

Compliance Tip

July 12, 2017

Topic: Marijuana Business Operators

[Applicable Statutes:](#) § 12-43.3-407 C.R.S. and §12-43.4-407 C.R.S.

[Applicable Rules:](#) 1CCR 212-1: M 103, M 201(E), M 204(E), M 204.5, M 1701(A) &(D), and M 1702(H)(4) &1CCR 212-2: R 103, R 201(E), R 204(E), R 204.5, R 1701(A) & (D), and R 1702(H)(4)

MED has received inquiries requesting clarification regarding operator licenses and registrations. In an effort to assist persons considering such a license or registration, MED provides the following tips.

- Is any person who provides a contract service to a licensed business or establishment required to obtain an operator's license?

No. Generally speaking, an operator license or registration is required under two scenarios: (1) a person who has been hired to perform overall management of a licensed business or establishment on behalf of an owner, see, e.g., § 12-43.4-407, C.R.S.; Rules M & R 204(E); and (2) a person who provides a contract service for a licensed business or establishment and receives compensation through a percentage of the business' or establishment's profits. See, e.g., § 12-43.4-407, C.R.S.; Rules M & R 103 and 204.5.

MED notes that the particular facts and circumstances of the relationship between a licensed business or establishment and a person providing contract services ultimately determine whether the person must be licensed or registered as an operator. MED further notes that each licensed business or establishment may only have one business operator. See Rules M & R 1701(A).

- Is an operator's license or registration limited to persons who receive a portion of a licensed business's or establishment's profits as compensation for the person's services?

No. An operator may receive a portion of profits as compensation from the licensed business or establishment being operated, but this arrangement is not required. A licensed or registered operator may have other types of compensation arrangements. See, e.g., § 12-43.4-407, C.R.S.; Rules M & R 103 and 204(E). MED notes that the contract between the licensed business or establishment and a business operator, including the compensation arrangement, is contingent on MED approval. See Rules M & R 1702(H)(4).

Licensees are responsible for ensuring they are compliant with applicable statute and rules. This Compliance Tip is not intended to be all inclusive and may not include all statutes and rules applicable to the Topic. Further, the Division is not able to provide you with legal advice. If you have any legal questions, please consult with an attorney.

- Is local licensing or approval required in order to obtain a State operator license or registration?

Yes under limited circumstances. If the local jurisdiction in which the operator locates its separate place of business requires licensure or approval, such licensure or approval is required before the operator may operate. See Rules M & R 201(E) and 1701(D). It is the responsibility of the applicant for an operator license or registration to present proof that it is in compliance with any applicable local license or approval, or that the relevant local jurisdiction does not require local approval or licensing.

- May a licensed business or establishment engage the services of an operator without approval by the Division?

No. A licensed business or establishment must obtain Division approval of its contract with an operator. See Rules M & R 1702(H)(4).

Applicants and licensees are responsible for ensuring they are compliant with applicable statutes and rules. These Compliance Tips are not intended to be all-inclusive and may not include all statutes and rules applicable to the Topic.

Further, the Division will consider the particular facts and circumstances surrounding an application or activity in order to determine whether licensees and applicants are compliant with applicable statutes and rules.

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