

STATE OF COLORADO

DEPARTMENT OF REVENUE
Marijuana Enforcement Division
455 Sherman Street Suite 390
Denver CO 80203



June 19, 2014

Jean E.S. Gonnell, Esq.
Hoban & Feola, LLC
730 17th Street, Suite 900
Denver CO 80202

John W.
Hickenlooper
Governor

Barbara J. Brohl
Executive Director

Ron Kammerzell
Deputy Senior
Director of
Enforcement

Lewis Koski
Division Director

Dear Ms. Gonnell:

I am writing in response to your request for a Statement of Position received on May 20.

1. "If the content of a cannabis plant utilized for the production of certain CBD products is below three-tenths percent of THC, can a retail marijuana store sell these products in compliant (sic) with C.R.S. § 12-43.4-402(7)(a)?"

Because a "Retail Marijuana Store" is expressly limited to the sale of retail marijuana and retail marijuana product, any product must meet the definition of "Retail Marijuana" and be sourced from a Retail Marijuana Cultivation Facility or Retail Marijuana Products Manufacturing Facility. (M 103, 1 CCR 212-1). Additionally, "A retail marijuana store license shall be issued only to a person selling retail marijuana or retail marijuana products pursuant to the terms and conditions of this article." [CRS § 12-43.4-402(1)(a)], and that includes the requirement "(the) retail marijuana store shall track all of its retail marijuana and retail marijuana products from the point that they are transferred from a retail marijuana cultivation facility or retail marijuana products manufacturer to the point of sale." [CRS § 12-43.4-402(1)(e)]

2. "If a product is derived from a plant with more than three-tenths percent of THC, must this product be produced by a licensed cultivation facility?"

Yes, if it is for sale pursuant to the retail and medical marijuana codes.

3. "More generally, do CBD products fall under the MED licensing scheme if derived from a hemp plant with the appropriate three-tenths percent of THC?"

No. Notwithstanding the definition of cannabis, hemp is expressly excluded from the definition of Retail Marijuana. M 103, 1 CCR 212-1; Colorado Constitution, Art. XVIII, § 16. (2)(f) Use and Regulation of Marijuana.

4. "If the content of the cannabis plant utilized for the production of certain CBD products is below the three-tenths percent for THC, can it be sold in a licensed facility?"

The question presented for position statement lacks specificity, in that you have not cited the applicable statutory section of the Medical or Retail Marijuana Code or related regulations that would be relevant to this question. Moreover, the question is overly broad and may be beyond the MED's scope as it relates to a position statement.

5. "If the content of the cannabis plant utilized for the production of certain CBD products is below three-tenths percent for THC, can an out-of-state entity import and sell CBD products in a Colorado licensed facility?"

No. In order for product to be sold in a Colorado Retail Marijuana Store the product must be sourced, and tracked using the State Inventory Tracking Solution using RFID technology, from a Colorado licensed Retail Marijuana Cultivation Facility, or a Retail Marijuana Products Manufacturing Facility. Also, pursuant to R402, a Retail Marijuana Store is prohibited from selling a product that is not a Retail Marijuana Product.

6. "In relation to question 5, if it can be sold in a facility, does this run contrary to the MITs seed-to-sale framework?"

Not Applicable per Question #5.

7. "Do these products implicate and fall under the medical marijuana code?"

The question presented for position statement lacks specificity, in that you have not cited the applicable statutory section of the Medical or Retail Marijuana Code or related regulations that would be relevant to this question. Moreover, the question is overly broad and may be beyond the MED's scope as it relates to a position statement.

I trust this response is helpful. Thank you for the inquiry.

Sincerely,

A handwritten signature in black ink that reads "All Rick Zell for Lewis Koski". The signature is written in a cursive, somewhat stylized font.

Lewis Koski
Director