

Department of Commerce, Community, and Economic Development

Alcohol and Marijuana Control Office

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MEMORANDUM

TO: Marijuana Control Board DATE: September 4, 2024

FROM: Kristina Serezhenkov, Regulations RE: Management Service

Specialist Agreement

This project was opened at the April 2024 Board meeting and versions were considered at the June 2024 board meeting and sent back to staff for more work. The attached regulations draft is for board discussion. It proposes to amend:

3 AAC 306.915. Exercise of authority.

Clarifying language is added so that the licensee is solely responsible and liable for the conduct of business while allowing that an agent of the licensee may operate a management services agreement under 3 AAC 306. (The change here is that the phrase 'approved' is removed as the agreement will not be reviewed for approval by the director.)

3 AAC 306.916. Responsibility of licensees, agents, and employees.

A new section is added outlining the responsibility of the licensee to ensure its agents and employees are compliant with AS 17.38 and public health, fire, and safety codes and ordinances.

3 AAC 306.917. Management agreement.

A new section is added allowing a licensee to enter into a management agreement. (The change here is that the section is renamed to 'management agreement' and wording is removed that required the agreement to be reviewed and approved by the director. A licensee is required to notify the office that an agreement exists or if any changes to the agreement take place. The director may request a copy of the written agreement and may declare an agreement void for valid reasons.)

There are two questions outlined on the draft for the board to consider for possible amendment of wording.*

Options for the board:

- Move to approve and send to Law for initial review and (with Law's approval) subsequent public comment
- Move to amend and then send to Law for initial review and (with Law's approval) subsequent public comment
- Move to send back to staff for more work
- Table the regulations project
- Close the regulations project

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(Words in **boldface and underlined** indicate language being added; words [CAPITALIZED AND BRACKETED] indicate language being deleted.)

3 AAC 306.915 is amended to read:

3 AAC 306.915. Exercise of authority. Until a marijuana establishment surrenders its license to the board, and so long as business is conducted under the license on the licensed premises, the person holding the license, whether an individual, a partnership, a limited liability company, a corporation, or a local government, is solely responsible and liable for the conduct of the business. Any individual exercising actual authority over the conduct of business on the licensed premises must be the holder of the marijuana establishment license[, OR] an agent or employee of that person, or an agent operating a management services agreement under 3 AAC 306.917, unless the board has approved a transfer of the license to a different person. (Eff. 2/21/2016, Register 217; am ___/___, Register ____) Authority: AS 17.38.010 AS 17.38.150 AS 17.38.200 AS 17.38.070 AS 17.38.190 AS 17.38.900

3 AAC 306 is amended by adding a new section to read:

AS 17.38.121

3 AAC 306.916. Responsibility of licensees, agents, and employees. (a) The licensee has a duty to exercise that degree of care that a reasonable person would observe to ensure that a business under the person's control is lawfully conducted. This duty of the licensee includes, but is not limited

(1) to ensuring the compliance by agents or employees with AS 17.38 and the regulations adopted under this title including acting with reasonable diligence to determine that

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agents or emp	ployees are advised	of the provisions of A	S 17.38 and the regulations	adopted under
this title, either	er by securing the ag	gent's or employee's	written acknowledgement of	f posted
instructions o	r otherwise; and			
(2) to	ensuring the compl	iance of the premises	with public health, fire, and	safety codes
and ordinance	es of the state or mu	nicipality having juris	diction. (Eff. 1/1/2024, Re	gister 248; am
//	, Register			
Authority:	AS 17.38.010	AS 17.38.150	AS 17.38.200	
	AS 17.38.070	AS 17.38.190	AS 17.38.900	
	AS 17.38.121			

3 AAC 306 is amended by adding a new section to read:

3 AAC 306.917. Management agreement. (a) For the purposes of 3 AAC 306.015(a), a marijuana establishment licensee, excluding a licensee holding a marijuana testing facility license under 3 AAC 306.605, may enter into a management agreement with a person who would otherwise qualify for a marijuana license under 3 AAC 306.015 and who holds a current marijuana handler permit set out at 3 AAC 306.700, who does not have an ownership interest in the marijuana establishment license for the purpose of giving that person responsibility for the day-to-day operations of a marijuana establishment license.

(b) A management agreement under this section must be in writing and signed by a licensee or transferor whose name is required to be provided with an application for a new or transfer license under 3 AAC 306.020 or 3 AAC 306.045-046, and by the non-licensee or transferee agreeing to manage the operation of the business. The licensee who signs the management agreement shall notify the board not later than 10 days from the effective date of the

Commented [KRS1]: Question for the board: Do you want a full background check? If so, this sub section can be amended to require this.

Commented [KRS2]: Question for the board: Do you want a notification on a 'notification form prescribed by the board' that includes the name of the parties and their contact info? Or do you just want a notification and say, an email from the licensee will suffice?

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management ag	greement and if there a	are any changes to the	management agreement, including			
expiration, termination, or amendment not later than 10 days after each change to the						
management ag	greement occurs.					
(d) The	director may request,	and the licensee shall	provide no later than three days after			
the director's re	equest;					
((1) a copy of the signe	ed management agreer	ment and any related agreements			
between the parties that are signed and dated by						
(A) a licensee or transferor						
(B) the non-licensee or transferee						
((2) information detaili	ing any compensation	paid in exchange for the management			
agreement; and						
•	(3) any other informat	tion relevant to the ma	unagement agreement.			
(e) The director may declare a management agreement that does not comply with AS						
17.38, 3 AAC 306.015(a), or 3 AAC 306.915-917 void.						
(f) The board may suspend or revoke the marijuana handler permit of an agent operating						
a management	services agreement un	nder 3 AAC 305.917 i	f the agent violates AS 17.38 or its			
implementing r	regulations. (Eff. 1/1/2	2024, Register 248; ar	m/, Register)			
Authority:	AS 17.38.010	AS 17.38.150	AS 17.38.200			
	AS 17.38.070	AS 17.38.190	AS 17.38.900			
	AS 17.38.121					