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# CITIZENS SUMMARY

## Findings in the audit of the Marijuana Program

### License Application and Evaluation Process Did Not Ensure Consistency or Transparency

The Division of Cannabis Regulation (DCR) approved an application scoring process with significant design flaws. Application scorers evaluating the applications for Wise Health Solutions (WHS) were instructed to not document notes to support their scoring decisions, and did not consistently apply redaction rules, which undermined the "blind scoring" goals of the process. In addition, the DCR did not design the application process in a way that would facilitate review by the DCR.

In a review of 67 license applications, 21 of the 45 scorers (47 percent) made at least 1 scoring assessment contradicting the DCR's own minimum evaluation criteria, and failed to provide any supporting annotations to help explain the discrepancies. The DCR allowed applicants to create their own unique identifier (UA) to be used on uploaded supporting documents during the scoring process, which allowed applicants to base their UA on the company's name, potentially disclosing the identity of the applicant to the scorers. During a review of 67 facility license applications, the audit found 12 applications (18 percent) included UAs that were reasonably indicative of the applicant's business name, such that graders or reviewers familiar with the applicant could potentially deduce the applicant's identity. While only 15 percent of the overall population of applications (348 of 2,257) received licenses, applicants with identifying UAs benefited from the lack of anonymity, with 83 percent (10 of the 12 applications reviewed) being granted licenses.

The DCR did not adequately monitor WHS to ensure controls intended to detect inconsistencies during the scoring process were implemented. During a review of 67 applications (32 approved for a license and 35 denied), the audit noted instances in which the redaction rules were not applied consistently between graders, identical or substantially similar responses to the same question received different scores from the same grader, responses that met the minimum criteria were not assigned positive scores, responses that did not meet the minimum criteria received a score higher than 0, and evaluation criteria was applied incorrectly, without the grader justifying the reason with logs or notes.

The perceived and actual deficiencies in the application scoring process documented in the audit were a contributing factor to the state being subject to significant legal challenges and costs. A total of 849 Administrative Hearing Commission appeals from the 1,909 applications that were denied (44 percent of denied applications) were filed against the DCR. From 2020 through 2023, the DCR incurred over \$12.5 million in costs associated with litigation and administrative appeals based on the 2019 licensing process, and awarded 68 additional licenses to settle applicant appeals.

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<b>Business Change Requests Not Processed Timely and Lack Appropriate Benchmark</b>	The DCR has not processed business change requests timely and does not adequately track the progress of the requests. State regulation requires the DCR to approve or deny applications for transfers of licenses to a different entity with the same ownership within 60 days of receiving a "complete" application. Changes of the licensee's facility or warehouse location require resolution within 90 days of receiving a "complete" application, and change requests for any changes that would result in an overall change in ownership interests of 50 percent or more from the last approved ownership of the licensee require resolution within 150 days of receiving a "complete" application. Based on DCR data for all change requests submitted through November 2, 2023, the DCR took an average of 165 days to approve or deny business ownership change requests from submission to final action, and 70 days for location change requests. For 45 of the 307 such requests submitted during this timeframe (15 percent), the DCR took over a year to provide a final decision. Untimely change approvals can result in licensees experiencing uncertainty, delayed business decisions, and negative impacts to their operations.
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<b>Market Oversight Procedures are Inadequate</b>	While DCR has improved its processes throughout the audit period, many licensees were allowed to operate without ongoing inspections from the DCR, and when the DCR did perform inspections, passing grades were sometimes given without the licensee proving compliance. In addition, the DCR performed minimal inventory inspections to ensure cannabis was not being diverted into the black market. The DCR has also not established regulations to ensure confidentiality of adult-use customer information, and does not monitor for cannabis purchases in excess of the constitutional limits. Dispensaries retain confidential information from customers without obtaining consent from the customer to retain this information. The statewide track and trace system, (Metrc) does not currently have the capability to identify purchases over the legal transaction quantity limits in real time. As a result, marijuana customers are able to purchase more cannabis than what is allowed by the Constitution, and there is an increased risk of diversion and a public safety concern.
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<b>Marijuana Revenues Have Not Been Distributed in Accordance with the Constitution</b>	Significant balances of marijuana taxes and fees exist in both the Veteran Health and Care Fund, and the Veterans, Health, and Community Reinvestment Fund, rather than being distributed as required by the Missouri Constitution. A significant balance has accumulated in these funds in fiscal years 2024 and 2025, with the combined ending cash balances at fiscal year-end totaling \$82.4 million and \$89.2 million, respectively. Article XIV, Section 2 of the Missouri Constitution requires equal transfers of marijuana taxes and fees to the Missouri Veterans Commission (MVC), the Department of Health and Senior Services (DHSS) for drug programs, and the public defender system. Both the MVC and the public defender system have communicated the need for additional resources, but the full amount of the funds available have not been appropriated in the approved budgets.
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<b>Microbusiness Licensing Process Resulted in Approvals to Noncompliant Applicants</b>	DCR officials approved microbusiness licenses that were not compliant with constitutional requirements and state regulation. The review of microbusiness applications identified approved licenses that were too close to churches, prohibited by the Missouri Constitution, and in an area prohibited by local ordinance.
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DCR Product Data Was Not Used by DOR for Marijuana Tax Audits

The DCR and the Department of Revenue (DOR) have not coordinated to allow the DOR to use the DCR's Metrc data to conduct tax audits of marijuana dispensary revenues. An analysis of DOR and Metrc data identified an estimated \$852,000 in under reported sales. A previous audit of the DOR's administration of sales, use, and marijuana taxes by the SAO determined the DOR had not performed any audits of marijuana taxes as of January 2025.

In the areas audited, the overall performance of this entity was **Fair**.\*

\*The rating(s) cover only audited areas and do not reflect an opinion on the overall operation of the entity. Within that context, the rating scale indicates the following:

- Excellent:** The audit results indicate this entity is very well managed. The report contains no findings. In addition, if applicable, prior recommendations have been implemented.
- Good:** The audit results indicate this entity is well managed. The report contains few findings, and the entity has indicated most or all recommendations have already been, or will be, implemented. In addition, if applicable, many of the prior recommendations have been implemented.
- Fair:** The audit results indicate this entity needs to improve operations in several areas. The report contains several findings, or one or more findings that require management's immediate attention, and/or the entity has indicated several recommendations will not be implemented. In addition, if applicable, several prior recommendations have not been implemented.
- Poor:** The audit results indicate this entity needs to significantly improve operations. The report contains numerous findings that require management's immediate attention, and/or the entity has indicated most recommendations will not be implemented. In addition, if applicable, most prior recommendations have not been implemented.



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**Recommendations in the audit of the Marijuana Program**

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<p>License Application and Evaluation Process Did Not Ensure Consistency or Transparency</p>	<p>The Department of Health and Senior Services' Division of Cannabis Regulation (DCR):</p> <ol style="list-style-type: none"><li>1.1 Ensure adequate documentation for future application evaluation processes is maintained, take steps to ensure the integrity of future blind scoring processes is maintained, and allow for agency oversight of significant agency operations and decisions.</li><li>1.2 Perform adequate oversight of vendors in the future to ensure agreed-upon controls are implemented as the vendor completes the project.</li><li>1.3 Ensure future application processes are carried out in a consistent and transparent manner.</li></ol>
<p>Business Change Requests Not Processed Timely and Lack Appropriate Benchmark</p>	<p>The DCR modify internal systems to track the "complete" date of license ownership change applications, and monitor compliance with the 60-day requirement established in state regulation. The DCR should also consider formally communicating the "complete" status to the licensees to allow them to monitor the DCR's compliance with the required time limit.</p>
<p>Market Oversight Procedures are Inadequate</p>	<p>The DCR:</p> <ol style="list-style-type: none"><li>3.1 Continue to develop internal processes to ensure inspections are completed on schedule, and ensure any identified noncompliance is communicated and addressed on a timely basis.</li><li>3.2 Continue to prioritize inventory inspections, and take the steps necessary to ensure inventory inspections are completed regularly for all appropriate licensees.</li><li>3.3 Develop rules to ensure dispensaries are obtaining consent from adult-use customers prior to collecting and maintaining personal information, and consider clarifying state rules to clarify that retention of personal information is not required to comply with transaction limits.</li><li>3.4 Integrate real-time transaction analysis capabilities into Metrc, and require dispensaries to implement internal controls that automatically prevent over-limit transactions. Additionally, the DCR should review historical Metrc data for patterns of over-limit sales transactions and follow up with appropriate enforcement actions.</li></ol>
<p>Marijuana Revenues Have Not Been Distributed in Accordance with the Constitution</p>	<p>The the Office of Administration (OA) and Missouri General Assembly evaluate the manner in which revenues in the Veteran Health and Care Fund, and the Veterans, Health, and Community Reinvestment Fund are distributed, and ensure the funding is distributed in accordance with the Missouri Constitution to ensure the programs these funds are dedicated for have timely access to the funding.</p>

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Microbusiness Licensing Process Resulted in Approvals to Noncompliant Applicants	The DCR:  5.1 Revise procedures to ensure measurements are conducted using accurate GIS tools and in accordance with demarcation points defined in Article XIV, Section 2.5(4) of the Missouri Constitution.  5.2 Improve procedures to verify licensee compliance with local zoning regulations.
DCR Product Data Was Not Used by DOR for Marijuana Tax Audits	The DCR coordinate with the Department of Revenue (DOR) to ensure Metrc reports are available as a cross-verification tool in marijuana tax compliance reviews, and DOR auditors have access to Metrc data and are trained on system functionality to ensure its effective use in DOR's audit processes.