

## Guidance for Registered Marijuana Dispensaries Regarding Background Checks

Updated May 15, 2015

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This document was issued originally by the Department of Public Health (DPH). As part of the transfer of the medical-use of marijuana program on or before December 31, 2018, the Commission adopted this document. We suggest that you remain current with the applicable medical-use marijuana laws, which include M.G.L. c. 94I and 935 CMR 501.000, and periodically check for revisions to this document before relying on its contents. Questions with regards to this document may be directed to [CannabisCommission@Mass.gov](mailto:CannabisCommission@Mass.gov)

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The purpose of this guidance is to inform you of updated policies relating to individuals associated with Registered Marijuana Dispensaries. It will provide clarification on the types of background checks that will be completed as well as how the outcome of these background checks will inform decisions regarding the Agent's suitability.

This document establishes guidelines and sets expectations for CCC to follow when reviewing RMD background checks in the application leading up to Provisional Certificate of Registration (entering the Inspection Phase); and RMDs to follow when completing background checks once they enter the Inspections Phase and thereafter, subject to audit by CCC.

### **Background Checks During Application Process & Ongoing**

*Application Process.* CCC will complete and review background checks on the following actors ("subjects") as part of the RMD application for a Certificate of Registration:

1. Board of Directors (BOD)
2. Capital Contributors (individual/entities<sup>1</sup> contributing 5% or more)
3. Chief Executive Officer, Chief Financial Officer and Chief Operating Officer
4. Individuals/entities<sup>2</sup> responsible for marijuana for medical use cultivation operations
5. Individuals/entities<sup>2</sup> responsible for RMD security plan and operations

*Inspections Phase & Ongoing.* An RMD shall take responsibility for completing and reviewing the requisite background checks for all individuals or entities associated with the RMD once it enters the Inspections Phase. Background check information shall be retained by the RMD for

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<sup>1</sup> Where a Capital Contributor is an entity, the entity's CEO/ED and President/Chair of the Board of Directors must submit to a background check, in addition to the corporate check that will be performed on the entity company.

<sup>2</sup> Where a consulting or contracted company sends an individual employee or representative to perform onsite services as Cultivation or Security Manager or the equivalent, the individual who will provide the onsite services must submit to a background check, in addition to the corporate check that will be performed on the consulting or contracting company.



submission to CCC staff upon inspection. RMDs must ensure that any release executed by individuals or entities authorizes the release of background check information to CCC. The RMD will keep CCC informed of any changes as required under 725.100(F)(4). Background checks must be completed on the following:

1. All employees;
2. Board members;
3. Capital Contributors;
4. Volunteers;
5. Individuals or entities retained on a consultant or contractual basis.<sup>3</sup>

*Independent Laboratory Dispensary Agents.* CCC will complete and review background checks on all employees of independent testing laboratories who are registered as dispensary agents.

### **Background Investigator**

The Background Investigator will be selected by CCC when it is performing the background checks during the Application Process. When RMDs are conducting the background check, the Background Investigator used must be an investigative firm holding the National Association of Professional Background Screeners (NAPBS®) Background Screening Credentialing Council (BSCC) accreditation and capable of performing the following searches:

1. A Criminal History Search, including county, state, federal, international records for the past 7 years, for instances of:
  - a. Conviction;
  - b. Guilty Plea;
  - c. Nolo Contendere;
  - d. Admission to sufficient facts; and
  - e. Pending charges
2. Professional License Verification;
3. Marijuana Professional License Verification/ Industry Compliance Check;
4. Restricted Parties Search;
5. Civil History Search;
6. 7 Year Sex Offender Search;
7. NPDB (National Practitioner Data Bank);
8. FACIS (Fraud and Abuse Control Information Systems); and
9. Media/Social Media

### **Cost**

RMDs will pay for the cost of completing the background checks.

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<sup>3</sup> Where a consulting or contracted company sends an individual employee or representative to perform onsite services, the individual who will provide the onsite services must submit to a background check, in addition to the corporate check that will be performed on the consulting or contracting company.

**Background Check Review & Determination of Suitability**

*Generally.* CCC or the RMD shall review the information produced by the background checks and determine whether the subject is disqualified from proceeding due to the presence of a disqualifying offense outlined in **Table A**. Subjects with disqualifying offenses shall not be submitted for registration as Dispensary Agents or allowed to be associated with an RMD. All other background check information will be reviewed according to the factors set forth in **Review of Non-Disqualifying Offenses or Information** below.

<b>Table A: Disqualifying Offenses</b>		
<b>Search/Investigation Type</b>	<b>Actionable Outcomes</b>	<b>Determination</b>
<b>Felonies</b>	Felony Drug (no time limit)	Disqualification
	Felony weapons violation involving narcotics (no time limit)	Disqualification
	Felony violence against a person (no time limit)	Disqualification
	Felony involving theft or fraud (no time limit)	Disqualification
<b>Narcotics crimes</b> (non-felonies)	Less than 5 years from disposition or less than 5 years from release of supervision on a possession charge, whichever is later	Disqualification
	Distribution offense (no time limit)	Disqualification
<b>Firearms crimes</b> (non-felonies)	Weapons violation involving narcotics	Disqualification

**Review of Non-Disqualifying Offenses or Information**

Where a criminal offense or other background information is not deemed to be a disqualifying offense, CCC or an RMD shall consider whether the offense or information renders the subject unsuitable on the basis of the following factors:

- a. time since the conviction, pending offense, or incident;
- b. age of the candidate at the time of the offense or incident;
- c. nature and specific circumstances of the offense or incident;
- d. sentence imposed and length of any period of incarceration, if criminal;
- e. penalty or discipline imposed, including damages awarded, if civil or administrative;
- f. relationship of the offense or incident to the nature of the work to be performed;
- g. number of offenses or incidents;
- h. whether offenses or incidents were committed in association with a dependence on drugs or alcohol, from which the candidate has since recovered;
- i. if criminal, any relevant evidence of rehabilitation or lack thereof, such as information about compliance with conditions of parole or probation, including orders of no contact with victims and witnesses; and the individual’s conduct and experience since the time of

- the offense, including but not limited to educational or professional certifications obtained; and
- j. any other relevant information, including information submitted by the subject, or requested by CCC.

RMDs shall be required to complete a written determination that, in evaluating these factors, the subjects' background does not generally pose an unacceptable risk of harm to the public health, safety or welfare, and particularly pose a risk of harm to qualifying patients, personal caregivers, dispensary agents or other individuals associated with an RMD. Such determination shall be maintained in the RMD's business records together with the background check information for each dispensary agent or individual associated with an RMD