

Privacy & Confidentiality

Massachusetts

We take the security and confidentiality of our consumers seriously. **All personal information collected is confidential and private.** Consumer information may not be released to any third party without the individual's express written consent. Patient information may be released to their physician. In addition, with the exception of delivery transactions, ***retailers may not record or retain any personal information for adult-use customers without their voluntary written permission.***

As a professional representative of the legal cannabis industry, display care and **thoughtfulness, even outside of work.** For instance, if you see your favorite regular in public, allow them to approach you before engaging in conversation or asking questions about their recent purchases.

Confidential Information Includes, but is not limited to:

- Name
- Address/email address
- Telephone number
- Social Security number
- Occupation
- Medical marijuana card/registration number
- Driver license or ID number
- Condition(s)/Ailment(s)
- Medical information
- Purchase habits/ history
- Consumption habits
- Personal information revealed to staff

HIPAA

Health information is private and should be protected. That is why there is a federal law that sets rules for who can look at and receive a patient's health information.

This law, called the Health Insurance Portability and Accountability Act of 1996 (HIPAA), gives consumers rights over their health information, including the right to get a copy of their information, ensure that it is correct, and know who has seen it.

Who Needs to Comply with HIPAA?

Any organization or person who works in or with the healthcare industry or who **has access to protected health information.**

Protected Health Information

The Privacy Rule applies to all protected health information, which includes, when held or transmitted by a covered entity, information that:

- Relates to the individual's past, present, or future physical or mental health or condition;
- Relates to the provision of health care to an individual; or to past, present, or future payment for the provision of health care to the individual; and
- Identifies the individual or is information for which there is a reasonable basis to believe it can be used to identify the individual.

Protected health information can be in any form: electronic, paper, or oral. It can include financial and demographic information collected from consumers.

In addition, be respectful and **thoughtful of your own team by maintaining privacy of all employee files and Criminal Offender Record Information (CORI) data.**

Be sure to keep detailed records to show that **every agent has received privacy issue training.**

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500.140: Additional Operational Requirements for Retail Sale

(2) On-premises Verification of Identification.

(c) In accordance with M.G.L. c. 94G, § 4(c)(3), a Marijuana Retailer may not acquire or record Consumer personal information other than information typically required in a retail transaction, which can include information to determine the Consumer's age. A Marijuana Retailer may not record or retain any additional personal information from Consumer without the Consumer's voluntary written permission, except as provided in (d) and (e).

(d) A Marijuana Retailer that has entered into Delivery Agreements with Delivery Licensees for the purpose of transacting home deliveries to Consumers shall establish a Pre-verification process for Consumers who intend to place orders for delivery with the Marijuana Establishment. A Marijuana Retailer that holds more than one Marijuana Retailer license may establish a process to share Pre-verification information about Consumers among their multiple locations for the purpose of enabling deliveries from any licensed location operated by the Marijuana Retailer; provided, however that information shall only be shared among locations upon the affirmative election by a Consumer. To comply with the requirements of Pre-verification, the Marijuana Establishment shall:

1. Require the Consumer to pre-verify with the Marijuana Establishment either in person or through a Commission-approved electronic means by presenting or submitting the Consumer's valid, unexpired government-issued photo identification; and
2. Examine the government-issued identification card and verify that the individual Consumer presenting or submitting the government-issued identification card is the individual Consumer that matches the government-issued identification card and that the individual Consumer is 21 years of age or older.

(e) A Marijuana Retailer shall collect and maintain relevant information about the individual Consumer, for the purpose of transacting a delivery and ensuring that the recipient of a delivery under 935 CMR 500.145 is legally allowed to receive Marijuana and Marijuana Products, which shall be limited to:

1. The individual's name;
2. The individual's date of birth;
3. The individual's address;
4. The individual's primary telephone number; and
5. The individual's email address.

(f) Any such information collected by the Marijuana Establishment shall be used solely for the purpose of transacting a delivery under 935 CMR 500.145 and shall be otherwise maintained confidentially

Adult-Use

500.820: Confidentiality

(1) All records made or received by the Commission shall be public records and shall be available for disclosure on request pursuant to this section and 950 CMR 32.00: Public Records Access, except the following, which shall be exempt from disclosure to the extent permitted by law:

- (a) All records exempt from disclosure pursuant to M.G.L. c. 4, § 7, cl. 26;
- (b) All records to the extent that they contain "personal data" pursuant to M.G.L. c. 66, § 10;
- (c) All records to the extent that they contain "personal information" pursuant to M.G.L. c. 93H, § 1;
- (d) All records which contain CORI as defined by 803 CMR 2.02: Definitions;
- (e) All records which contain CHRI as defined by 803 CMR 7.02: Definitions; and
- (f) All Confidential Records as defined in 935 CMR 500.002.

(2) All records protected from disclosure under 935 CMR 500.820(1) or pursuant to the laws of any Other Jurisdiction may be disclosed by the Commission:

- (a) If disclosure is required pursuant to a state or federal law;
- (b) To the individual or the individual's authorized representative, if the individual executes a written release in a form and manner determined by the Commission;
- (c) To the Commission staff for the purpose of carrying out their official duties;
- (d) To the Commission Delegee(s) as authorized by the Commission;
- (e) To other government officials and agencies acting within their lawful jurisdiction which includes, but is not limited to, law enforcement personnel;
- (f) To a healthcare professional who has a Bona Fide Healthcare Professional-Patient Relationship with the Qualifying Patient to facilitate dispensing of Medical-use Marijuana;

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- (g) To a Medical Marijuana Establishment or any state agency to facilitate the dispensing of Medical-use Marijuana;
 - (h) To the Commission staff if required in the course of an administrative or a judicial proceeding; or
 - (i) If an individual or entity obtains an order from a court of competent jurisdiction.
- (3) Nothing in 935 CMR 500.820 shall prevent the Commission from acting in accordance with its authority.

Medical:

935CMR 501.820; Confidentiality

- (1) All records made or received by the Commission shall be public records and shall be available for disclosure on request pursuant to 935 CMR 501.820, and 950 CMR 32.00: Public Records Access, except the following, which shall be exempt from disclosure to the extent permitted by law:
- (a) All records exempt from disclosure pursuant to M.G.L. c. 4, § 7, cl. 26;
 - (b) All records to the extent that they contain "personal data" pursuant to M.G.L. c. 66, § 1;
 - (c) All records to the extent that they contain "personal information" pursuant to M.G.L. c. 93H, § 1;
 - (d) All records which contain CORI as defined by 803 CMR 2.02: Definitions;
 - (e) All records which contain CHRI as defined by 803 CMR 7.02: Definitions; and
 - (f) All Confidential Records as defined in 935 CMR 501.002.
- (2) The Commission shall maintain the confidentiality of all medical records including, but not limited to:
- (a) All Confidential Records and information contained in the Confidential Database, including applicants for registration as a Qualifying Patient, Personal Caregiver, Institutional Caregiver, Certifying Healthcare Provider, Card Holder; or Registered Qualifying Patients, Personal Caregivers, Institutional Caregivers, Certifying Healthcare Providers, Card Holders; and
 - (b) Other identifying patient information.
- (3) All records protected from disclosure under 935 CMR 501.820(1) or pursuant to the laws of another Jurisdiction may be disclosed by the Commission:
- (a) If disclosure is required pursuant to a state or federal law;
 - (b) To the individual or the individual's authorized representative, if the individual executes a written release in a form and manner determined by the Commission;
 - (c) To the Commission staff for the purpose of carrying out their official duties;
 - (d) To the Commission Delegee(s) as authorized by the Commission;
 - (e) To other government officials and agencies acting within their lawful jurisdiction, which includes, but is not limited to:
 - 1. Law enforcement personnel for the sole purpose of verifying a cardholder's registration and certification; and
 - 2. The Board of Registration in Medicine when necessary in connection with referrals to said Board concerning violations of 935 CMR 501.000.
 - (f) To a healthcare professional who has a Bona Fide Healthcare Professional Patient Relationship with the Qualifying Patient to facilitate dispensing of Medical-use Marijuana;
 - (g) To an Medical Marijuana Establishment or any state agency to facilitate dispensing of medical-use Marijuana;
 - (h) To the Commission staff if required in the course of an administrative or a judicial proceeding; or
 - (i) If an individual or entity obtains an order from a court of competent jurisdiction.
- (4) Nothing in 935 CMR 501.820 shall prevent the Commission from acting in accordance with its authority.

501.105: General Operational Requirements for Medical Marijuana Establishments

- (9) Recordkeeping. Records of a Medical Marijuana Establishment shall be available for inspection by the Commission, on request. The financial records of a Medical Marijuana Establishment shall be maintained in accordance with generally accepted accounting principles. Written records that are required and are subject to inspection include, but are not limited to, all records required in any section of 935 CMR 501.000 in addition to the following:

(d) The following personnel records:

- d. Documentation of all required training, including training regarding privacy and confidentiality requirements, and the signed statement of the individual indicating the date, time, and place he or she received said training and the topics discussed, including the name and title of presenters;

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500.140: Additional Operational Requirements for Retail Sale

(14) Physical Separation of Marijuana and MIPs or Marijuana Products for Medical- or Adult use. A CMO shall provide for physical separation between medical and adult use sales areas. Separation may be provided by a temporary or semi-permanent physical barrier, such as a stanchion, that, in the opinion of the Commission, adequately separates sales areas of MIPs for medical-use from sales areas of Marijuana products for adult use for the purpose of Patient Confidentiality.

(a) A CMO shall provide for separate lines for sales of Marijuana or MIPs for medical-use from Marijuana Products for adult use within the sales area, provided that the holder of a patient registration card may use either line and may not be limited only to the medical use line, so long as the CMO can record the patient's transaction in accordance with 935 CMR 501.140(5).

(b) A CMO shall additionally provide a patient consultation area, an area that is separate from the sales floor that is enclosed to allow privacy and for confidential visual and auditory consultation with Qualifying Patients. (c) A CMO's patient consultation area shall have signage stating, "Consultation Area". The private consultation area shall be separate from the sales area. It shall be accessible by a Qualifying Patient or Caregiver without having to traverse a Limited Access Area. (d) A CMO shall use best efforts to prioritize Patient and Caregiver identification verification and physical entry into its retail area.