inspection include but are not necessarily limited to all records required in any section of 105 CMR 725.000, in addition to the following:

(1) Operating procedures as required by 105 CMR 725.105(A);

(2) Inventory records as required by 105 CMR 725.105(G);

(3) Seed-to-sale tracking records for all marijuana and MIPs as required by 725.105(G)(5);

(4) The following personnel records:

(a) Job descriptions for each employee and volunteer position, as well as organizational charts consistent with the job descriptions;
(b) A personnel record for each dispensary agent. Such records shall be maintained for at least 12 months after termination of the individual's affiliation with the RMD and shall include, at a minimum, the following:

1. All materials submitted to the Department pursuant to 105 CMR 725.030(B);
2. Documentation of verification of references;
3. The job description or employment contract that includes duties, authority, responsibilities, qualifications, and supervision;
4. Documentation of all required training, including training regarding privacy and confidentiality requirements, and the signed statement of the individual indicating the date, time, and place he or she received said training and the topics discussed, including the name and title of presenters;
5. A copy of the application that the RMD submitted to the Department on behalf of any prospective dispensary agent;
6. Documentation of periodic performance evaluations; and

7. A record of any disciplinary action taken.

(c) A staffing plan that will demonstrate accessible business hours and safe cultivation conditions;

(d) Personnel policies and procedures; and

(e) All CORI reports obtained in accordance with 105 CMR 725.030(C), M.G.L. c.6, s. 172 and 803 CMR 2.00;

(5) Business records, which shall include manual or computerized records of:

(a) Assets and liabilities;

(b) Monetary transactions;

(c) Books of accounts, which shall include journals, ledgers, and supporting documents, agreements, checks, invoices, and vouchers;

(d) Sales records that indicate the name of the registered qualifying patient or personal caregiver to whom marijuana has been dispensed, including the quantity, form, and cost; and

(e) Salary and wages paid to each employee, stipend paid to each board member, and any executive compensation, bonus, benefit, or item of value paid to any individual affiliated with a RMD, including members of the non-profit corporation, if any.

(6) Waste disposal records as required under 105 CMR 725.105(J)(5); and

(7) Following closure of a RMD, all records must be kept for at least 2 years at the expense of the RMD and in a form and location acceptable to the Department.

(J) Waste Disposal

(1) All waste, including waste composed of or containing finished marijuana and MIPs, shall be stored, secured, and managed in accordance with applicable state and local statutes, ordinances, and regulations.

(2) Liquid waste containing marijuana or by-products of marijuana processing shall be disposed of in compliance with requirements for discharge into surface water (314 CMR 3.00), groundwater (314 CMR 5.00), and sewers (314 CMR 7.00), or disposed of in an industrial wastewater holding tank in accordance with 314 CMR 18.00.

(3) Solid waste generated at a RMD shall be disposed of as follows:

(a) Incineration in a commercial or municipal waste combustor in Massachusetts holding a valid permit issued by the Department of Environmental Protection (DEP). No fewer than two dispensary agents must witness and document destruction; or

(b) Disposal in a landfill holding a valid permit issued by the DEP or by the appropriate state agency in the state in which the facility is located. No fewer than two dispensary agents must witness and document disposal in the landfill; or

(c) Grinding and incorporating the medical marijuana waste with solid wastes such that the resulting mixture renders the medical marijuana waste unusable. Once such medical marijuana waste has been rendered unusable, it may be:

1. Disposed of in a solid waste management facility that holds a valid permit issued by the DEP or by the appropriate state agency in the state in which the facility is located; or
2. If the material mixed with the medical marijuana waste is organic material as defined in 310 CMR 16.02, the mixture may be composted at an operation that is in compliance with the requirements of 310 CMR 16.00.

(4) A RMD must accept at no charge unused, excess, or contaminated marijuana from a registered qualifying patient or personal caregiver, and shall destroy it as provided in 105 CMR 725.105(J) and maintain a written record of such disposal, which shall include the name of the supplying registered qualifying patient or personal caregiver if applicable.

(5) When marijuana or MIPs are disposed of, the RMD must create and maintain a written record of the date, the type and quantity disposed of, the manner of disposal, and the persons present during the disposal, with their signatures. RMDs shall keep disposal records for at least two years.

(K) Patient Education. A RMD shall provide educational materials about marijuana to registered qualifying patients and their personal caregivers. A RMD must have an adequate supply of up-to-date educational material available for distribution. Educational materials must be available in languages accessible to all patients served by the RMD, including for the visually- and hearing-impaired. Such materials shall be made available for inspection by the Department upon request. The educational material must include at least the following:

(1) A warning that marijuana has not been analyzed or approved by FDA, that there is limited information on side effects, that there may be health risks associated with using marijuana, and that it should be kept away from children;

(2) A warning that when under the influence of marijuana, driving is prohibited by M.G.L. c. 90, s. 24, and machinery should not be operated;

(3) Information to assist in the selection of marijuana, describing the potential differing effects of various strains of marijuana, as well as various forms and routes of administration;

(4) Materials offered to registered qualifying patients and their personal caregivers to enable them to track the strains used and their associated effects;

(5) Information describing proper dosage and titration for different routes of administration. Emphasis shall be on using the smallest amount possible to achieve the desired effect. The impact of potency must also be explained;

(6) A discussion of tolerance, dependence, and withdrawal;

(7) Facts regarding substance abuse signs and symptoms, as well as referral information for substance abuse treatment programs;

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

(9) Any other information required by the Department.

(L) Marketing and Advertising Requirements

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

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

(3) A RMD shall not display on the exterior of the facility advertisements for marijuana or any brand name, and may only identify the building by the registered name.

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

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

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

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

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

(a) Any statement, design, representation, picture, or illustration that encourages or represents the use of marijuana for any purpose other than to treat a debilitating medical condition or related symptoms;

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

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

(d) Any statement, design, representation, picture, or illustration portraying anyone under 18 years of age.

(9) Inside the RMD, all marijuana shall be kept in a limited access area inaccessible to any persons other than dispensary agents, with the exception of displays allowable under 105 CMR 725.105(L)(10). Inside the RMD, all marijuana shall be stored in a locked, access-controlled space in a limited access area during non-business hours.

(10) A RMD may display, in secure, locked cases, no more than one sample of each product offered for sale. These display cases may be transparent.

(11) The Department shall maintain and make available a list of all RMDs, their dispensing location, and their contact information.

(M) Reports to the Department. The Department may require ongoing reporting on operational, quality, and financial information in a form and manner determined by the Department.

(N) Prohibitions

(1) A RMD may not dispense, deliver, or otherwise transfer marijuana to a person other than a registered qualifying patient or to his or her personal caregiver, to another RMD as specified in 105 CMR 725.105(B)(2), or to a laboratory as specified in 105 CMR 725.105(C)(2).

(2) A RMD may not acquire marijuana or marijuana plants except through the cultivation of marijuana by that RMD or another RMD as specified in 105 CMR 725.105(B)(2), provided however that a RMD may acquire marijuana seeds.

(3) A RMD is prohibited from acquiring, possessing, cultivating, delivering, transferring, transporting, supplying, or dispensing marijuana for any purpose except to assist registered qualifying patients.

(4) A RMD may not give away any marijuana except as required pursuant to 105 CMR 725.100(A)(6). A RMD may not provide any samples of marijuana.

(5) A RMD may not receive orders for marijuana in any manner other than from a registered qualifying patient or personal caregiver in-person at the RMD, except in the cases of home delivery, in which an order may be received by telephone or through a password-protected, internet-based platform.

(6) A RMD may not fill orders for marijuana in any manner other than to a registered qualifying patient or personal caregiver in-person at the RMD, except in the case of home delivery, in which an order may be delivered only to a registered qualifying patient or personal caregiver who possesses valid photo identification as required pursuant to 105 CMR 725.105(F)(2).

(7) A RMD may not sell any products other than marijuana, including MIPs and marijuana seeds, and other products such as vaporizers that facilitate the use of marijuana for medical purposes.

(8) Consumption of marijuana on the premises or grounds of any RMD is prohibited, provided however that a RMD may administer marijuana for the purposes of teaching use of vaporizers, or demonstration of use of other products as necessary.

(9) A RMD may not adulterate marijuana, including with psychoactive additives or other illicit substances.

(10) A RMD may not sell marijuana to a patient with a hardship cultivation registration or to his or her personal caregiver(s), provided however that the RMD may sell seeds to such individuals.

(O) Requirements Upon Expiration, Revocation, or Voiding of Certificate of Registration of RMD

(1) If a registration to operate expires without being renewed, is revoked, or becomes void, the RMD shall:

(a) Immediately discontinue cultivation and production of marijuana;

(b) Weigh and inventory all unused marijuana in all stages of cultivation and all MIPs in any stage of production, and create and maintain a written record of all such items;

(c) Dispose of the unused marijuana in accordance with 105 CMR 725.105(J) subsequent to approval by the Department. Such disposal shall be considered to be in the best interests of the general public, and the Department shall not be held liable in any way for any financial or other loss; and

(d) Maintain all records as required by 105 CMR 725.105(I)(7).

(2) If the RMD does not comply with the requirements of 105 CMR 725.105(O)(1), the Department shall have the authority to, at the RMD's expense, secure the RMD, and after a period of thirty calendar days, seize and destroy the inventory and equipment and contract for the storage of RMD records.

(P) Access to the Department, Emergency Responders, and Law Enforcement

(1) The following individuals shall have access to a RMD or RMD transportation vehicle:

(a) Representatives of the Department in the course of responsibilities authorized by 105 CMR 725.000 or the Act; and

(b) Emergency responders in the course of responding to an emergency.

(2) This regulation shall not be construed to prohibit access to authorized law enforcement personnel or local public health, inspectional services, or other permit-granting agents acting within their lawful jurisdiction.

(Q) Liability Insurance Coverage or Maintenance of Escrow

(1) A RMD shall obtain and maintain general liability insurance coverage for no less than $1,000,000 per occurrence and $2,000,000 in aggregate, annually, and product liability insurance coverage for no less than $1,000,000 per occurrence and $2,000,000 in aggregate, annually, except as provided in 105 CMR 725.105(Q)(2). The deductible for such a liability policy shall be no higher than $5,000 per occurrence.

(2) A RMD that documents an inability to obtain minimum liability insurance coverage as required by 105 CMR 725.105(Q)(1) may place in escrow a sum of no less than $250,000, to be expended for coverage of liabilities.

(3) The escrow account required pursuant to 105 CMR 725.105(Q)(2) must be replenished within 10 business days of any expenditure.

(4) Reports documenting compliance with 105 CMR 725.105(Q) shall be made in a manner and form determined by the Department pursuant to 105 CMR 725.105(M).

725.110: Security Requirements for Registered Marijuana Dispensaries

(A) General Requirements. A RMD shall implement sufficient security measures to deter and prevent unauthorized entrance into areas containing marijuana and theft of marijuana at the RMD. Security measures to protect the premises, registered qualifying patients, personal caregivers, and dispensary agents of the RMD must include but are not limited to the following. The RMD must:

(1) Allow only registered qualifying patients, personal caregivers, dispensary agents, persons authorized by 105 CMR 725.105(P), and, subject to the requirements of 105 CMR 725.110(C)(4), outside vendors, contractors, and visitors, access to the RMD;

(2) Prevent individuals from remaining on the premises of the RMD if they are not engaging in activity expressly or by necessary implication permitted by the Act and 105 CMR 725.000;

(3) Dispose of marijuana in accordance with 105 CMR 725.105(J), in excess of the quantity required for normal, efficient operation as established in 105 CMR 725.105(G)(1);

(4) Establish limited access areas accessible only to specifically authorized personnel, which shall include only the minimum number of employees essential for efficient operation;

(5) Store all finished marijuana in a secure, locked safe or vault and in such a manner as to prevent diversion, theft, and loss;

(6) Keep all safes, vaults, and any other equipment or areas used for the production, cultivation, harvesting, processing, or storage of marijuana and MIPs securely locked and protected from entry, except for the actual time required to remove or replace marijuana;

(7) Keep all locks and security equipment in good working order;

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

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

(10) Ensure that the outside perimeter of the RMD is sufficiently lit to facilitate surveillance;

(11) Ensure that trees, bushes, and other foliage outside of the RMD do not allow for a person or persons to conceal themselves from sight;

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

(13) Develop sufficient additional safeguards as required by the Department for RMDs that present special security concerns.

(14) A RMD shall comply with all local requirements regarding siting, provided however that if no local requirements exist, a RMD shall not be sited within a radius of five hundred feet of a school, daycare center, or any facility in which children commonly congregate. The 500 foot distance under this section is measured in a straight line from the nearest point of the facility in question to the nearest point of the proposed RMD.

(B) Alternate Security Provisions. If a RMD has provided other safeguards that can be regarded as an adequate substitute for a security requirement specified in 105 CMR 725.110, such added protection may be taken into account by the Department in evaluating overall required security measures.

(C) Limited Access Areas.

(1) All limited access areas must be identified by the posting of a sign that shall be a minimum of 12" X 12" and which states: "Do Not Enter – Limited Access Area – Access Limited to Authorized Personnel Only" in lettering no smaller than 1 inch in height.

(2) All limited access areas shall be clearly described by the filing of a diagram of the registered premises, in the form and manner determined by the Department, reflecting walls, partitions, counters, and all areas of entry and exit. Said diagram shall also show all propagation, vegetation, flowering, processing, production, storage, disposal, and retail sales areas.

(3) A dispensary agent shall visibly display an identification badge issued by the RMD at all times while at the RMD or transporting marijuana.

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

(D) Security and Alarm Systems

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

(a) A perimeter alarm on all entry points and perimeter windows;
(b) A failure notification system that provides an audible, text, or visual notification of any failure in the surveillance system. The failure notification system shall provide an alert to designated employees of the RMD within five minutes after the failure, either by telephone, email, or text message;
(c) A duress alarm, panic alarm, or holdup alarm connected to local public safety or law enforcement authorities;
(d) Video cameras in all areas that may contain marijuana, at all points of entry and exit, and in any parking lot, which shall be appropriate for the normal lighting conditions of the area under surveillance. The cameras shall be directed at all safes, vaults, sales areas, and areas where marijuana is cultivated, harvested, processed, prepared, stored, handled, or dispensed. Cameras shall be angled so as to allow for the capture of clear and certain identification of any person entering or exiting the RMD or area;
(e) Twenty-four hour recordings from all video cameras that are available for immediate viewing by the Department upon request and that are retained for at least 90 calendar days. Recordings shall not be destroyed or altered, and shall be retained as long as necessary if the RMD is aware of a pending criminal, civil, or administrative investigation, or legal proceeding for which the recording may contain relevant information;
(f) The ability to immediately produce a clear, color, still photo (live or recorded);
(g) A date and time stamp embedded on all recordings. The date and time shall be synchronized and set correctly and shall not significantly obscure the picture;
(h) The ability to remain operational during a power outage; and
(i) A video recording that allows for the exporting of still images in an industry standard image format, including .jpg, .bmp, and .gif. Exported video shall have the ability to be archived in a proprietary format that ensures authentication of the video and guarantees that no alteration of the recorded image has taken place. Exported video shall also have the ability to be saved in an industry standard file format that can be played on a standard computer operating system. All recordings shall be erased or destroyed prior to disposal.

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

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

(3) In addition to the requirements listed in 105 CMR 725.110(D)(1) and (2), the RMD shall have a back-up alarm system, with all capabilities of the primary system, provided by a company supplying commercial grade equipment, which shall not be the same company supplying the primary security system.

(4) Access to surveillance areas shall be limited to persons that are essential to surveillance operations, law enforcement authorities acting within their lawful jurisdiction, security system service personnel, and the Department. A current list of authorized employees and service personnel that have access to the surveillance room must be available to the Department upon request. If on-site, surveillance rooms shall remain locked and shall not be used for any other function.

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

(E) Registered Marijuana Dispensary Transportation of Marijuana and MIPs

(1) Only a dispensary agent may transport marijuana or MIPs on behalf of a RMD, whether between RMDs, RMD sites, or to registered qualifying patients or personal caregivers.

(2) A RMD shall:

(a) Weigh, inventory, and account for on video all marijuana to be transported prior to its leaving the origination location;
(b) Re-weigh, re-inventory, and account for on video all marijuana transported, within eight hours after arrival at the destination RMD except in the case of home delivery pursuant to 105 CMR 725.110(E)(11);
(c) Document and report any unusual discrepancy in weight or inventory to the Department and local law enforcement within 24 hours;
(d) Complete a shipping manifest in a form and manner determined by the Department, for retention by the origination location, and carry a copy of said manifest with the products being transported; and
(e) Securely transmit a copy of the manifest to the receiving RMD prior to transport except in the case of home delivery pursuant to 105 CMR 725.110(E)(11).

(3) A RMD shall retain all shipping manifests for no less than one year and make them available to the Department upon request.

(4) A RMD shall ensure that marijuana is:

(a) Transported in a secure, locked storage compartment that is part of the vehicle transporting the marijuana;
(b) Not visible from outside the vehicle; and
(c) Transported in a vehicle that bears no markings that indicate that the vehicle is being used to transport marijuana nor indicates the name of the RMD.

(5) Any vehicle transporting marijuana shall travel directly to the receiving RMD and shall not make any stops except in the case of home delivery pursuant to 105 CMR 725.110(E)(11). In case of an emergency stop, a detailed log must be maintained describing the reason for the event, the duration, the location, and any activities of personnel exiting the vehicle.

(6) A RMD shall ensure that all delivery times and routes are randomized.

(7) A RMD shall staff all transport vehicles with a minimum of two dispensary agents. At least one dispensary agent shall remain with the vehicle at all times that the vehicle contains marijuana.

(8) Each dispensary agent shall have access to a secure form of communication with personnel at the sending site at all times that the vehicle contains marijuana.

(9) Each dispensary agent shall carry his or her Department-issued registration card at all times when transporting marijuana and shall produce it to the Department's authorized representative or law enforcement official upon request.

(10) A RMD shall report to the Department and local law enforcement any vehicle accidents, diversions, losses, or other reportable incidents pursuant to 105 CMR 725.110(F), that occur during transport, within 24 hours.

(11) Home delivery of marijuana to a registered qualifying patient or a personal caregiver shall be conducted in accordance with 105 CMR 725.105(F) and 105 CMR 725.110(E).

(12) Each vehicle used for transport of marijuana shall have a global positioning system monitoring device that is monitored by the RMD during transport.

(F) Incident Reporting

(1) A RMD shall immediately notify appropriate law enforcement authorities and the Department within 24 hours after discovering the following:

(a) Discrepancies identified during inventory, diversion, theft, loss, and any criminal action involving the RMD or a dispensary agent;

(b) Any suspicious act involving the sale, cultivation, distribution, processing, or production of marijuana by any person;

(c) Unauthorized destruction of marijuana;

(d) Any loss or unauthorized alteration of records related to marijuana, registered qualifying patients, personal caregivers, or dispensary agents;

(e) An alarm activation or other event that requires response by public safety personnel;

(f) The failure of any security alarm system due to a loss of electrical power or mechanical malfunction that is expected to last longer than eight hours; and

(g) Any other breach of security.

(2) A RMD shall, within 10 calendar days, provide written notice to the Department of any incident described in 105 CMR 725.110(F)(1), by submitting an incident report in the form and manner determined by the Department which details the circumstances of the event, any corrective actions taken, and confirmation that the appropriate law enforcement authorities were notified.

(3) All documentation related to an incident that is reportable pursuant to 105 CMR 725.110(F)(1) shall be maintained by a RMD for no less than one year and made available to the Department and to law enforcement authorities acting within their lawful jurisdiction upon request.

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

725.200: Confidentiality

(A) Information held by the Department about applicants for registration as a qualifying patient, personal caregiver, or dispensary agent, and registered qualifying patients, personal caregivers, and dispensary agents is confidential and exempt from the provisions of M.G.L. c. 66.

(B) Information held by the Department about applicants for registration as a qualifying patient, personal caregiver, or dispensary agent, and registered qualifying patients, personal caregivers, and dispensary agents may be released by the Department to:

(1) The data subject or the data subject's authorized representative, pursuant to M.G.L. c. 66A;

(2) Department staff for the purpose of carrying out their official duties;

(3) An individual or entity pursuant to an order from a court of competent jurisdiction;

(4) Law enforcement personnel for the sole purpose of verifying a cardholder's registration and certification;

(5) The Board of Registration in Medicine when necessary in connection with referrals to said Board concerning violations of 105 CMR 725.000; and

(6) Other government agencies acting within their lawful jurisdiction, to the extent necessary to carry out the Department's responsibilities and to ensure compliance with the Act and with 105 CMR 725.000.

(C) Applications, supporting information, and other information regarding a RMD are not confidential, provided however that the following is confidential and exempt from the provisions of M.G.L. c.66:

(a) Information that identifies a specific registered qualifying patient, personal caregiver, or dispensary agent;

(b) Information held by the Department about RMD physical layout, as well as policies, procedures, practices, and plans pertaining to security; and

(c) The address of the cultivation or MIP production facility if separate from the dispensing facility.

(D) Information held by a RMD about registered qualifying patients, personal caregivers, and dispensary agents is confidential and shall not be disclosed without the written consent of the individual to whom the information applies, or as required under law or pursuant to an order from a court of competent jurisdiction, provided however, the Department may access this information to carry out official duties.

725.300: Inspection of Registered Marijuana Dispensaries

(A) The Department or its agents may inspect a RMD and affiliated vehicles at any time without prior notice in order to determine the RMD's compliance with the Act and 105 CMR 725.000. All areas of a RMD, all dispensary agents and activities, and all records are subject to such inspection. Acceptance of a certificate of registration by a RMD constitutes consent for such inspection.

(B) A RMD shall immediately upon request make available to the Department all information that may be relevant to a Department inspection, or an investigation of any incident or complaint.

(C) A RMD shall make all reasonable efforts to facilitate the Department's inspection, or investigation of any incident or complaint, and to facilitate the Department's interviews of RMD dispensary agents.

(D) An inspection or other investigation may be made prior to the issuance of a certificate of registration or renewal of registration. Additional inspections may be made whenever the Department deems it necessary for the enforcement of the Act and 105 CMR 725.000.

(E) During an inspection, the Department may direct a RMD to test marijuana for contaminants as specified by the Department, including but not limited to mold, mildew, heavy metals, plant-growth regulators, and the presence of non-organic pesticides.

725.305: Deficiency Statements

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

725.310: Plan of Correction

(A) A RMD shall submit to the Department a written Plan of Correction for any violations cited in the Deficiency Statement issued pursuant to 105 CMR 725.305 within 10 business days after receipt of the Deficiency Statement.

(B) Every Plan of Correction shall state, with respect to each deficiency, the specific corrective step(s) to be taken, a timetable for such steps, and the date by which compliance with 105 CMR 725.000 will be achieved. The timetable and the compliance dates shall be consistent with achievement of compliance in the most expeditious manner possible.

(C) The Department shall review the Plan of Correction for compliance with the requirements of 105 CMR 725.000 and shall notify the RMD of either the acceptance or rejection of the plan. An unacceptable plan must be amended and resubmitted within five business days after receipt of such notice.

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

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

(A) Information provided by the applicant was misleading, incorrect, false, or fraudulent.

(B) The application received a low score, indicating the inability to maintain and operate a RMD in compliance with the requirements of the Act and 105 CMR 725.000.

(C) The application received a lower score than other applications.

(D) The applicant has been determined to be either not responsible or suitable pursuant to any one or more of the factors listed in 105 CMR 725.100(B)(3)(u).

(E) The application does not serve the needs of the Commonwealth with regard to location, access, quality, and community safety.

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

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

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

(A) The RMD is not operational within the time indicated pursuant to 105 CMR 725.100(D).

(B) Information provided by the RMD was materially inaccurate, incomplete, or fraudulent.

(C) The RMD has failed to comply with any requirement of the Act or 105 CMR 725.000 or any applicable law or regulation, including laws and regulations of the Commonwealth relating to taxes, child support, workers compensation, and professional and commercial insurance coverage.

(D) The RMD has failed to submit a Plan of Correction as required or to implement a Plan of Correction as submitted pursuant to 105 CMR 725.310.

(E) The RMD has assigned or attempted to assign its certificate of registration to another entity.

(F) There has been a lack of responsible operation of the RMD, as shown by, but not limited to, one or more of the following:

(1) Incompetent or negligent operation;
(2) Failure to maintain the RMD in a clean, orderly, and sanitary fashion; or
(3) Permitting a person to use a registration card belonging to a different person.

(G) The RMD does not have sufficient financial resources to meet the requirements of the Act or 105 CMR 725.000.

(H) The financial management of the RMD has resulted in the filing of a petition for bankruptcy or receivership related to the financial solvency of the RMD.

(I) A executive of a RMD, or a member, if any, of the non-profit corporation, has maintained a substandard level of compliance with the statutory and regulatory requirements for the operation of a health care facility or facility for providing marijuana for medical purposes in another jurisdiction, including, but not limited to, failure to correct deficiencies, a limitation upon or a suspension, revocation, or refusal to grant or renew a registration or license to operate, or certification for Medicaid or Medicare.

(J) A dispensary agent of a RMD has a history of criminal conduct as evidenced by any criminal proceedings against such individual or against health care facilities or marijuana facilities in which such individual either owned shares of stock or served as a corporate officer, and which resulted in conviction, guilty plea, plea of nolo contendere, or admission to sufficient facts.

(K) A executive of a RMD, or a member, if any, of the non-profit corporation, has committed, permitted, aided, or abetted any illegal practices in the operation of any RMD.

(L) The RMD has failed to cooperate or give information to a law enforcement official acting within his or her lawful jurisdiction related to any matter arising out of conduct at any RMD.

(M) The conduct or practices of the RMD have been detrimental to the safety, health, or welfare of registered qualified patients, personal caregivers, or the public.

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

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

725.410: Void Registered Marijuana Dispensary Registration

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

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

(A) If the Commissioner determines that a RMD does not substantially comply with applicable provisions of 105 CMR 725.000 or the Act, the Commissioner may order that the RMD shall not sell marijuana, after a date specified, to registered qualifying patients or their personal caregivers.

(B) The Commissioner shall not make such a determination until a RMD has been notified that the RMD does not substantially comply with applicable provisions of 105 CMR 725.000 or the Act, that an order to limit sales is contemplated, and that the RMD has a reasonable opportunity to correct the deficiencies.

(C) An order that a RMD shall not sell marijuana pursuant to 105 CMR 725.415(A) may be rescinded when the Commissioner finds that the RMD is in substantial compliance with the applicable provisions of 105 CMR 725.000.

725.420: Denial of a Registration Card or Hardship Cultivation Registration

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

(A) Failure to provide the information required in 105 CMR 725.000 for a registration card or hardship cultivation registration;

(B) Provision of misleading, incorrect, false, or fraudulent information on the application;

(C) Failure to meet the requirements set forth in 105 CMR 725.000 for a registration card or hardship cultivation registration;

(D) Revocation or suspension of a registration card or hardship cultivation registration in the previous six months;

(E) Failure to pay all applicable fees; or

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

725.425: Revocation of a Registration Card or Hardship Cultivation Registration

(A) Each of the following, in and of itself, constitutes full and adequate grounds for revocation of a registration card issued to a registered qualifying patient, personal caregiver, or dispensary agent, or a hardship cultivation registration:
(1) Submission of misleading, incorrect, false, or fraudulent information in the application or renewal application;

(2) Violation of the requirements of the Act or 105 CMR 725.000;

(3) Fraudulent use of a registration card;

(4) Selling, distributing, or giving marijuana to any unauthorized person;

(5) Tampering, falsifying, altering, modifying, duplicating, or allowing another person to use, tamper, falsify, alter, modify, or duplicate a registration card or hardship cultivation registration;

(6) Failure to notify the Department within five business days after becoming aware that the registration card has been lost, stolen, or destroyed; or

(7) Failure to notify the Department within five business days after a change in the registration information contained in the application or required by the Department to have been submitted in connection therewith.

(B) In addition to the grounds in 105 CMR 725.425(A), each of the following, in and of itself, shall be adequate grounds for the revocation of a registration card issued to a registered qualifying patient:
(1) The qualifying patient is no longer a resident of the Commonwealth;

(2) The qualifying patient, taking into account the amounts of marijuana or MIPs obtained by his or her personal caregiver if applicable, seeks to obtain or obtains more of such amounts than is allowable under 105 CMR 725.105(F)(2); or

(3) The qualifying patient has used marijuana in a manner that puts others at risk of their health, safety, or welfare, or has failed to take reasonable precautions to avoid putting others at such risk.

(C) In addition to the grounds in 105 CMR 725.425(A), a conviction of a felony drug offense in the Commonwealth, or a like violation of the laws of another state, the United States or a military, territorial, or Indian tribal authority shall be adequate grounds for the revocation of a dispensary agent's registration card.

(D) In addition to the grounds in 105 CMR 725.425(A), the purchase of marijuana from a RMD by a registered qualifying patient with a hardship cultivation registration, or his or her personal caregiver, shall be adequate grounds for the revocation of a hardship cultivation registration.

(E) In addition to the applicable grounds in 105 CMR 725.425(A)-(C), any other ground that serves the purposes of 105 CMR 725.000 or the Act shall be sufficient to revoke a registration card or hardship cultivation registration.

725.430: Revocation of a Certifying Physician Registration

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

(A) The physician fraudulently issued a written certification;

(B) The physician failed to comply with the requirements of the Act or any applicable provisions of 105 CMR 725.000;

(C) The physician issued a written certification on or after July 1, 2014, without completion of continuing professional development credits pursuant to 105 CMR 725.010(A); or

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

725.435: Void Certifying Physician Registration

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

(B) When a certifying physician surrenders his or her registration, the registration is void.

(C) A void certifying physician registration is inactive and invalid.

725.440: Void Registration Cards

(A) A registration card issued to a dispensary agent shall be void when the agent has ceased to be associated with the RMD that applied for and received the dispensary agent's registration card.

(B) A registration card that has been issued to a qualifying patient, including a hardship cultivation registration, shall be void when:
(1) The card has not been surrendered upon the issuance of a new registration card based on new information;

(2) The qualifying patient is no longer a resident of Massachusetts; or

(3) The patient is deceased.

(C) A registration card issued to a personal caregiver is void:
(1) When the registered qualifying patient has notified the Department that the individual registered as the personal caregiver is no longer the personal caregiver for that patient;

(2) When the sole registered qualifying patient for whom the personal caregiver serves as such is no longer registered with the Department; or

(3) Five days after the death of the registered qualifying patient to allow for appropriate disposal of marijuana pursuant to 105 CMR 725.105(J)(4).

(D) A void registration card is inactive and invalid.

725.445: Summary Cease and Desist Order and Quarantine Order

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

(A) If, based upon inspection, affidavits, or other evidence, the Commissioner determines that a RMD or the products prepared by a RMD pose an immediate or serious threat to the public health, safety, or welfare, the Commissioner may:
(1) Issue a cease and desist order and/or quarantine order, requiring cessation or restriction of any or all RMD operations, and prohibiting the use of marijuana produced by that RMD; or

(2) Issue a cease and desist order placing restrictions on a RMD, to the extent necessary to avert a continued threat, pending final investigation results.

(B) The requirements of the cease and desist order or the quarantine order shall remain in effect until the Commissioner rescinds or amends such requirements or until such time as the Department takes final action on any related pending complaint and issues a final decision.

725.450: Summary Suspension Order

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

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

(A) The Department shall provide written notice of non-selection to an applicant.

(B) Applicants may request copies of the application scores and any documentation supporting the scoring process for all applications.

(C) Applicants may request an informal briefing from the Department limited to a discussion of the scoring of their application.

(D) The written notice of non-selection becomes a final agency action 10 business days after issuance, subject to judicial review in Superior Court in an action for certiorari relief under M.G.L. c. 249, s. 4, unless the applicant submits a request pursuant to 105 CMR 725.500(B) or (C).

(E) If an applicant submits a request pursuant to 105 CMR 725.500(B) or (C), the written notice of non-selection becomes final upon provision of the requested written documentation or completion of the informal briefing.

(F) No entity whose application has been denied pursuant to 105 CMR 725.400 may make another application for at least one year after the date of denial.

725.505: Hearings

(A) Upon written request, a registrant shall be afforded a hearing no later than 28 calendar days after the effective date of a summary cease and desist order or quarantine order issued pursuant to 105 CMR 725.445. At the hearing, the Department must prove by a preponderance of the evidence that there existed immediately prior to, or at the time of the order, an immediate or serious threat to the public health, safety, or welfare.

(B) Upon written request, a registrant shall be afforded a hearing no later than 14 calendar days after the effective date of a summary suspension order issued pursuant to 105 CMR 725.450. At the hearing, the Department must prove by a preponderance of the evidence that there existed immediately prior to, or at the time of the suspension, an imminent danger to the public health, safety, or welfare.

(C) With the exception of the provisions for cease and desist orders and quarantine orders pursuant to 105 CMR 725.445, and summary suspension orders pursuant to 105 CMR 725.450, the Department shall provide written notice, and shall provide a hearing if a hearing is requested in writing within 21 calendar days after the effective date stated in the notice, prior to:

(1) Denying a renewal application for a registration card;

(2) Revoking a registration card for a registered qualifying patient, personal caregiver, or dispensary agent;

(3) Denying a renewal application for or revoking a hardship cultivation registration;

(4) Denying a renewal application of a RMD;

(5) Revoking the registration certificate of a RMD;

(6) Limiting sales of marijuana by a RMD; or

(7) Revoking a certifying physician registration.

(D) The written notice shall provide the registrant with a statement of the grounds for the action and of the right to request a hearing and the time-period for such request.

(E) If a request for a hearing is made, the hearing shall be conducted and a tentative decision issued by the Division of Administrative Law Appeals in accordance with the Adjudicatory Rules of Practice and Procedure, 801 CMR 1.01.

(F) At the hearing, the Department must prove the basis for the action by a preponderance of the evidence.

(G) A final decision by the Department after a hearing is a final agency action subject to judicial review in Superior Court pursuant to M.G.L. c. 30A.

(H) If a hearing pursuant to 105 CMR 725.505 is not requested within the required time, the right to a hearing is waived.

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

(A) A RMD that has had its application for renewal registration denied or its registration revoked is disqualified from future registration as a RMD.

(B) A dispensary agent whose registration card has been revoked is disqualified from serving as a dispensary agent or from having any financial interest in a RMD.

(C) The surrender of a certificate of registration or a registration card shall not prevent the Department from revoking, or imposing other penalties with respect to, such certificate of registration or registration card.

<u>725.600: Municipal Requirements</u>

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

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

725.650: Non-Conflict with Other Law

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

(B) Nothing in 105 CMR 725.000:
(1) Allows the operation of a motor vehicle, boat, or aircraft while under the influence of marijuana;
(2) Requires any health insurance provider, or any government agency or authority, to reimburse any person for the expenses of the medical use of marijuana;
(3) Requires any health care professional to authorize the use of medical marijuana for a patient;
(4) Requires any accommodation of any on-site medical use of marijuana in any place of employment, school bus or on school grounds, in any youth center, in any correctional facility, or of smoking medical marijuana in any public place;
(5) Supersedes Massachusetts law prohibiting the possession, cultivation, transport, distribution, or sale of marijuana for nonmedical purposes; or
(6) Requires the violation of federal law or purports to give immunity under federal law;
(7) Poses an obstacle to federal enforcement of federal law.

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

725.700: Waivers

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

(A) Compliance would cause undue hardship to the registrant;

(B) If applicable, the registrant's non-compliance does not jeopardize the health or safety of any patient or the public;

(C) The registrant has instituted compensating features that are acceptable to the Department; and

(D) The registrant provides to the Commissioner written documentation supporting its request

for a waiver.

725.800: Severability

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

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

Regulation as Approved by PHC - 5.8.13

Exhibit +

FAQ Regarding the Medical Use of Marijuana in Massachusetts
(Updated 5/24/2013)

In November 2012, Massachusetts voters approved a ballot question that allows a qualifying patient with a debilitating medical condition to obtain and possess marijuana for medical use, beginning January 1, 2013. The Department of Public Health was required by law to develop regulations for patient and caregiver registration, operation of dispensaries, and other aspects of the law. The Public Health Council unanimously approved the regulations on May 8, 2013. The regulations are now in effect.

DPH has partnered with a wide range of stakeholders in public safety, patient advocacy, the medical community, and municipal government and will learn from other states' experiences to put a system in place that is right for Massachusetts. Listening sessions and public hearings across the Commonwealth contributed to the Department's understanding of the complexity surrounding the implementation of a program for the medical use of marijuana.

The Department is currently building the necessary infrastructure to implement the law, including the development of an on-line registration process for patients and caregivers. The Department will issue registration cards to patients and caregivers once it completes the implementation of the program.

The Department will offer further guidance on applications for Registered Marijuana Dispensaries this summer. Until that time, applications for dispensaries are not being accepted. A competitive application process for dispensaries will occur this summer and fall.

The following are frequently asked questions about the current status and planned timeline for the implementation of regulations required by the new law:

How do I qualify as a patient?
A patient must obtain a written certification from a physician for a debilitating medical condition. The law specifies: cancer, glaucoma, AIDS, hepatitis C, amyotrophic lateral sclerosis (ALS), Crohn's disease, Parkinson's disease, multiple sclerosis and other conditions as determined in writing by a qualifying patient's physician. The law allows a qualifying patient to possess up to a 60-day supply of marijuana for his or her personal medical use. The regulations define a 60-day supply as up to 10 ounces.

Are qualifying patients eligible for marijuana while the program is being implemented?
Yes. During the time DPH is implementing this program, the ballot measure allows the written recommendation of a qualifying patient's physician to serve as a medical marijuana registration card. Similarly, the law allows a qualifying patient to cultivate his or her own limited supply of marijuana during this period. A certifying physician may issue a written certification only for a qualifying patient with whom the physician has a bona fide physician-patient relationship.

Under the law, until its program is implemented, DPH is not involved in regulating any recommendations between physicians and patients for the medical use of marijuana, or in defining the limited cultivation registration. DPH has clarified in its final regulations that these provisions of the law will remain in effect until further notice. Even though final regulations are in

place now, patients may continue to visit physicians for certification, and to possess legally allowable amounts of medical marijuana as defined in the regulations, before DPH's anticipated online registration system is available.

DPH will notify the public on its medical marijuana website, www.mass.gov/medicalmarijuana, when this system is operational and must be used.

I am a patient and I want to designate a personal caregiver. How can I do that?
At present and until the DPH program is implemented, qualifying patients may register their personal caregivers by sending a letter to DPH containing certain required information, including the patient's and personal caregiver's names, addresses and dates of birth. A certified mail return receipt for this letter is to be used as the registration card for the patient's personal caregiver.

The regulations provide that qualifying patients must apply formally to DPH for registration cards for their personal caregivers no later than January 1, 2014 (unless DPH specifies a different date). Until that time, the initial letter submitted to DPH will remain valid until the application for the registration card is approved or denied by DPH.

What are the requirements for personal caregivers?
Except in the case of an employee of a hospice provider, nursing facility, or medical facility providing care to a qualifying patient admitted to or residing at that facility, or a visiting nurse, home health aide, personal care attendant, or immediate family member of more than one registered qualifying patient, an individual may not serve as a personal caregiver for more than one registered qualifying patient at one time.

A personal caregiver may not receive payment or other compensation for services rendered as a personal caregiver other than reimbursement for reasonable expenses incurred in the provision of services as a caregiver. A caregiver's time is not considered a reasonable expense. In the case of an employee of a hospice provider, nursing facility, or medical facility, or a visiting nurse, personal care attendant, or home health aide serving as a personal caregiver, such person may not receive payment or compensation above and beyond his or her regular wages.

When will the Department begin issuing registration cards to patients and caregivers?
This date has not yet been determined. DPH must develop the technology to receive and process registrations. Any date for issuing registration cards will take into account the time needed to build such technology and related support systems.

When will the department begin accepting applications to operate Registered Marijuana Dispensaries (RMDs)?
DPH must develop an application process for entities that seek to be registered as marijuana dispensaries. DPH will make application materials available for prospective RMDs this summer and will complete the application review and selection process this summer and fall.

In the first year, the law allows DPH to register up to 35 non-profit RMDs across the state, with at least one but no more than five dispensaries per county. The non-profit RMDs will be registered under the law to cultivate, process, and provide marijuana and marijuana-infused products to registered qualifying patients.

Will health insurers or governments be required to cover the cost of marijuana for medical use?
No. Nothing in the law requires any health insurance provider, or any government agency or authority, to reimburse any person for the expenses of the medical use of marijuana.

Will Massachusetts give guidance to health care providers on the medical use of marijuana?
The Board of Registration in Medicine is collaborating with DPH to determine how to ensure that physicians understand the law and its provisions. The Board welcomes the recommendations of the Massachusetts Medical Society and other interested stakeholders, and is collaborating with DPH to successfully implement the law and promote patient safety.

Can cities and towns ban Registered Marijuana Dispensaries?
The Massachusetts Attorney General issued a decision that municipalities are not permitted to enact a total ban on Registered Marijuana Dispensaries. However, cities and towns may adopt zoning by-laws to regulate such dispensaries, so long as such by-laws do not conflict or interfere with the operation of the Department's regulations, and may enact a temporary moratorium in order to study the zoning issues related to the development of dispensaries.

Proposed Zoning Ordinance Related to

Registered Dispensaries for the Humanitarian Medical Use of Marijuana

Presented by Joel Fontane, AICP
Director, Planning & Regulatory Services Division
Executive Office of Economic Development
City of Worcester, MA
Public Hearing - September 4th, 2013

Background

- **On Nov. 6th, 2012** Ballot Question 3, "An Initiative Petition for a Law for Humanitarian Medical Use of Marijuana" passed with a 63.3% vote and won the majority of votes in 349 of the State's 351 communities.
- **On May 8th, 2013** the state Public Health Council unanimously approved regulations for the medicinal use of marijuana, which became effective on May 24th, 2013.
- **On Aug. 22nd, 2013** the State began accepting applications (Phase I consideration) for dispensaries.
- Given the medical nature of this use, safety concerns related to hardship cultivation, and to be in compliance with State Law, it is important that the City adopt a zoning amendment to allow for dispensaries and cultivation at certain locations.

Medical Marijuana Treatment Center (a.k.a RMD)

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

Who Can Use Medicinal Marijuana?

- **Qualifying Patient:** Means a Massachusetts resident 18 years of age or older who has been diagnosed by a Massachusetts licensed certifying physician as having a **debilitating medical condition** that is also a life-limiting illness, subject to 105CMR 725.010(J).
- **Debilitating Medical Condition:** means cancer, glaucoma, positive status for human immunodeficiency virus (HIV), acquired immune deficiency syndrome (AIDS), hepatitis C, amyotrophic lateral sclerosis (ALS), Crohn's disease, Parkinson's disease, and multiple sclerosis (MS) ***when such diseases are debilitating, and other debilitating conditions as determined in writing by a qualifying patient's certifying physician.***

Key Land Use Policy Considerations

- **Number.** Can municipalities regulate the number of registered medical dispensaries?
- **Zoning Districts.** What zoning districts to allow dispensaries and cultivation facilities and whether to allow them by-right or by special permit.
- **Buffers.** Whether to modify the buffer requirements provided by State regulations, and, if so, what distance should be used and what uses should be buffered?

Policy Consideration Number of RMDs

- The State has imposed a quota on the number of dispensaries at 35 Statewide and not more than five (5) per county – municipalities cannot further limit the number of facilities.
- The Law empowers the State to increase the number of RMDs in the future based on its assessment of whether there are a sufficient number to meet patient needs.
- The State DPH will score applications using, among other criteria, "[…] desired geographical distribution of dispensaries (i.e. convenience for and proximity to Massachusetts Residents, and avoidance of clustering of dispensaries on one area), [and] local support for the RMD application […]".
- At the municipal level the distribution of dispensaries can be regulated through required buffers between RMDs.

Policy Consideration of Zoning Districts

- From a land use perspective, dispensaries and cultivation are considered distinct uses.
- Based on City Council sentiment, the characteristics of RMD uses, and the City's land use policy, the proposed ordinance allows (by-right) RMDs in all Business General, Manufacturing General and Institutional-Hospital Zones with certain buffers and Special Permit controls .

Policy Consideration Why Include Buffers?

- Buffers are a prudent first step until uncertainty associated with the proper implementation and enforcement (by the State) of its new regulations has been demonstrated.
- Buffering was included in the regulations adopted by the State presumably for similar reasons.

Policy Consideration Buffers – State Regulation

- The State's regulations include a provision for buffering dispensaries from facilities in which children commonly congregate as follows:
  - CMR 725.110(A)(14) – Security Requirements for Registered Marijuana Dispensaries states:
    - "A RMD shall comply with all local requirements regarding siting, provided however that if no local requirements exist, a RMD shall not be sited within a radius of five hundred feet of a school, daycare center, or any facility in which children commonly congregate. The 500 foot distance under this section is measured in a straight line from the nearest point of the facility in question to the nearest point of the proposed RMD."

Policy Consideration Buffers – State Regulation

- The State's buffering provision centers on children and does not include a buffer from residential districts, or require that RMDs be separated by a specific distance.
  - Specifically, an [...] "RMD shall not be sited within a radius of five hundred feet of a school, daycare center, or any facility in which children commonly congregate." [...]
- The State's buffering provision is more restrictive than the State's most recently modified Drug Free School Zone buffer of 300'.

Policy Consideration
Proposed Ordinance Defining Buffers

- The proposed ordinance defines places where children commonly congregate as:
  - Public and Private, primary and secondary schools, licensed daycare centers, public libraries, public parks and playgrounds.

Policy Consideration Proposed Ordinance Buffers

- Proposed Ordinance:
  - Provides control through a special permit (from ZBA) process for RMDs within 300' of a residential zoning district.
  - Requires that RMDs be no closer than 300' from one another.
  - Requires a 300' buffer from a well defined set of places where children commonly congregate.
  - Establishes a buffer distance consistent with the State's Drug Free School zones – 300'.

Questions & Comments?

Conflicting Intergovernmental Policies & Locational Choice

- Regardless of local regulation, Drug Free School Zones may influence the locational choice of RMD's. Since Federal Drug Free School zones provide greater penalties for drug related offences within 1,000' from primary and secondary school properties among other things, proponents of dispensaries indicated to staff that they would probably not locate close to schools.
- In terms of distance, the buffer required by CMR 725 is more restrictive than the State's most recently modified Drug Free School Zone buffer of 300'. The State's school zone policy also increases penalties for drug offences, but its role in the State's consideration of RMD siting is unclear.