STATE OF COLORADO

DEPARTMENT OF REVENUE
Medical Marijuana Enforcement Division
455 Sherman Street Suite 390
Denver CO 80203

John J. Hickenlooper
Governor

Barbara J. Brohl
Executive Director

George Thomson
Senior Enforcement
Director

Laura K. Harris
Division Director

April 6, 2012

Sean McAllister
McAllister, Darnell & Associates, P.C.
36 Steele Street, Suite #200
Denver, CO 80206

Re: Request for Position Statement

Dear Mr. McAllister:

This is in response to your letter, dated March 6, 2012, which I received on March 8, 2012, wherein you request on behalf of your law firm, McAllister, Darnell & Associates, P.C., a statement of position pursuant to Regulation 1.310, 1 CCR 212-1. The verbatim questions presented in your letter are in italics, and the Medical Marijuana Enforcement Division (MMED) response follows each.

Pursuant to Rule 1.310 "any person...may petition the MMED for a statement of position concerning the applicability to the petitioner of any provision of the [Medical Marijuana] Code, or any regulation of the state licensing authority." Be advised that the rule does not authorize or obligate the MMED to provide legal analysis or opinion above and beyond the applicability of the provisions of the Code or related regulations.

Question #1-What constitutes a clone for the purposes of counting against an MMC's plant count?

The question presented for position statement lacks specificity, in that you have not cited the applicable rule that would be relevant to this specific question. However, should your reference be to he term "clone" as cited in the "Definitions" section of 1 CCR 212-1, "Clone - refers to a non-flowering medical marijuana plant that is no taller than eight (8) inches and no wider than (8) inches that is in a growing container that is no larger that two (2) inches wide and two (2) inches tall that is sealed on the sides and bottom, although the seal on the bottom may contain ventilation or drainage holes."

Pursuant to the following rules a "clone" must be considered as part of, or "counted against", a licensee's plant count when it is introduced into a growing medium.

> Rule 1.205(A)(1), 1 CCR 212-1: "Inventory" – shall be measured by common weights and measures and consist of both: plant count within a licensee's OPC and MMC which shall not

> exceed six (6) plants per patient designated to the MMC including marijuana clones placed in a growing medium;..
>
> Rule 1.205(C)(1), 1 CCR 212-1: "Inventory Determination. All plants of the genus *Cannabis,* including marijuana clones placed in a growing medium, in possession of a licensee while at an OPC facility and MMC shall be considered plant inventory.

When is a plant counted as a plant if it is just cloned in a rockwool cube?

Pursuant to Rule 1.205(C)(1), a plant is considered part of a licensee's plant count when introduced into any growing medium, including rockwool cubes.

Question #2-Can MMC owners be caregivers in their own home, I have received conflicting interpretations of this rule?

The question presented for position statement lacks specificity, in that you have not cited the applicable statutory section of the Medical Marijuana Code or related regulations that would be relevant to the question.

Question #3-When can an MMC begin growing a patient's plant pursuant to the "120-day" rule or otherwise?

The question presented for position statement lacks specificity, in that you have not cited the applicable rule that would be relevant to this question. However, should your reference be to Rule 1.200 "Registration of a Primary Center", the rule is clear in its direction: an MMC is prohibited from allowing a patient to designate that center as their primary center if, at anytime during the previous 120 days, the patient had designated another center as their primary center.

Question #4-"Can a licensed owner or employee of an MMC (MMC1) get a commission by brokering wholesale transactions between MMC2 and MMC3? Can the owner of MMC1 get a commission without ever touching the product? Can they do this without actually having to check the product in/out of the MMC1?

The question presented for position statement lacks specificity, in that you have not cited the applicable statutory section of the Medical Marijuana Code or related regulations that would be relevant to the question.

If you should disagree with the position statements provided herein, you may have the right to appeal by seeking a Declaratory Order from the state licensing authority. An appeal is governed by the provisions of Rule 1.310, and must be made within thirty (30) days from the date of these position statements.

Sincerely,

Laura K. Harris
Director
Medical Marijuana Enforcement Division