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GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

MARLON I. BROWN, DPA  
ACTING DIRECTOR

November 9, 2023

Richard Lowe, Chief Internal Auditor  
Office of Internal Audit Services  
Michigan State Budget Office  
George W. Romney Building  
111 South Capitol, 6<sup>th</sup> Floor  
Lansing, Michigan 48913

Dear Mr. Lowe:

In accordance with the State of Michigan, Financial Management Guide, Part VII, I submit to you LARA's Corrective Action Plan (CAP) addressing the recommendations contained within the Office of the Auditor General's performance audit report (# 641-0433-22) involving LARA's Cannabis Regulatory Agency (CRA).

Please direct any questions you may have to me at (517) 243-5895.

Sincerely,

*Kevin Kubacki*

Kevin Kubacki  
Audit Liaison

Enclosure: CRA CAP

cc: JoAnne Huls, Chief of Staff, Executive Office  
Maria Martinez, Deputy Chief of Staff, Executive Office  
Trish Foster, Chief Operating Officer, Executive Office  
Doug Ringer, Office of the Auditor General  
Mary Ann Cleary, House Fiscal Agency  
Kathryn Summers, Senate Fiscal Agency  
Representative Angela Witwer, House Appropriations Committee  
Representative Phil Skaggs, House Appropriations Subcommittee  
Representative Tyrone Carter, House Regulatory Reform Committee  
Senator Sarah Anthony, Senate Appropriations Committee  
Senator Mary Cavanagh, Senate Appropriations Subcommittee

Senator Jeremy Moss, Senate Regulatory Affairs Committee  
Marlon Brown, Acting Director, LARA  
Adam Sandoval, Deputy Director, LARA  
Dan Horn, Director, Finance and Administrative Services, LARA  
Brian Hanna, Director, CRA, LARA

Department of Licensing and Regulatory Affairs  
 Cannabis Regulatory Agency  
 Report Number 641-0433-22  
 Office of the Auditor General  
 November 9, 2023  
 Department Final Corrective Action Plan

**Summary Response Matrix**

	Complied	Will Comply	Partially Complied	Will Not Comply
Agrees	3, 2			
Partially Agrees		1		
Disagrees				

**Final Corrective Action Plan (CAP)**

**Finding Number: 1**

Material/Reportable: Material

Finding Title: Disciplinary action process needs improvement.

Related IT system, if applicable: Accela, Metrc

**OAG Recommendation**

We recommend that CRA improve its processes to ensure timely disciplinary action against licensees for identified violations.

**Department Response**

CRA partially agrees with the finding and recommendation. CRA disagrees this is a material finding, but it acknowledges the need for the timely and effective adjudication of complaints against licensees. Through the completion of the milestones below, CRA anticipates clearing the current backlog within the next 6-9 months.

**Milestone 1: Created the Legal Section**

Task(s):

- Legal was moved from the Scientific Section to its own section to address disciplinary matters.

Compliance Date: 1/9/22

Responsible Individual: Desmond Mitchell, Operations Director

**Milestone 2: Created new reports in Accela**

Task(s):

- CRA created the following reports in Accela:

- **Assigned to Me – ENF Records** – A report analysts can run to review the records they are assigned to that need to be completed.
- **CC Held** – Identifies the number of compliance conferences held for a certain time.
- **CC Requested Processed Metric** – Identifies the days elapsed to process a compliance conference request (request to scheduled).
- **CC Scheduled Metric** – Identifies the days between when a compliance conference is requested and the original date it was scheduled to occur.
- **CCH – Certified Record Tracking** – Identifies how much time has elapsed since we received a PFD for a contested case hearing.
- **CCH – Sent to AG** – Identifies how many ENF or CCH records we have sent to the AG for a period of time.
- **CCH Active Records** – Identifies all active ENF and CCH records that are pending with the AG for a Contested Case Hearing.
- **COS FO Issued** – Identifies how many consent orders or final orders were issued for a period of time.
- **COS FO Outstanding Terms Due** – Identifies any ENF records that have outstanding COS/FO terms due and when they are due.
- **Current ENF Workload – Updated** – Identifies all active ENF records.
- **DAR Issued – Updated** – identifies any record that a COS, FO, or withdraw issued for a period of time.
- **Disciplinary Determination Metric** – Identifies how many days elapsed from which an ENF record is received to when a determination is made to issue a formal complaint, warning letter, or to close with no action.
- **Drafting Consent Order Metric** – Identifies how many days elapsed to draft a consent order and send it to the legal manager for review.
- **Final Order Drafted Metric** – Identifies how many days elapsed to draft a final order and send it to the legal manager for review.
- **Mail Tracking Report** – Identifies any ENF that has legal documents (COS, Formal Complaint, Final Order, Withdraw, Warning Letter) in the mail and how many days has elapsed since it was mailed.
- **Mailed Monthly Metrics** – Identifies how many ENF record had legal documents mailed and what those documents are for a period of time.
- **Unassigned ENF** – Identifies new ENF records that need to be assigned an analyst for a disciplinary determination.

Compliance Date: 7/18/23

Responsible Individual: Desmond Mitchell, Operations Director

### **Milestone 3: Review, update, and implement applicable Legal Section processes and workflows**

Task(s):

- CRA reviewed the Legal Section's processes and workflows were evaluated for efficiency.
- The following updates were implemented in Accela on 7/18/23:
  - Updated the script that names investigation and disciplinary records to use the legal name instead of the (doing business as) dba name. This will provide better clarity on which licensee is the subject of the investigation.
  - Added the Assistant Attorney General (AAG) custom field to identify which AAG is assigned to the case, if applicable, for more efficient communication.
  - A request was sent to IT to add a contested case hearing held custom field for tracking purposes.
  - CRA is currently reviewing the Legal Section's disciplinary action workflow in Accela to make further improvements.
- The Operations Director's Administrative Assistant will hold a meeting on 10/24/23 with the Legal staff to get feedback on the new workflow and to determine if any additional changes or updates are needed.
- The Legal Section's processes and workflows will continue to be monitored and changes implemented when necessary.

Anticipated Compliance Date: 10/24/2023

Responsible Individual: Desmond Mitchell, Operations Director

**Milestone 4: Establish positions or reallocate them from other CRA areas to staff the Legal Section**

Task(s):

- CRA hired a new manager for the Legal Section on 4/3/22. The new manager was an Assistant Attorney General (AAG) and was previously assigned to provide the CRA with legal representation.
- Four legal analyst positions were added to the Legal Section. Two of the positions were reallocated from other areas of the CRA and the other two positions are new FTEs for FY 2023. New analysts were hired on the following dates: 7/4/2022, 12/25/2022, 1/8/2023, 6/11/2023, and 8/20/2023. There is one vacant position at this time.
- The Attorney General hired an additional AAG on 4/12/23 to work on CRA matters at the request of CRA.

Anticipated Compliance Date: 11/30/2023

Responsible Individual: Desmond Mitchell, Operations Director

**Milestone 5: Update internal procedures, create job aids, and notify staff**

Task(s):

- The procedures regarding the new workflow have been updated.

- Staff were notified of the complaint and compliance conference process changes during a daily stand up as well as a staff meeting held on 5/20/21. A template letter was also provided to staff.
- The Disciplinary Proceedings Process Procedure was updated on 9/21/23 to document the current requirement to schedule four compliance conferences per week for the compliance analysts and scheduling compliance conferences within 35 days of the licensee's request.
- All procedures are being reviewed for clarity and to create job aids and checklists for the analysts.

Anticipated Compliance Date: 12/31/23

Responsible Individual: Desmond Mitchell, Operations Director

**Milestone 6: Restructure analyst job duties and revise process requirements to streamline administrative complaints and compliance conferences**

Task(s):

- CRA restructured the analyst job duties to allow some team members to focus on reviewing/drafting administrative complaints and other team members to focus on compliance conferences/settlement negotiations for efficiency. On 5/20/21, a meeting was held regarding proposed restructuring of work duties. That meeting consisted of a discussion regarding splitting duties into drafting analysts and compliance conference analysts. On 6/1/21, the restructuring of the job duties was implemented.
- Analysts currently hold approximately three compliance conferences per week. CRA will continue its goal of increasing the number of compliance conferences held per week to four.
- Compliance conferences are currently scheduled on average within 45 days of licensees' requests. CRA continues to work toward its goal of having all compliance conferences scheduled within 35 days of the request of the licensee.
- Starting in May 2022, CRA streamlined the process for licensees to provide mitigation regarding pending discipline. Upon receipt of the licensee's request for a compliance conference, CRA provides a letter requesting mitigation be provided prior to the scheduled compliance conference. This was conducted for any rescheduled conferences or any future scheduled conferences.
- CRA continues to prioritize and remediate first all complaints suggesting any risk to public health and safety.

Anticipated Compliance Date: 3/31/24

Responsible Individual: Desmond Mitchell, Operations Director

**Milestone 7: CRA disagrees this is a material finding**

Task(s):

- CRA disagrees this is a material finding because neither the Michigan Regulation and Taxation of Marihuana Act nor the Medical Marihuana Facilities Licensing Act specify a timeframe to execute disciplinary action reviews.
- The CRA recognizes the amount of time these complaints have been open is not ideal and requires improvement, but it believes that in the absence of an objective timeframe, the issue warrants a reportable finding.

Compliance Date: 8/24/23

Responsible Individual: Brian Hanna, CRA Director

### **Finding Number: 2**

Material/Reportable: Reportable

Finding Title: Inspection timeliness needs improvement

Related IT system, if applicable: Accela

### **OAG Recommendation**

We recommend that CRA conduct timely medical and adult use marijuana facility inspections.

### **Department Response**

CRA agrees with this recommendation.

#### **Milestone 1: Created a single section to increase the focus and scope of inspections**

Task(s):

- Inspections were moved from the section that also included investigations to its own section.

Compliance Date: 8/11/19

Responsible Individual: Desmond Mitchell, Operations Director

#### **Milestone 2: Hired a new Division Director to lead the Enforcement Division**

Task(s):

- The new director has over 20 years experience conducting inspections. The position was vacant from 8/20/22-2/5/23.

Compliance Date: 2/5/23

Responsible Individual: Desmond Mitchell, Operations Director

#### **Milestone 3: Implemented system for prioritizing inspections due to staffing limitations**

Task(s):

- Inspections are prioritized from highest to lowest in the following order: pre-licensure, reporting form/other, post-licensure, and semi-annual.
  1. Pre-licensures
  2. Reporting Forms
  3. Post-licensure
  4. Other-type inspections including re-inspections to verify compliance.
  5. Semi-annuals
- Post-licensure inspections were re-prioritized higher than Other-type inspections because post-licensure inspections have a metric of 30 days, so staff are expected to schedule the post-licensure inspections first to ensure they get done timely and it allows flexibility in scheduling the “others”.
- Update the scheduling process for semi-annual inspections to synchronize the inspections for multiple licenses at the same location.

Compliance Date: 9/20/2023

Responsible Individual: Desmond Mitchell, Operations Director

#### **Milestone 4: Updated internal procedures and notified staff**

Task(s):

- On 5/17/2023, the Accela Standard Comments for Inspections Procedure was updated to instruct staff to document on the record in Accela why the inspection didn't occur including a comment stating the firm was not operational, if applicable.
- On 9/20/23, ROs were officially notified by email about the changes to the prioritization of inspections. These changes will be formalized in the related procedure.
- The Accela Grouping Multiple Inspections at the Same Location Procedure was updated on 5/17/2023 and reviewed with staff in an in-office meeting.
- The managers and division director are evaluating the inspection process, including scheduling, to determine if additional changes need to be made to ensure the timeliness of semi-annual inspections.

Compliance Date: 9/20/23

Responsible Individual: Desmond Mitchell, Operations Director

#### **Milestone 5: Reviewed, updated, and implemented applicable Inspections Section processes and workflows**

Task(s):

- CRA reviewed the Inspections Section's processes and workflows were evaluated for efficiency.
- On 08/01/23, CRA created an inspections workflow for the BFS Inspectors in CRA's instance of Accela. Prior to that, BFS operated in



its own instance of Accela, which decreased effectiveness because BFS had to track things manually and didn't have access to reports that provided them with the CRA data they need to perform their jobs.

- On 10/2/23, the CRA implemented improvements to the Reporting Form process. Previously, a CRA staff member was responsible for sending emails to BFS and completing all steps in the workflow. BFS will be able to complete its steps in the workflow and the work is redistributed so both the CRA and BFS have responsibility for the own steps in the workflow and email communications and manual tracking has been reduced or eliminated.
- The Inspections Section's processes and workflows will continue to be monitored and changes implemented when necessary.

Compliance Date: 10/2/23

Responsible Individual: Desmond Mitchell, Operations Director

### **Milestone 6: Filled two Regulation Officer (RO) positions**

Task(s):

- Increased the total number of ROs from 14 to 16. CRA currently has 16 ROs.

Compliance Date: 10/15/2023

Responsible Individual: Desmond Mitchell, Operations Director

### **Finding Number: 3**

Material/Reportable: Reportable

Finding Title: Security and access controls over Accela and Metrc need improvement.

Related IT system, if applicable: Accela, Metrc

### **OAG Recommendation**

We recommend that LARA and/or CRA enhance security and access controls over Accela and Metrc.

### **Department Response**

CRA agrees with this recommendation.

### **Milestone 1: Updated the procedure for auditing Accela access**

Task(s):

- The Accounts – Auditing End User Systems Access Every 30 Days Procedure was updated to require documentation to demonstrate the audit occurred, who performed it, and any actions taken based on the audit (e.g., account disabled, change to user role, etc.). This information is retained within the Audits and Access spreadsheet.

- The manager signs the Employee System Audit Form to validate the auditor's work was performed according to procedure.

Compliance Date: 8/3/22

Responsible Individual: Desmond Mitchell, Operations Director

### **Milestone 2: Updated the procedure regarding user roles**

Task(s):

- The Accounts – Auditing End User System Procedure was updated to define user roles for both systems and how the user roles are assigned.

Compliance Date: 12/21/22

Responsible Individual: Desmond Mitchell, Operations Director

### **Milestone 3: Implemented an Excel spreadsheet for Accela and Metrc access**

Task(s):

- The Audit and Access and Metrc Audit and Access spreadsheet shows the following for new and existing employees:
  - Date access was granted.
  - Date any changes are made to the user role or access.
  - Date the account is disabled and why.

Compliance Date: 2/13/23

Responsible Individual: Desmond Mitchell, Operations Director

### **Milestone 4: Created a procedure for auditing Metrc access**

Task(s):

- CRA created the Tracking and Auditing Metrc Access Procedure to require documentation to demonstrate the audit occurred, who performed it, and any actions taken based on the audit (e.g., account disabled, change to user role, etc.). This information is retained within the Metrc Audit and Access spreadsheet.
- The manager reviews the Metrc Audit and Access spreadsheet on a monthly basis to ensure the auditor's work was performed according to procedure.

Compliance Date: 2/13/23

Responsible Individual: Desmond Mitchell, Operations Director

### **Milestone 5: Updated the security agreements process**

Task(s):

- CRA's IT Section obtained signed security agreements from any staff members who did not have one on file.
- The IT Section updated the General-Employee Onboarding Process Procedure and the Systems-CRA IT Systems and Functions Procedure for new employees to include collecting signed security agreements from the new employees and storing them in individual folders for each

employee. The procedures include an outline of the process and escalation path provided to designated staff to assist with next steps if a signed form is not received.

Compliance Date: 8/22/23

Responsible Individual: Desmond Mitchell, Operations Director

**Milestone 6: Updated SOC report review process**

Task(s):

- LARA's Agency Security Officer (ASO) created a contact list and will send periodic reminders to LARA bureau to immediately provide SOC reports upon receipt to help minimize delays in beginning the review.

Compliance Date: 9/20/23

Responsible Individual: Giget Schlyer, ASO