

# 11.5.21 CCB Meeting Recommendations

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- Integrated-specific operational requirements (con't)
  - Separate inventories; transfer
- Enforcement
  - Denial of initial application
  - Suspension, revocation, denial of renewal application
  - Appeals

# Integrated-specific operational requirements - transfer

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The cannabis plant, cannabis product, and useable cannabis possession limits for a registered dispensary set forth in 18 V.S.A. chapter 86 shall no longer apply on and after February 1, 2022. A dispensary shall be permitted to cultivate cannabis and manufacture cannabis products for the purpose of transferring or selling such products to an integrated licensee on or after April 1, 2022 and engaging in the activities permitted by 7 V.S.A. chapter 33.

- No requirement to segregate medical and adult-use inventory at cultivation stage
- Priority entrance, reservation / curbside sale (if requested) for medical patients
- Inventory records that verify continuity of products for VT patients
- Sufficient biomass to meet the demand indicated by an analysis of sales data during the preceding 3 months
- All transfers above largest cultivation tier require Board approval while provision is in effect

# Denial of initial application

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The Board may deny a license applicant for an annual license that:

1. Is not qualified to hold an annual license:

- criminal history disqualifiers;
- ownership requirements;
- false / misleading statements / omissions of material fact;
- demonstrated a danger to the public health, safety, and general welfare of the State;
- history of:
  - i. Distributing marijuana to minors;
  - ii. Involvement with organized crime;
  - iii. Diverting marijuana from personal use or cannabis states to other states;
  - iv. Engaging in trafficking of controlled substances not authorized by the Act or this chapter, or other illegal activity; or
  - v. Engaging in violence or the use of firearms as part of cannabis business operations.

2. Has not met minimum standards in accordance with the criteria included 7 VSA 903;

# Enforcement - Suspension / revocation / denial of renewal

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All licensees are required to remain in full compliance with applicable laws and regulations. Submission of a license application or issuance of a license constitutes consent for any inspection. In addition to the inspections that are conducted as part of the licensing process, licensees can expect any of the following to occur:

- Announced inspections;
- Unannounced inspections;
- Investigations related to complaints;
- Financial audits;
- Inspections related to the Commission's Secret Shopper Program; and
- Other inspections and investigations related to compliance with applicable laws and regulations.

Licensees shall allow immediate access to the facility; immediately make available all information that may be relevant to an inspection or investigation of an incident or a complaint including a licensee's papers, books, documents, records, correspondence, electronic communications, and other tangible things to examine and inspect.

# Enforcement - Suspension / revocation / denial of renewal

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- Any violation of laws and regulations including tax requirements and dispensing to youth
- Any action implicating a risk to public safety, health, or welfare
- Information provided by the CE was deceptive, misleading, false or fraudulent
- Failure to cooperate with an investigation, submit corrective action plan, or pay fines
- CE has attempted to change ownership or assign its License to another entity without prior approval of the Board
- Licensee failed to comply with the control limitations listed in 7 VSA 901
- There has been a lack of responsible operation of the CE (sanitary concerns, non-compliance with diversity plan, sales to minors, other incompetent / negligent operation)
- Substandard level of compliance with the statutory and regulatory requirements for the operation of a CE in an Other Jurisdiction
- Conduct or practices of the CE have been detrimental to the safety, health, or welfare of the public.
- Any other ground that serves the purposes of Act 164 / 62

# Enforcement - Suspension / revocation / denial of renewal

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If noncompliance remains, or if a risk to public safety, health, or welfare exists, the following enforcement actions may occur:

- Administrative holds related to products;
- Limitation on sales;
- Removal and prohibition of products;
- Quarantine of products;
- Cease and desist orders;
- Summary suspension orders;
- Orders to show cause;
- Suspension of a license;
- Revocation of a license;
- Denial of a renewal of license; and
- License being deemed void.

(non-exhaustive list)

# Enforcement of violations

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Complaint received – phone, email, online portal

Investigation with 24-48 hrs depending on severity of complaint

Report generated by investigator and reviewed by Chief Policy Enforcement Officer

Action:

- Letter of Warning – certified mail; statement of facts; no response required; part of licensee's record
- Corrective Action Letter – requires response within 10 days with admission, evidence of corrective action taken or reasonable plan to correct violation; follow up inspection and case closure letter
- Notice of Violation – Administrative Penalty Form to calculate fine amount – consider aggravating / mitigating circumstances & financial hardship; corrective action / follow up inspection required
  - 15 days to request an appeal
  - Agency appoints hearing officer – arbitrary and capricious action by Agency
  - Judgement in favor of Agency – ability to adjust penalty
  - 30 days to request appeal on the record to Superior Court



# Enforcement of violations - CCB

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- Similar initial process as VAFFM
- Unless enforcement action is needed to avoid or mitigate an immediate or serious threat to the public health, safety or welfare, the board shall submit a Notice of Action letter to the alleged violator prior to taking action that details:
  - Alleged violation
  - Factual basis for action
  - Scope of the enforcement action
  - Licensee's right to contest the allegations in writing / hearing (if required) within 15 days
- Licensee's response shall specifically identify each issue and fact in dispute and state the position of the Licensee, the pertinent facts to be adduced at the hearing (if required), and the reasons supporting that position.
- Failure to respond in writing within 15 days will constitute an admission to the factual basis and a waiver of appellate rights to challenge the enforcement action
- The Board shall hold a hearing when required prior to imposing a final enforcement action
- The imposition of an enforcement action shall be deemed a final decision of the Board



# Enforcement of violations - Appeals

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A denial of an initial application or renewal application, suspension or revocation of a license, imposition of a fine, or other enforcement actions shall be considered a final decision of the Board

A hearing request shall be submitted to the ED (in a form and a manner determined by the Board) no later than 30 days after the effective date of the final action

The failure to timely file a request for a hearing or to state the basis of the hearing request will result in dismissal of the challenge to the final decision

If a hearing is requested the ED will assign an Appellate Officer (AO) shall set a hearing within a reasonable time; AO may require parties to participate in pre-hearing conferences

The AO shall review the record created by the Board and either affirm or reverse and remand to the Board with a recommendation if a substantial right has been implicated by any of the 847(b)(1)-(7) criteria

Affirmed decisions may be appealed to the SCOV under the VRAP