To: Alaska Marijuana Control Board

Date: February 23, 2022

Via email to: amco.regs@alaska.gov

RE: Comment on Enforcement Action Process

Dear Honorable Marijuana Control Board Members:

Thank you for the opportunity to comment on this regulation. The AMIA has worked closely with industry representatives as well as AMCO staff during the creation of the fine and fee schedule. We are happy to see a clear process developed that will help the staff and licensees as we mature as an industry. We believe that the goal of this document was to create a fair, consistent, and predictable approach to enforcement. This document is very close to achieving that. After consultation with our membership, we have just a few small changes that we would like you to consider prior to approval.

1) 3 AAC 306.801(b)(2) – providing access to business records at a reasonable time. We believe that "reasonable time" should be defined. Please consider defining what reasonable time is. We believe that 3 business days is reasonable.

2) 3 AAC 306.809 (3) – Requirement to include prior violations or criminal history of the licensee and licensed premises. We feel that including criminal history in the proceedings of a NOV appeal could only potentially drag the board and the licensee into further legal situations, while biasing the ability to decide the outcome of the NOV on its merit. Please consider removing "criminal history" and instead only include relevant prior violations.

3) 3 AAC 306.809(f) – Burden of Proof. We believe that the standard for the burden of proof in this case should be based on the preponderance of evidence not the substantial evidence standard. Substantial evidence means; *that there is more than a mere scintilla of evidence*. It is really the minimum amount of evidence for a reasonable mind to accept as adequate to support a conclusion. When deciding on the fate of a NOV as a body, we believe that it is appropriate to use the **preponderance of evidence standard**. Please consider replacing substantial evidence with preponderance of evidence.

Thank you for your consideration.

Kind regards,

Lacy Wilcox
President, AMIA