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Medical Use of Marijuana Program  
Department of Public Health  
99 Chauncy Street, 11<sup>th</sup> Floor  
Boston, MA 02111

MA Dept of Public Health  
99 Chauncy Street  
Boston, MA 02111

**Re: December 3, 2015 Department of Public Health Request for Information for MassMedicum, Corp. (Application 2 of 2)**

Please be advised that this correspondence is in response to the Department of Public Health's ("DPH") December 3, 2015 Request for Information from MassMedicum, Corp. ("MassMedicum"). The DPH requested the following information:

1. **DPH Request:** *The Comprehensive Information Security Policy contained in Appendix 5 to your Bylaws does not appear to be in compliance with 105 CMR 725.200(0) regarding confidentiality, particularly Section IV.C. Please resubmit an amended Comprehensive Information Security Policy that complies with 105 CMR 725.200(D).*

**MassMedicum's Response:** Please find enclosed a copy of MassMedicum's amended Comprehensive Information Security Policy that complies with 105 CMR 725.200(D).

2. **DPH Request:** *In your response to Question C.11, you describe a proposed contract with an unidentified management company. Please submit a copy of the agreement and an independent legal opinion that it is in compliance with the non-profit requirements of 105 CMR 725.100(A)(1) and the Guidance for Registered Marijuana Dispensaries Regarding Non-Profit Compliance ("Non-Profit Guidance"). If you do not yet have an agreement, please be advised that you will need to submit the contract and an independent legal opinion that the contract is compliant with the Non-Profit Guidance prior to receiving a Provisional Certificate of Registration.*

**MassMedicum's Response:** MassMedicum does not yet have an agreement with a management company. MassMedicum is currently negotiating the terms of a management company agreement. Upon finalization and execution of a management company agreement, MassMedicum will provide a copy of the agreement to the DPH and an independent legal opinion that the agreement is in compliance with the non-profit requirements of 105 CMR 725.100(A)(1) and the Guidance for Registered Marijuana Dispensaries Regarding Non-Profit Compliance. MassMedicum is aware that the DPH requires a copy of the management company agreement and an independent legal opinion prior to receiving a Provisional Certificate of Registration.

3. **DPH Request:** *In your responses to Question C.12, you describe a revolving line of credit with Mass Medicum Chief Executive Officer, Dr. James Kurnick and an agreement for cultivation services with*

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*Medsorganics, which is partially owned by Dr. Kurnick's son, Matthew Kurnick. The Program has a copy of both agreements. If the terms of these agreements have been updated since they were last submitted to the Program, please submit an updated version. The Program has an independent legal opinion regarding the revolving line of credit agreement, but needs an independent legal opinion that the agreement with Medsorganics is in compliance with the non-profit requirements of 105 CMR 725.100(A)(1) and the Guidance for Registered Marijuana Dispensaries Regarding Non-Profit Compliance ("Non-Profit Guidance"). If the terms of the revolving line of credit agreement have changed since the independent legal opinion on file with the Program, please submit an updated legal opinion.*

**MassMedicum's Response:** The terms of the revolving lines of credit agreement and the cultivation services agreement have not been updated since they were last submitted to the DPH. However, please find enclosed an updated response to Question C.12 on MassMedicum's Management and Operations Profile explaining that MassMedicum's executed contract for cultivation services with Medsorganics is only applicable to MassMedicum's existing Provisional Registration. The cultivation services contract with Medsorganics is not applicable to MassMedicum's two current RMD registration applications.

MassMedicum is currently negotiating a new cultivation services agreement with Medsorganics that contemplates services and fees for both the existing Provisional Registration and the two proposed RMD registrations. Once the terms of the new cultivation services agreement with Medsorganics have been finalized and executed, the prior agreement with Medsorganics will be terminated. Upon finalization and execution of the new agreement, MassMedicum will supply the DPH with a copy of the agreement and an independent legal opinion that the agreement is in compliance with the non-profit requirements of 105 CMR 725.100(A)(1) and the Guidance for Registered Marijuana Dispensaries Regarding Non-Profit Compliance. MassMedicum is aware that the DPH requires a copy of cultivation services agreement and an independent legal opinion prior to receiving a Provisional Certificate of Registration.

4. **DPH Request:** *In response to Question E.23, the applicant refers to its plans to comply with "725.105, .500 and .300." This citation is unclear. Applicant must resubmit a completed response to Question E.23 that clearly identifies the correct section of the Regulations.*

**MassMedicum's Response:** Please find enclosed a revised response to Question E.23 that clearly identifies the correct section of the Regulations.

5. **DPH Request:** *In response to Question E.36, applicant states, "Patients will be eligible for the program if that patient's income does not exceed 300% of the Federal Poverty Level (FPL)(adjusted for family size). Proof of financial hardship can be demonstrated by participation in MassHealth, SSI, SSDI, and SNAP. Proof of financial hardship from other income-based support programs can also serve as sufficient evidence for enrollment in the hardship program." It is not clear whether the applicant's means of verifying financial hardship also include means for determining, if an individual does not participate in the programs identified, whether an individual's income does not exceed 300% of the federal poverty level, adjusted for family size, as is required in 105 CMR 725.004 under the definition of "Verified Financial Hardship." Applicant must resubmit a completed response to Question E.36 that complies with the definition of Verified Financial Hardship.*

**MassMedicum's Response:** Please find enclosed a revised response to Question E.36 clarifying the means in which MassMedicum will determine whether an individual's income does not exceed 300% of the federal poverty, adjusted for family size, as is required in 105 CMR 725.004, if that individual does not participate in MassHealth, SSI, SSDI, or SNAP.

6. **DPH Request:** *In response to Question E.36, applicant states that, "The budget and number of patients awarded access to the program will be limited based on MMC's revenue and available medicine." Pursuant to 105 CMR 725.100(A)(6), an "RMD must have a program to provide reduced cost or free marijuana to patients with documented verified financial hardship." The Regulations, 105 CMR 725.000, et seq., do not authorize dispensaries to create limits or caps on compliance with 105 CMR 725.100(A)(6) where patients otherwise meet the definition of "Verified Financial Hardship" as set forth in 105 CMR 725.004. Applicant must resubmit a completed response to Question E.36 that complies with 105 CMR 725.100(A)(6).*

**MassMedicum's Response:** Please find enclosed a completed response to Question E.36 that complies with 105 CMR 725.100(A)(6).

Very truly yours,

  
Brandon Kurtzman, Esq.

BRK/tc  
Enclosures

12. Please identify any agreements or contracts, executed or proposed, in which the applicant will engage in a Related Party Transaction and summarize the terms of each such agreement.

MMC has identified the following agreements or contracts, executed or proposed, in which it will engage in a Related Party Transaction:

- MMC has two executed revolving line of credit agreements with Dr. Kurnick (CEO) (annual interest rates of 10% and 18%)
- MMC has an executed contract for cultivation services with Medsorganics, Inc. that is only applicable to MMC's existing provisional registration and is not applicable to this application. MMC is currently negotiating a new cultivation services agreement with Medsorganics that contemplates services and fees for both the existing provisional registration and the two proposed RMD registrations. Upon execution, MMC will supply the DPH with a copy of the agreement and an independent legal opinion.
- MMC will enter into a contract with a management company, pending DPH approval. (See Question No. 11 for the proposed terms of the contract.)

The following individuals affiliated with MMC will have an interest in the management company:

- MMC's CEO, Dr. Kurnick will be a partial owner of the management company and serve on its board of managers.
- MMC's COO and CFO, Phil Silverman will be a partial owner of the management company and serve on its board of managers.

23. Provide a summary of the RMD's methods of producing MIPs, if the RMD intends to produce MIPs.

MassMedicum emphasizes solvent-free extractions including heat/pressure treatment of trim, flowers, and trichomes to extract oils. Supercritical fluid CO2 extraction (SFE) will be used to purify material to greater than 75% cannabinoid (either THC or CBD, or THC/CBD combo). SFE-concentrated oils will be provided in vaporizer pens for consistent delivery of optimal doses of cannabinoids.

MIPs will be produced in a secure area on food-grade stainless steel tables and in accordance with 105 CMR 300.000 and 105 CMR 500.000. MIPs ingredients will be from a DPH approved source. All containers will be labeled. Leaves/flowers of female plants used for MIPs will be processed in a safe and sanitary manner, be well cured and free of seeds, stems, dirt, sand, debris, and other foreign matter. MIPs will be free of contamination from mold, rot, fungus, and bacterial diseases.

There will be no bare hand contact with ready-to-consume items. Cooling methods will be used to prevent microorganism growth. Agents will wear gloves and utilize warewashing facilities. The kitchen will be free from pests and all surfaces, utensils, equipment, and linens will be properly used, sanitized, stored, dried, and handled to prevent contamination during MIPs preparation, storage, and display. Approved thawing methods and regularly calibrated thermometers will be used. Processes will be HACCP compliant. MIPs and food will be safe, in good condition, unadulterated, and tested pursuant to 725.105(C)(2).

36. Provide a summary of the RMD's policies and procedures for the provision of marijuana for medical use to registered qualifying patients with verified financial hardship without charge or at less than the market price.

MMC is committed to assisting patients with Verified Financial Hardships (VFH). Recipients of MassHealth, Supplemental Security Income, and those with a household income that does not exceed 300% of the Federal Poverty Level, adjusted for family size have a VFH.

All patients with a documented VFH as defined by 105 CMR 725.004 will be provided discounted marijuana.

MMC will provide patients with a VFH Affidavit Form to determine whether a patient qualifies for a VFH per 105 CMR 725.004 and 105 CMR 725.100(A)(6).

The Affidavit Form will request that patients provide proof of VFH by submitting a copy of one of the following:

- Official MassHealth card issued by the Commonwealth of Massachusetts;
- Supplemental Security Income benefit verification letter;
- State or federal tax return from current year or previous year, including all attachments, to determine if income exceeds 300% of FPL;
- Supplemental Nutrition Assistance Program (SNAP) statement from the current year.

Based on current projections, MMC plans to provide discounted medicine at the following levels to patients with VFH:

- $\leq 100\%$  of FPL: nominal cost up to 2 gram/week, 50% discount thereafter up to .25 ounce/month. Paraphernalia at cost.
- $> 100\%$  but  $\leq 200\%$  of FPL: nominal cost up to 1 gram/week, 35% discount thereafter up to .25 ounce/month. Paraphernalia at cost + 10%.
- $> 200\%$  but  $\leq 300\%$  of FPL: nominal cost up to .5 gram/week, 20% discount thereafter up to .25 ounces/month. Paraphernalia at cost + 20%.

**APPENDIX 5:**

**MASSMEDICUM CORP.  
COMPREHENSIVE INFORMATION SECURITY POLICY**

**I. Objective.**

It is the objective of MassMedicum Corp (“Non-profit”) in the development and implementation of this comprehensive information security program (“CISP”) to create effective administrative, technical and physical safeguards for the protection of personal information, and to comply with obligations under 201 CMR 17.00 and 105 CMR 725.200. This CISP sets forth our procedure for evaluating our electronic and physical methods of accessing, collecting, storing, using, transmitting, and protecting personal information. For purposes of this CISP, “personal information” means an individual’s first name and last name or first initial and last name in combination with any one or more of the following data elements that relate to such resident: (1) Social Security number; (2) driver’s license number or state-issued identification card number; or (3) financial account number, or credit or debit card number, with or without any required security code, access code, personal identification number or password, that would permit access to an individual’s financial account; provided, however, that “personal information” shall not include information that is lawfully obtained from publicly available information, or from federal, state or local government records lawfully made available to the general public. Non-profit generally acquires personal information in connection with hiring employees and payroll, and in connection with sales to the public.

**II. Purpose.**

The purpose of the CISP is to:

- a. Ensure the security and confidentiality of personal information;
- b. Protect against any anticipated threats or hazards to the security or integrity of such information; and
- c. Protect against unauthorized access to or use of such information in a manner that creates a substantial risk of identity theft or fraud.

**III. Data Security Coordinator.**

The Non-profit appoints the Treasurer to be its Data Security Coordinator. The Data Security Coordinator will be responsible for:

- a. Initial implementation of the CISP;
- b. Regular testing of the CISP’s safeguards;
- c. Evaluating the ability of each of Non-profit’s third party service providers to implement and maintain appropriate security measures for the personal information to which Non-profit permits them access, and requiring such third party service providers to implement and maintain appropriate security measures;

- d. Reviewing the scope of the security measures in the CISP at least annually, or whenever there is a material change in Non-profit's business practices that may implicate the security or integrity of records containing personal information; and
- e. Conducting an annual training session for all Directors, Officers, Employees, volunteers and independent contractors, including temporary and contract Employees who have access to personal information on the elements of the CISP.

#### IV. Handling Personal Information.

##### A. Paper Records

All paper records containing personal information shall be kept in a locked file cabinet with restricted access. Paper records will be destroyed regularly in accordance with Non-profit's document destruction policy using an office-grade shredder. Records containing personal information may not be taken out of the office and may be accessed only by personnel with a business necessity. Checks that need to be transported from the dispensary to the bank may be sent by US mail or hand delivered by the responsible Employee, and if hand delivered, will not be left unattended at any point in the transition.

Checks. When the Non-profit receives checks from members of the public, it will make only one hard copy and keep it in a locked file cabinet with restricted access. The checks themselves will also be kept under lock and key until they are deposited.

Paper Employment Records. Paper employment records must be kept under lock and key and accessed only by staff members responsible for employment issues and/or by the Executive Director.

##### B. Electronically Held Records

The Non-profit requires the following security systems with respect to the maintenance of personal information on its computers:

Authentication Protocols. The Data Security Coordinator shall secure user authentication protocols including:

- a. Control of user IDs and other identifiers;
- b. A reasonably secure method of assigning and selecting passwords, or use of unique identifier technologies, such as biometrics or token devices;
- c. Control of data security passwords to ensure that such passwords are kept in a location and/or format that does not compromise the security of the data they protect;
- d. Restricting access to active users and active user accounts only; and
- e. Blocking access to user identification after multiple unsuccessful attempts to gain access.

Access Protocols. The Data Security Coordinator shall implement the following secure access control measures:



- a. Restrict access to records and files containing personal information to those who need such information to perform their job duties; and
- b. Assign unique identifications plus passwords, which are not vendor supplied default passwords, to each person with computer access that is reasonably designed to maintain the integrity of the security of the access controls.

Restriction on E-mailing Personal Information. The Non-profit will not, as a general rule, send or accept personal information by e-mail. To the extent exceptions must be made, the security measures described in this CISP shall be taken.

Encryption. Should any records and files containing personal information be transmitted across public networks or wirelessly, such records or files shall be encrypted. Personal information stored on laptops and other portable devices shall also be encrypted.

Monitoring. The Non-profit shall take all steps necessary to reasonably monitor its computer network for unauthorized use of or access to personal information.

Firewalls. All files containing personal information on a system that is connected to the Internet shall be protected by a reasonably up-to-date firewall protection and operating system security patches designed to maintain the integrity of the personal information.

Virus Protection. All computers containing personal information shall be protected by reasonably up-to-date versions of system security agent software, including malware protection and reasonably up-to-date patches and virus definitions, or a version of such software that can still be supported with up-to-date patches and virus definitions, and is set to receive the most current security updates on a regular basis.

### C. Vendors

Pursuant to 105 CMR 725.200, information held by the Non-profit about 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. Only upon receipt of written consent of the individual to whom the confidential information applies will the Non-profit share personal and financial information with its vendors. The Non-profit requires each of their vendors to send written evidence, signed by an authorized person, confirming that they follow a confidentiality plan that fully complies with 105 CMR 725.200 and 201 CMR 17.00.

### V. Training.

The Data Security Coordinator shall ensure that all employees, whether full-time, part-time, seasonal or temporary, and independent contractors, consultants, and volunteers

who have access to personal information are trained on the data security requirements provided in this CISP.

VI. Persons Separating from Non-profit.

All employees, whether full-time, part-time, seasonal or temporary, and independent contractors, consultants and volunteers upon termination or resignation shall immediately be denied access to physical and electronic records containing personal information and will be required to return or destroy all records and files containing personal information in any form that may at the time of such termination or resignation be in their possession or control, including all such information stored on laptops, portable devices, or other media, or in files, records, notes, or papers.

VII. Security Breach and Notification.

All employees, whether full-time, part-time, seasonal, or temporary, and independent contractors, consultants, and volunteers, shall as soon as practicable and without unreasonable delay notify the Data Security Coordinator when such person knows or has reason to know of a security breach or when the person knows or has reason to know that personal information was acquired or used by an unauthorized person or used for an unauthorized purpose.

A “security breach” is any unauthorized acquisition or unauthorized use of unencrypted data or encrypted electronic data and the confidential process or key that is capable of compromising the security, confidentiality, or integrity of personal information that creates a substantial risk of identity theft or fraud. A good faith but unauthorized acquisition of personal information by a person or agency, or Employee or agent thereof, for lawful purposes, is not a breach of security unless the personal information is used in an unauthorized manner or subject to further unauthorized disclosure.

When the Data Security Coordinator is informed of a security breach, she will (1) notify the individual whose information was compromised, and (2) notify the Massachusetts Attorney General and the Office of Consumer Affairs and Business Regulation.

The notice to the individual will be in writing, possibly by electronic mail, and will include the following information:

- a. A general description of the incident;
- b. Identification of the personal information that may be at risk;
- c. A description of Non-profit’s security program;
- d. A phone number to call within Non-profit for further information;
- e. Suggestion of extra caution, to review account statements, and to obtain a credit report; and
- f. Phone numbers and addresses of the Federal Trade Commission, state agencies that may be of assistance, and major consumer reporting agencies. The notice will not be provided if law enforcement personnel advise against it.

The notice to the Office of Consumer Affairs and Business Regulation and to the Attorney General will include the following:

- a. A detailed description of the nature and circumstances of the breach of security;
- b. The number of people affected as of the time of notification;
- c. The steps already taken relative to the incident;
- d. Any steps intended to be taken relative to the incident subsequent to notification; and
- e. Information regarding whether law enforcement is engaged investigating the incident.

Non-Retaliation. The Non-profit will not retaliate against anyone who reports a security breach or non-compliance with CISP, or who cooperates in an investigation regarding such breach or non-compliance. Any such retaliation will result in disciplinary action by the responsible parties up to and including suspension or termination.

Documentation. Non-profit shall document all responsive actions taken in connection with any incident involving a security breach.

#### VIII. Security Breach and Notification

Notwithstanding anything to the contrary contained herein, information held by the Non-Profit 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.