COLORADO
Department of Revenue
Enforcement Division - Marijuana
455 Sherman Street, Suite 390
Denver, CO 80203

November 2, 2015

SENT VIA E-MAIL to: jeff@gardlawfirm.com

Jeffrey S. Gard, Esq.
Gard & Bond, LLC
Attorneys at Law
2541 Spruce Street
Boulder, CO 80302

RE: Response to Request for Position Statement

Dear Mr. Gard:

This letter is in response to your Petition for a Statement of Position pursuant to Rule R 104(A), 1 CCR 212-2, received October 2, 2015.

Question:

"We would like an opinion on the payment of independent contractors in a "price-per-pound" model for licensed retail marijuana cultivation facilities as related to MED Rules, including R 204."

Division's Response:

While the Division cannot determine its ultimate position with respect to the applicability of Rule R 204, 1 CCR 212-2, based upon the limited facts set forth in the hypothetical, it appears that the independent contractor would be considered an owner and/or will be deemed to have a direct or indirect financial interest that must be disclosed per R 204.

Rule R 204, 1 CCR 212-2 provides a non-exhaustive list of the factors to be considered when evaluating ownership of a license. Determining the extent to which an independent contractor should be considered an owner or as having a direct or indirect financial interest depends on the totality of the circumstances surrounding each application submitted to the Division, the relationships between the parties and an applicant or licensee, and would require a review of all relevant documents as part of the applicant or licensees' background investigation.

Where there is any doubt, a complete disclosure should be made regarding any such independent contractor so that the Division can evaluate the extent to which such an independent contractor is an owner or has a direct or indirect financial interest.

Thank you for your inquiry. If you have additional information or questions, please contact Jim Burack, MED's Chief of Investigations, at jim.burack@state.co.us.

Sincerely,

W. Lewis Koski, Director