



THE STATE  
*of* **ALASKA**  
GOVERNOR MIKE DUNLEAVY

## Department of Commerce, Community, and Economic Development

Alcohol and Marijuana Control Office

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### MEMORANDUM

TO: Marijuana Control Board

DATE: January 28, 2025

FROM: Kristina Serezhenkov, Regulations  
Specialist

RE: Management Agreements

The board approved the draft regulations for initial Law review at the September 2024 meeting. Law made edits to the draft. Law's edits are brought back to the board for consideration. This packet contains both the board approved draft sent to Law and the draft with Law's edits which has questions for the board. Staff asks the board to compare these two drafts and provide guidance.

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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 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

AS 17.38.121

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

**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 employees are advised of the provisions of AS 17.38 and the regulations adopted under this title, either by securing the agent's or employee's written acknowledgement of posted instructions or otherwise; and

(2) to ensuring the compliance of the premises with public health, fire, and safety codes and ordinances of the state or municipality having jurisdiction. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, 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

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management agreement and if there are any changes to the management agreement, including expiration, termination, or amendment not later than 10 days after each change to the management agreement occurs.

(d) The director may request, and the licensee shall provide no later than three days after the director's request;

(1) a copy of the signed management agreement 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 detailing any compensation paid in exchange for the management agreement; and

(3) any other information relevant to the management 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 agreement under 3 AAC 305.917 if the agent violates AS 17.38 or its implementing regulations. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, 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

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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. **An** [ANY] individual **who exercises** [EXERCISING] actual authority over the conduct of business on the licensed premises must be the holder of the marijuana establishment license [,] or **the license holder's agent, including an employee or an agent operating under a management agreement in accordance with 3 AAC 306.917** [AN AGENT OR EMPLOYEE OF [THAT PERSON]] 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  
AS 17.38.121

3 AAC 306 is amended by adding new sections to read:

**3 AAC 306.916. Licensee, agent, and employee responsibility.** A licensee has a duty to exercise the degree of care that a reasonable person would exercise to ensure that a business under the person's control is lawfully conducted. The licensee's duty includes ensuring the compliance of

**Commented [KRS1]:** Questions:  
“agent” has a definition in 3 AAC 306.990, and an agent operating under a management agreement is a type of agent.  
  
What is the purpose of a management agreement, if the current regulations allow for an agent to operate the business/license without letting us know....

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(1) the licensee's agents or employees with AS 17.38 and this chapter, including acting with reasonable diligence to determine that agents or employees are advised of the provisions of AS 17.38 and this chapter, either by securing the agent's or employee's written acknowledgement of posted instructions or otherwise; and

(2) the licensed premises with public health, fire, and safety codes and ordinances of the state or municipality having jurisdiction. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, 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 306.917. 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 306.620, may enter into a management agreement with a person, to give that person responsibility for the day-to-day **operations** of the marijuana establishment license, if the person

(1) would otherwise qualify for a marijuana establishment license under 3 AAC 306.015;

(2) holds a current marijuana handler permit under 3 AAC 306.700; and

(3) does not have an ownership interest in the marijuana establishment license.

(b) A management agreement under this section must be in writing and signed by a licensee whose name is required to be provided with an application for a new or transfer license under 3 AAC 306.020, 3 AAC 306.045, or 3 AAC 306.046, and by the non-licensee or transferee agreeing to manage the operation of the business. The licensee who signs the management

**Commented [KRS2]:** Questions: What does "management agreement . . . to give [a] person responsibility for the day-to-day operations of the marijuana establishment license" mean in practice? Doesn't the licensee have this responsibility? Is the licensee empowered to transfer that responsibility by contract? Would the board have anything to do with the matter? Rather, wouldn't the board regulate the licensee, with whom sole legal responsibility remains under 3 AAC 306.915, until surrender of the license to the board or transfer to the new licensee?

Here we are again, what is purpose of a management agreement, if the current regulation already allows for an agent of the licensee to operate...? Further discussion?.....

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agreement shall notify the board not later than 10 days from the effective date of the management agreement. If there is any change to the management agreement, including expiration, termination, or amendment, the licensee shall notify the board not later than 10 days after the change.

(c) Upon a licensee's notification to the board under (b) of this section, the director may request documentation or information relevant to a management agreement from the licensee. Not later than three days after receiving a request from the director, the licensee shall provide

(1) a copy of the signed management agreement;

(2) a related agreements that is signed and dated by a licensee or transferor and the non-licensee or transferee;

(3) information that details compensation paid in exchange for the management agreement; and

(4) other information as requested by the director.

(d) The director may declare a management agreement that does not comply with this section void.

(e) In accordance with 3 AAC 306.812, the board may suspend or revoke the marijuana handler permit of an agent operating a management agreement under this section if the agent violates statute, regulation, or local law. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, 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  
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