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02/25/2020

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NEW SECTION

WAC 314-55-013 Voluntary marijuana licensee consultation and education program.

(1) Purpose and Scope. The purpose of this section is to:

(a) Establish a program for marijuana licensee consultation and education visits consistent with the requirements of RCW 69.40.342(3) and RCW 69.50.561;

(b) Establish criteria for the provision of advice, consultation and education visits, including but not limited to recommendations on abating violations of this chapter; and

(c) Ensure that advice, consultation and education visits are distinguished from inspections, technical visits, or investigations, and are limited to the interpretation and applicability of standards in this chapter, including but not limited to the conditions, structures, machines, equipment, apparatus, devices, materials, methods, means and practices in the licensee's licensed premise.

(d) Advice, consultation, and education visits provided under this program do not include business advice concerning issues that may include, but not limited to individual business operations, marketing, distribution, financing, profitability, or viability.

(2) Definitions. The definitions contained in chapter 314-55 WAC and chapter 69.50 RCW apply to this section.

(3) Request for consultation.

(a) A marijuana licensee or their designee may request advice and consultation once every calendar year by completing and

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submitting an application to request consultation through the board's website.

(b) Board enforcement will schedule and complete advice and consultation visits within thirty days of assignment to an enforcement officer.

(i) If a marijuana licensee or designee requires more than thirty days to schedule and complete a consultation visit, the enforcement officer may extend the completion deadline.

(ii) If the deadline is extended, at the licensee's request, more than forty-five days after the date of assignment to an enforcement officer, the marijuana licensee must resubmit a request for consultation consistent with this section.

(4) Advice and consultation services.

(a) Advice and consultation services offered within the scope of this program, do not preclude usual and customary interactions, including informal requests, between licensees, the board, or any board staff.

(b) Regulatory issues described in this chapter observed during the course of an advice, consultation, and education visit are not subject to disciplinary action unless the identified issue has a direct or immediate relationship to **public health and safety as described in chapter 69.50 RCW, and this chapter.**

(c) Advice, consultation, and education provided under this chapter is limited to the matters specified in the request for consultation. At the request of the licensee, a consultation may include:

(i) An initial meeting to explain the licensee's rights and obligations;

Commented [HK(1): This language honors the intent section of ESSB 5318, that provides as follows (emphasis and highlights added):

NEW SECTION. Sec. 1. The legislature finds that:

(1) In the years since the creation of a legal and regulated marketplace for adult use of cannabis, the industry, stakeholders, and state agencies have collaborated to develop a safe, fully regulated marketplace.

(2) As the regulated marketplace has been developing, Washington residents with a strong entrepreneurial spirit have taken great financial and personal risk to become licensed and part of this nascent industry.

(3) It should not be surprising that mistakes have been made both by licensees and regulators, and that both have learned from these mistakes leading to a stronger, safer industry.

(4) **While a strong focus on enforcement is an important component of the regulated marketplace, a strong focus on compliance and education is also critically necessary to assist licensees who strive for compliance and in order to allow the board to focus its enforcement priorities on those violations that directly harm public health and safety.**

(5) The risk taking entrepreneurs who are trying to comply with board regulations **should not face punitive consequences for mistakes made during this initial phase of the industry that did not pose a direct threat to public health and safety.**

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- (ii) A walk-through visit to evaluate the licensee's workplace hazards;
 - (iii) A closing meeting to discuss conditions noted during the initial visit to make recommendations;
 - (iv) A written report of conditions found in the marijuana licensee's place of business and any recommendations or agreements made; and
 - (v) A follow up visit, if appropriate, to ensure that the identified conditions have been satisfactorily abated.
- (d) If an identified condition is not a direct or immediate risk to public health and safety, the condition will be documented in the appropriate database as part of the consultation visit, and will include the following:
- (i) A detailed description of the condition that is not in compliance;
 - (ii) The full text of the specific section or subsection of the statute or rule applicable to the condition that is not in compliance;
 - (iii) A statement and complete description of the actions and steps the licensee or their designee must take to achieve compliance;
 - (iv) The date, method of service, name, and signature of the licensee, their designee, or both participating in the visit; and
 - (v) The date that the licensee or their designee must achieve compliance. This date may be mutually agreed upon by the enforcement officer and the licensee or their designee, and may be based on a variety of factors, including but not limited to the cost and severity of the condition to be abated.

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(e) The enforcement officer will provide the licensee or their designee with instructions regarding how to request an extension of time consistent with subsection (5) of this section.

(f) The enforcement officer may perform a follow up visit within sixty days of the mutually agreed upon compliance date based on the severity of the condition to be abated as described in this section.

(5) Licensee Responsibilities.

(a) A marijuana licensee or their designee agrees to work with board enforcement to schedule a consultation visit at a mutually agreed upon date and time.

(b) A marijuana licensee or their designee agrees to make reasonable efforts to correct or abate all conditions identified in the statement of conditions within the mutually agreed upon date and time.

(c) If a marijuana licensee or their designee is unable to correct or abate all the conditions identified in the statement of conditions, the licensee or their designee may request an extension of time by submitting a written request. The written request must describe:

- (i) The need for the extension;
- (ii) Confirmation of the steps taken to abate the conditions described in the statement of conditions;
and
- (iii) A proposed abatement date.