

**REPORT ON:**

# **Compliance and Enforcement of Cannabis Retail Stores**

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## Executive Summary and Overall Conclusion

Non-medical cannabis was legalized across Canada in 2018, and the BC Government responded by establishing a mixed public-private retail model for the cannabis sector. In 2021, sales in licensed cannabis stores were estimated at \$554 million.

The Liquor and Cannabis Regulation Branch (LCRB or Branch), within the Ministry of Public Safety and Solicitor General, oversees the regulation and licencing of liquor and non-medical cannabis. Internal Audit & Advisory Services (IAAS), Ministry of Finance, is conducting a multi-phase audit of compliance and enforcement practices across government. The LCRB's regulation of non-medical cannabis licenses was selected for Phase I of this audit.

The LCRB's compliance and enforcement activities are focused on reducing cannabis-related threats to public safety and ensuring administrative requirements are met. The Branch monitors for compliance with legislation and regulations, policies, and the license terms. The LCRB conducts regular inspections and educates licensees to encourage voluntary compliance. Serious or repeated contraventions may result in enforcement action.


This audit assessed the LCRB's compliance and enforcement oversight of cannabis licensees by reviewing program activities related to the organizational framework, education, monitoring, enforcement, evaluation, and reporting. Overall, we found that the LCRB has established a compliance and enforcement framework for cannabis that includes key elements such as policies and guidance, routine inspections, a complaints process, and a framework for enforcement.


The cannabis industry is dynamic and constantly changing to reflect the competitive market. The LCRB and its compliance and enforcement team need a modern and sophisticated program to be ready to adapt to these changes. With new license types being established and ongoing evolution of the cannabis sector, it is important that the LCRB is positioned to quickly adjust their activities as needed.


We identified several opportunities for the LCRB to strengthen the program and create more efficient and effective processes. Our audit recommendations provide the ministry with a roadmap to mature the program and improve program delivery. The audit includes 14 recommendations, and the areas of improvement include:




**Key cannabis risks:** While the LCRB has established policies to address key risks and legal requirements, the Branch can improve their monitoring procedures around some risk areas including minors accessing cannabis, illicit sales, online sales, and deliveries. Due to limited assessment and monitoring of these risks, the Branch is unable to confirm that legal requirements are upheld or quantify the risks on an industry level. The LCRB should ensure all compliance risks are appropriately monitored.

 **Risk-based approach:** The LCRB does not use a systematic risk-based approach to guide its activities and could not demonstrate that its compliance monitoring is focused on the highest risk areas. The LCRB should enhance their risk intelligence and integrate a risk-based approach throughout their operations, including strategic planning, program design and execution. Implementing a risk-based approach will support the ministry to use its limited resources in the most effective way.

 **Tools and Resources:** The LCRB has employed a skilled team of staff, but historical resourcing challenges have resulted in large, unsustainable inspection workloads. This is impacting the achievement of internal inspection targets. In addition, challenges with a new IT system are contributing to documentation issues and creating inefficiencies for inspection staff. The LCRB should focus on strategies to address these critical issues to help improve staff retention and job satisfaction.

 **Documentation and data integrity:** We noted inconsistencies with how staff document their work such as inspection procedures and key decisions. We also found pervasive data integrity issues throughout multiple processes. The LCRB can provide staff additional guidance, focused training, and supervisory review to help improve consistency and documentation quality.

 **Leveraging data analytics:** The LCRB collects licensee data, but the information is not being used in a meaningful way to inform compliance activities. The LCRB should use this data when planning compliance work to create efficiencies for the Branch. In addition, the LCRB should diversify its compliance work by adding more desk-based procedures to remotely monitor licensee websites, pricing, and other areas.

While this audit focused on the cannabis sector, our recommendations may have relevancy for the LCRB's liquor compliance and enforcement activities, and we encourage the Branch to make any necessary considerations for that sector. We would like to thank the management and staff of the LCRB, who participated in and contributed to this review, for their cooperation and assistance.



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## Introduction

The Government of Canada legalized non-medical cannabis in 2018, creating a regulatory framework with goals related to public health, safety, and crime reduction. Provinces and territories operate within the federal framework and are tasked with regulating the sale and distribution of cannabis in their jurisdictions.

The BC Government has established a mixed public-private retail model for the cannabis sector. Under this approach, non-government retailers require a license to sell cannabis in the province. The Liquor and Cannabis Regulation Branch (LCRB or Branch) within the Ministry of Public Safety and Solicitor General oversees the regulation of each licensed, non-medical cannabis retail store (CRS).



The LCRB's compliance and enforcement activities are focused on reducing cannabis-related threats to public safety and ensuring administrative requirements of cannabis licenses are met. Accordingly, the Branch monitors CRSs for compliance with legislation and regulations, ministry policies, and the license terms. Once a cannabis license is issued, the LCRB conducts regular inspections. Inspectors work with licensees to educate them and encourage voluntary compliance with the regulatory requirements. Serious or repeated contraventions may result in enforcement action.

LCRB is comprised of three main divisions:

- **Licensing Division** reviews applications and issues licences for private non-medical cannabis retail stores.
- **Compliance and Enforcement Division** promotes and monitors licensee compliance with provincial cannabis laws.
- **Corporate and Strategic Services Division** manages various activities including policy, legislation, planning, finance, and communications.

LCRB staff are jointly responsible for liquor and cannabis regulatory activities. After cannabis was legalized, the LCRB's responsibilities and workload increased which presented a significant change for the organization. Across the province, there are over 10,000 liquor licenses and nearly 30,000 annual special event permits. As a result, the majority of LCRB staff time and resources are dedicated to liquor regulation.

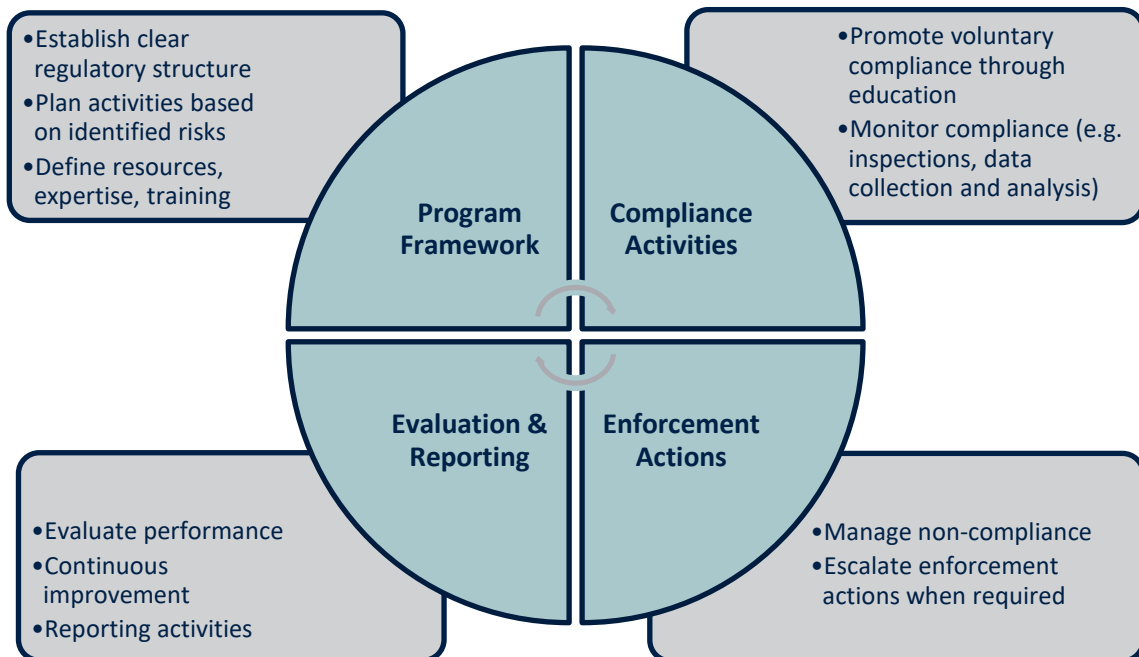
Currently, there are approximately 500 CRSs throughout British Columbia. LCRB staff are based out of regional offices in Vancouver, Surrey, Victoria, and Kelowna. In addition, there are eight satellite offices in smaller communities throughout the province.

The LCRB's Compliance and Enforcement Division employs a team of over 50 staff and 7 management positions to cover both liquor and cannabis industries. Key staff responsible for executing the compliance and enforcement program include:

- **Inspectors:** complete routine and public safety inspections of CRSs, support enforcement processes, and provide education to licensees.
- **Investigators:** execute investigations for complex non-compliance issues and conduct licensee background checks.
- **Auditors:** complete data analysis, reporting, and support investigations.

Organizations with regulatory oversight functions require an effective management program that integrates risk and is based on a continual improvement approach. **Figure 1** highlights key elements of a comprehensive compliance and enforcement program that is consistent with internationally accepted good practices.

**Figure 1: Compliance and Enforcement Program**



## Purpose, Scope and Approach

This audit is part of a multi-phase review of the government's compliance and enforcement framework. Phase I focused on the non-medical cannabis sector.

The purpose of this audit was to assess the LCRB's compliance and enforcement oversight of licensed, non-medical cannabis retail stores.

We assessed the LCRB's activities related to:

- planning and resourcing a compliance and enforcement program;
- promoting compliance through education activities;
- monitoring compliance through inspections and investigations;
- addressing non-compliance through enforcement actions; and
- evaluating against program goals and reporting on compliance and enforcement activities.

Our approach involved:

- reviewing relevant policies, processes and procedures;
- attending inspections and interviewing ministry staff, management, and stakeholders across the province;
- examining a sample of inspections, complaint investigations and non-compliances; and
- understanding industry good practices and activities in other jurisdictions.

The audit did not evaluate the regulation of BC Cannabis Stores which are public retailers operated by the Liquor Distribution Branch, or illegal cannabis retailers.

This audit was conducted by Internal Audit & Advisory Services (IAAS), Ministry of Finance and fieldwork was completed in August 2022. The LCRB has reviewed the specific findings of our work, and this report consolidates those findings.

The LCRB will develop and submit an action plan in response to the recommendations provided, including the timeframe for implementation. IAAS conducts an annual follow-up process to assess LCRB progress to address its action plan in response to the recommendations given.

## 1.0 Compliance and Enforcement Program Framework

The LCRB has developed compliance and enforcement goals that build on key regulatory pillars related to public health, safety, and crime reduction (**Figure 2.**). To help achieve these goals, a compliance and enforcement framework should include a clear regulatory structure, effective planning, and appropriate resourcing considerations.

We examined several aspects of the compliance and enforcement framework to gain an understanding and evaluate the LCRB's activities. In particular, we looked at cannabis legislation and regulations, policies, organizational planning activities, and resources.

**Figure 2: Compliance and Enforcement Goals**



### 1.1 Regulatory Requirements

The LCRB is regulated under the provincial *Cannabis Control and Licensing Act* (the Act) and accompanying regulations. The Branch has developed supplemental policies and procedures to provide clarity and guidance around the legal requirements. We reviewed the legislation, regulations, and policies to gain an understanding of the regulatory framework governing CRSs and evaluate alignment between the requirements.

We found that the Act and regulations are comprehensive and provide a reasonable foundation to regulate the retail sale of cannabis. In general, the LCRB's policies and procedures outline and clarify the legal requirements in the Act and regulations. The Branch has developed policies and guidance for CRSs, such as requirements for security, advertising, record-keeping, and product display and disposal. In addition, the LCRB has established internal procedures that guide the activities of compliance and enforcement staff. Overall, the LCRB policies and procedures that we reviewed align and support legal requirements.



## Key and Emerging Risks in the Compliance Framework

To meet the public health and safety goals of the cannabis program, the LCRB must adequately manage current risks and reasonably prepare to manage emerging risks. We conducted interviews and reviewed the LCRB's policies and procedures to ensure that the Branch appropriately manages key and emerging risks.

Our assessment found that the LCRB has established policies that address key risks and legal requirements. However, the Branch could improve their procedures for actively monitoring risks such as licensee **websites**, **tied houses**, and **inducements**.

**Websites** and social media are used by licensees for advertising and on-line sales, and these activities must comply with LCRB policies.

**Tied houses** are an association between a retailer and producer that may lead to that manufacturer's products being favored.

**Inducements** are incentives from manufacturers, either requested or accepted by licensees, to promote specific products.

Currently, the Branch primarily relies on a reactive approach to monitor these risks that is driven by complaints rather than proactive monitoring. Due to a lack of assessment, monitoring, and specialized capacity, the Branch is unable to confirm that legal requirements are upheld or quantify the risks on an industry level.

The non-medical retail cannabis industry is new and will continue to evolve as the market changes and trends emerge. Over the past few years, there have been substantial program changes including cannabis home delivery, online sales, and **farm-gate** sales. These program changes introduce new risks and challenges for the LCRB.

The Province introduced **farm-gate** in 2020 with government-to-government agreements with indigenous nations.

Effective November 30, 2022, a new cannabis retail license is available allowing eligible federally licensed cannabis producers to sell cannabis from stores located at their cultivation site.

In response to trends and emerging risks in the cannabis industry, the LCRB regularly updates its policy documents, internal procedures, and communicates these changes. Licensees and LCRB staff are notified of updates and can readily access policy documents online.

While policy updates typically lead to revisions of LCRB staff procedures, some notable policy changes have not resulted in procedural updates. For example, policy developments have allowed home deliveries by CRSs and third-parties, online sales, and ATMs in retail stores. We found that the LCRB has not updated staff procedures to ensure the risks associated with these policy changes are being appropriately addressed. The LCRB should evaluate new risks and consider whether additional scrutiny and compliance monitoring is required.

Continued updates to the compliance framework have created challenges for staff who must maintain an up-to-date working knowledge of changes. While the compliance framework updates are available to staff, they require additional support as industry changes should lead to revisions to policy and internal guidance.

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### Recommendation:

- (1) LCRB should ensure all compliance risks are appropriately monitored and staff receive sufficient guidance and support to execute their duties.
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## 1.2 Strategic Planning

Strategic planning is an organization's process of defining its direction and making decisions that support the achievement of its goals. It should align with operational planning and encourage an organization to set priorities and focus resources on achieving mandated responsibilities. Incorporating risk into planning activities is critical to help prioritize higher impact areas. A robust risk-based approach forms the basis of an effective compliance and enforcement framework.

The activities included in **Figure 3** are considered the building blocks of a risk-based approach for a compliance and enforcement entity. The established approach should be clearly documented and executed as part of an annual risk exercise and link planning to strategic priorities. The outcome of this process focuses the entity's limited resources towards high-risk areas, instead of uniformly allocating resources.

**Figure 3: Risk-Based Approach**



Due to the high volume of LCRB licenses and the large quantity of legal requirements, we expected the Branch to conduct strategic planning that is clearly supported by a risk-based approach. We found the LCRB conducts periodic strategic planning that encourages feedback and participation from staff across the Branch. The recent planning exercise resulted in a high-level strategic plan outlining goals and objectives for all divisions.

The LCRB, however, conducts limited planning activities related specifically to compliance and enforcement, and it has not established a forward-looking plan that is linked to its key risks. While we noted that the LCRB has identified public safety risks, such as service to minors and illicit sales, it has not completed a comprehensive risk assessment to help define the scope of these risks and clearly articulate a plan to address them.

The Division would benefit from establishing a forward-looking, comprehensive plan that identifies goals, objectives and performance measures that are linked to key program risks.

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**Recommendation:**

- (2) LCRB should develop a strategic plan that details the activities of a risk-based compliance and enforcement approach, including the necessary capacity, tools, training and expertise required to achieve its goals and objectives.
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### 1.3 Staffing

Adequate staffing levels are a major factor in determining the capacity for compliance and enforcement activities and supporting the achievement of organizational goals. We reviewed the LCRB's staffing levels and planning to determine whether the Branch maintains adequate resourcing to achieve its compliance and enforcement objectives.

Our audit found that the LCRB has employed a skilled team of staff that works together to conduct compliance and enforcement activities across the province. However, historical staffing challenges and a fixed inspection approach has resulted in unsustainable workloads for many staff.

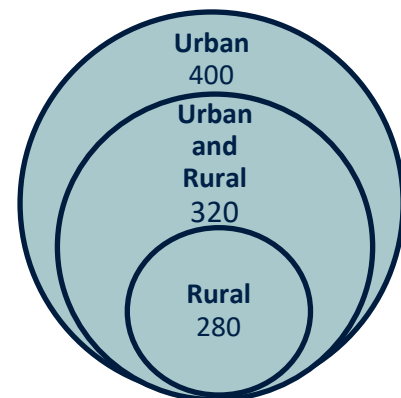
The LCRB created a staffing strategy to help determine inspector workload for each region. The model considers the number of retail locations, the frequency of inspections required by policy, and the number of inspector positions available. Additional factors, such as travel and training, are used to determine how many CRSs are under an inspector's responsibility within each geographical region. These annual workload targets, noted in **Figure 4**, include liquor and cannabis inspections.

We found that these inspection targets are not consistently being met. Our review of the LCRB's staffing strategy identified the following issues:

- The annual inspection targets do not factor in all inspection types and inspector accountabilities.
- Optimal inspector workloads are calculated based on a full complement of staff. During the audit, however, there were up to 10 inspector vacancies out of 37 total positions. This resulted in nearly half of the inspectors being assigned more than the target number of inspections.

Furthermore, the inspection model does not incorporate risk as it is based on a fixed frequency with identical procedures across all retailers. Incorporating risk would relieve some staffing pressures and help enhance the efficiency of the program.

**Figure 4: Annual Geographic Inspection Targets**



As the cannabis industry continues to grow and change, it may become increasingly challenging for the LCRB to achieve current inspection targets and quality standards. Similar to many organizations, the LCRB has faced challenges with recruitment and retention. Looking ahead, it would benefit the LCRB to focus on sustainable inspection targets and consider strategies to help improve recruitment and retention.

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**Recommendation:**

(3) LCRB should ensure their resourcing plan integrates with a risk-based approach and includes appropriate staffing levels with achievable targets.

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## 1.4 Training

Training and professional development opportunities help support staff to stay updated with emerging trends and best practices. Cannabis is a dynamic industry, creating a greater need for ongoing training. We considered whether the LCRB provides adequate onboarding training and professional development opportunities to ensure staff acquire and maintain competencies relevant to their roles.

We found that inspectors and investigators receive onboarding training and continuing professional development that covers their job duties. During onboarding, inspectors receive comprehensive training that is provided both in-field and in the classroom. Ongoing training is provided via annual training plans which are developed based on supervisory feedback and integrate industry changes.

Our audit highlighted some areas where additional training could enhance the overall function of the compliance and enforcement program. We noted training materials have limited guidance on assessing and understanding risk which is integral to compliance and enforcement. Further, we identified data integrity issues throughout multiple processes including routine inspections, and complaint investigations.

LCRB recently switched to a new software system, Microsoft Dynamics (“Dynamics”), where staff document their work. While staff received training on the new system, data entry errors were consistently identified. We also noted inconsistencies with how staff document inspection procedures within Dynamics. These issues should be addressed through focused training and additional supervisory review to improve consistency and quality of documentation.

The data integrity challenges and limited availability of risk-related training materials presents an opportunity for LCRB to expand their training program.

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## Recommendation:

- (4) LCRB should develop a risk training program that covers evidence requirements and documentation expectations to promote consistency and help ensure data integrity.
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## 1.5 Tools

LCRB staff members require a variety of tools to conduct their job duties including computer hardware, software, mobile phones, and **scan guns**. Having adequate tools is critical for executing job duties, as insufficient tools can create delays, contribute to inaccurate documentation, and increase data integrity challenges.

**Scan guns** are provided by the Canada Revenue Agency to scan cannabis excise stamps, which are applied to cannabis products that have had appropriate taxes paid.

We expected that staff members would have access to the necessary tools to complete their job duties. For example, software should be functional and accessible for both in-field activities and desk-based processes so that all team members can use the tool consistent with their duties.

We found that scan guns were not available for all inspectors, as they are provided by the Canada Revenue Agency in limited quantities. The scan guns are used by inspectors to ensure the cannabis products have been purchased through federally approved suppliers. Inconsistency in scan gun availability may limit their effectiveness as not all inspectors have access to the tool. LCRB should consider requesting more scan guns or develop a process to ensure they are available to inspectors when needed, in order to ensure all CRSs are subject to this procedure.

We also found that the LCRB's Dynamics software program is not adequately supporting staff to execute their activities efficiently and effectively. In particular, the inspectors expressed a need for mobile access to the Dynamic system as currently they are unable to complete their documentation in the field. If inspectors were able to digitally record the results in real-time, it would increase their efficiency and improve the accuracy of documentation. During the audit, the LCRB noted that they are actively pursuing a mobile option for Dynamics.

Over the duration of the audit, we observed challenges with the overall functionality of Dynamics. While we did not complete detailed audit procedures of the system, we identified data integrity weaknesses throughout the audit. These issues are typically a combination of limited training and review, as well as the design and usability of the IT system. The LCRB is aware of these issues and working to improve them.

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## Recommendation:

- (5) LCRB should ensure that effective tools are available to execute compliance monitoring procedures.
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## 2.0 Compliance Activities

The LCRB has established a suite of compliance activities to monitor and encourage voluntary compliance with the cannabis regulatory requirements. We examined several aspects of these activities to assess the LCRB's oversight of CRSs.

In particular, we reviewed how the LCRB:

- promotes licensee compliance through education
- incorporates risk and data analysis into compliance activities
- monitors compliance through conducting inspections and investigations

### 2.1 Compliance Promotion

Compliance promotion includes activities that educate and encourage voluntary compliance with legal requirements. As the regulatory framework for non-medical cannabis is new and evolving, licensees require access to clear and current information about their regulatory responsibilities.

We evaluated the Branch's activities to promote compliance with cannabis requirements by reviewing educational materials and interviewing staff. Overall, we found that the LCRB provides licensees with appropriate resources to understand their regulatory responsibilities.

The LCRB has developed resources to support licensees' understanding of the compliance framework including:

- The Cannabis Retail Store License Terms and Conditions handbook that clearly outlines licensee legal requirements
- Selling-it-Right training which is a mandatory course to train retail staff on public safety risks such as selling to minors and public intoxication
- Instructional compliance videos (i.e. record keeping, security requirements)
- Policy directives and other resources on the LCRB website

While providing educational materials for licensees to review is a good practice, there is an opportunity for the LCRB to consider offering group education sessions to introduce new materials. This approach may help promote relationship-building with licensees, in addition to resulting in more effective compliance.

We identified that the LCRB is not gathering information to evaluate whether licensees understand their regulatory requirements. Instead, licensee compliance is the main method by which understanding is assessed. Without collecting direct data on licensee understanding, there is a limited ability to conclude on the effectiveness of the education materials. Further, it is difficult for LCRB to conclude on the results of their educational approach.

There is an opportunity for LCRB to conduct activities that measure licensee understanding to help identify areas where additional education could be beneficial, and to help promote industry compliance.

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### **Recommendation:**

(6) LCRB should measure the effectiveness of an educational approach through direct monitoring of licensee understanding of education materials.

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## **2.2 Compliance Monitoring Approach**

Compliance monitoring activities, such as inspections or audits, are typically used to determine if regulatory requirements are being met. Risk identification and analysis are key factors for compliance monitoring and should be considered when determining the nature and frequency of these activities.

We evaluated how the LCRB applies a risk-based approach to its compliance monitoring activities. Overall, we found that the LCRB does not use a clear and systematic risk-based approach to guide its activities. As a result, the Branch was unable to demonstrate that its compliance monitoring focuses on the highest risks.

Our audit found that routine administrative inspections of CRSs are the LCRB's main compliance tool. Inspections are conducted with fixed frequency and procedures. This model does not allow for inspectors to plan and focus their inspections based on identified risks. The LCRB could enhance the efficiency and effectiveness of their activities by actively considering compliance history, regional considerations, and broader industry compliance risks when planning inspections.

We also found that the LCRB collects licensee data, but the information is not used in a meaningful way to inform compliance activities. For example, financial, inventory, and non-compliance data is collected but not consistently tracked or analyzed to identify licensee compliance issues or sector trends. There is opportunity to leverage this data and create efficiencies for the Branch. Specifically, the Branch could diversify its compliance work by including more desk-based procedures. Staff can cover more licensees and more risks without needing to enter the CRS. Procedures can include monitoring licensee websites, pricing or other risks that can be monitored remotely.



Ultimately, the Branch requires a more sophisticated approach that incorporates risk into all activities to strengthen the compliance framework. A well-rounded risk assessment would help the LCRB detect non-compliance indicators ahead of fieldwork. This can be supported with desk-based procedures and in-field inspections to verify non-compliance. Compliance monitoring should focus on the highest risks that are identified through a comprehensive compliance monitoring framework.

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### Recommendation:

(7) LCRB should develop a comprehensive compliance monitoring framework, where the nature and frequency of compliance verification activities are based on assessed risks.

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## 2.3 Inspections

Inspections are an important tool for verifying compliance with regulatory requirements. After receiving their cannabis license, retailers are subject to a 30-day, 6 month, and 12-month administrative inspection for their first year of operation. Thereafter, inspections reduce to an annual inspection cycle. At any point, ad hoc inspections can occur to address complaints, public safety concerns, or to follow up on any previously identified compliance concerns.

The inspections are designed to detect non-compliance with the regulatory requirements and inspectors use a **checklist** to guide their inspection procedures. Administrative inspections average approximately 20 minutes, while timelines for public safety inspections can vary depending on scope.

Sample procedures from inspection **checklist**:

- ✓ cannabis products are not visible from exterior of store
- ✓ Cannabis license is posted
- ✓ Cannabis pricing is not set below wholesale prices
- ✓ Staff have valid Selling-it-Right certification
- ✓ Security requirements met and incident log maintained

This audit assessed whether inspections were consistently completed in a timely manner, in accordance with their plans and established processes. Overall, we found inspections were not consistently completed in accordance with the inspection frequency policy due to a variety of factors such as large inspection workloads and staff vacancies. While inspections are mostly carried out according to the inspection checklist, we noted concerns with the checklist design and inspection documentation.

Our review of the LCRB’s inspection process involved:

- Examining documents, interviewing staff and attending inspections across all regions of the province to understand how inspections are executed.
- Reviewing completed inspection reports from 2019-2022, to assess whether inspections were completed according to established processes.

For the inspections we attended, we observed that inspections are mostly carried out according to the checklist. However, we noted that the checklist design may not be sufficient to detect non-compliance in select areas (cannabis inventory, pricing).

We identified opportunities to improve how inspection procedures are documented, as the current practice does not meet the **standard of reperformance**. We also noted that completed inspection reports did not include any documented evidence of supervisory review. Reviewing executed work is critical from a consistency and controls perspective.

**Standard of Reperformance** means that an independent individual can reperform the procedure and achieve the same result.

We sampled 40 licensees to determine if they were inspected according to internal timelines. We found that inspections were not consistently conducted on-time. Of the 40 licensees sampled, 24 had all their inspections conducted on time, 10 experienced delays with at least one inspection, 5 licensees were missing required inspections, and one sample was inconclusive due to data integrity issues.

From our review of inspection reports, we found multiple weaknesses within LCRB’s inspection procedures. In particular, cannabis inventory procedures require more depth to detect whether illicit cannabis is being sold in CRSs. We also noted cannabis pricing procedures were ineffectively executed. In addition, the LCRB’s activities to monitor whether minors are accessing cannabis at CRSs or via online sales are limited. To improve overall consistency and execution, the LCRB would benefit from revising select inspection procedures to be more prescriptive.

The **Minors as Agents (MAP) Program** is a key monitoring tool for public safety risks associated with service to minors and was historically used by the LCRB to monitor the liquor industry. However, the MAP was paused during the Covid-19 pandemic and has yet to be launched for cannabis. It is reasonable that the MAP program would not have been operational during the early phase of the pandemic. However, the program should now be in place as it is critical to monitoring compliance over a key public safety risk.

The **Minors as Agents Program (MAP)** program is designed to detect service to minors by engaging agents to act in a secret shopper capacity in licensed liquor and cannabis retailers.

The LCRB is currently working to re-launch the MAP for liquor and is expanding the program to include cannabis. Our expectation is that the new program should include a strategy for evaluating and publicly reporting on program effectiveness.

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### Recommendations:

- (8) LCRB should review the inspection process and procedures to consider risk and increase emphasis on documentation, overall quality and review.
  - (9) LCRB should promptly implement a Minors as Agents Program that includes a strategy for program evaluation and public reporting.
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## 2.4 Complaints

Complaints of alleged contraventions are a useful source of evidence and information as the LCRB cannot constantly monitor each CRS. The Branch receives complaints from a variety of sources including industry, the public, police, local government, and other regulatory bodies. Since legalization, complaints have been submitted for a variety of alleged incidents, such as minors in retail stores, onsite consumption, non-compliant advertising, and unlawful conduct.

We reviewed the LCRB's complaint process to ensure complaints are reasonably addressed in a timely manner. Overall, we found that the design of the complaints process is sufficient to capture, sort, and escalate complaints. However, we reviewed a sample of complaints and identified opportunities to improve the quality of documentation, depth of procedures, and data integrity of the complaint records.

We reviewed a sample of 22 complaints from a total of 123 complaints that were received since legalization. We found that 17 complaints were documented and concluded appropriately, and four complaints lacked sufficient evidence to clearly support their conclusion. An additional sample had no evidence of an investigation when one was expected per policy and based on the nature of the complaint.

Further challenges were identified from our sampling, including:

- Poor data integrity
- Insufficient tracking and execution of follow up inspections
- Limited depth of investigations

Overall, complaint investigative procedures had limited depth and additional efforts could have provided more support for the conclusions reached. There is an opportunity for LCRB to improve their complaint investigation process by completing more in-depth procedures and by completing follow up inspections. The complaint process should be documented to a level of reperformance to enable reviewers to appropriately conclude.

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### Recommendation:

- (10) LCRB should ensure that complaints are adequately investigated and that investigative procedures are fully documented to a standard of reperformance.
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## 2.5 Data Collection and Analysis

The LCRB collects and reviews monthly inventory data from each CRS to fulfill **Health Canada reporting requirements** under the Federal Government's *Cannabis Act*. This review helps ensure that Health Canada receives reliable data to monitor the legal cannabis market. The LCRB reviews the data to ensure information is accurate and to identify any anomalies. If issues are identified, the LCRB investigations group will follow up.

To meet **Health Canada reporting requirements**, licensees are required to report their monthly purchases, sales, inventory levels and destroyed products.

We assessed the LCRB's process for analyzing cannabis sales and purchase data reported to Federal Government and whether this data is used to inform the LCRB's compliance monitoring activities. We reviewed a selection of months and found that LCRB performs procedures to identify data entry anomalies and follows up on these anomalies by inquiring with licensees. Data anomalies identified by the LCRB include outliers within sales, inventory, weight and lost/destroyed products data.

Overall, we found that the LCRB reasonably analyzes the data submitted by licensees to identify irregularities for the purpose of informing Health Canada. We found two gaps in LCRB procedures. First, the detection of anomalies could be expanded to capture more meaningful anomalies. As well, the anomaly follow-up process could be improved by gathering sufficient evidence to support the LCRB's conclusions.

During our review, we identified an opportunity for the LCRB to use the monthly CRS data to help inform broader compliance monitoring procedures. Currently, the collected data is not leveraged by the LCRB to conduct risk assessment activities and does not inform the inspection process. Expanding the data anomalies detected will identify additional non-compliance indicators. These indicators should be reviewed, and if necessary, subject to investigative procedures.

Completing detailed data analysis offers an opportunity to assess all licenses for indicators of non-compliance. Integrating data analytics with compliance and enforcement activities will lead to more effective and efficient procedures.

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**Recommendation:**

(11) LCRB should integrate data analytics procedures into its compliance and enforcement activities.

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### 3.0 Enforcement

Enforcement actions are used to bring a regulated party into compliance with laws and to prevent future non-compliance. The LCRB has established policies and procedures to address compliance issues arising from cannabis inspections and complaints, with the goal of ensuring fair and equitable decision-making.

The LCRB’s enforcement process is based on the approach below. At any point in the process, the decision can be made to not pursue enforcement. There may be insufficient evidence to support enforcement, or the LCRB may determine that enforcement action is not the recommended strategy to achieve compliance.



Contravention notices must be issued for every contravention identified during an inspection. LCRB policy requires the issuance of a contravention notice within five days of the inspection and a follow-up inspection within 90 days.

A contravention notice does not always result in a formal enforcement action against a licensee. The LCRB’s policy is for inspectors to attempt to resolve contraventions through education and compliance before moving to more formal enforcement action. Factors that the inspector may consider include:

- licensee compliance history;
- seriousness of the contravention; and
- evidence of the contravention.

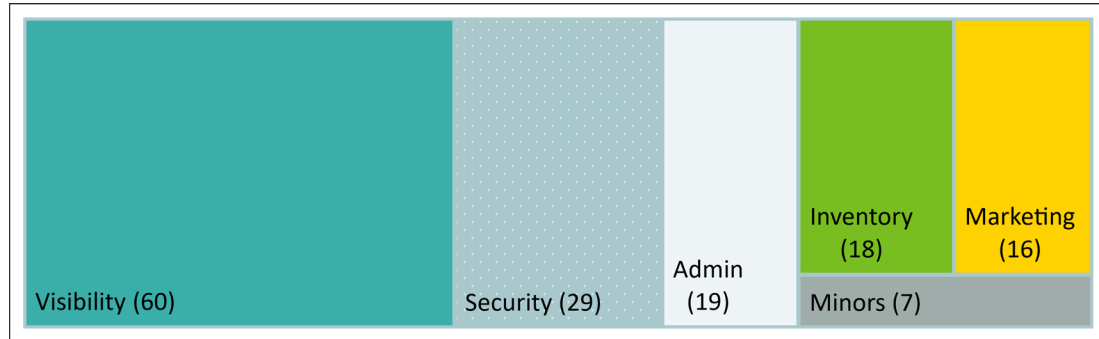
If a licensee has committed similar contraventions in the past or there is a threat to public safety, a **notice of enforcement action (NOEA)** is more likely to be issued. Once a NOEA is issued, licensees have the option of disputing the allegation through a hearing process, or accepting the enforcement action and waiving the opportunity for an enforcement hearing.

A **Notice of Enforcement Action (NOEA)** identifies the enforcement action that the LCRB proposes to take against the licensee such as suspension, monetary penalty, or licence cancellation.

Our audit evaluated the LCRB’s enforcement activities to determine whether the Branch is appropriately enforcing cannabis policy and regulatory requirements. We reviewed documents, interviewed staff, attended an enforcement hearing, and reviewed a sample of contraventions to ensure key procedures were followed.

Overall, we found that the LCRB escalates alleged infractions to a contravention notice or NOEA according to internal guidance. However, there were several instances where internal timelines and documentation expectations were not met. Furthermore, as monitoring activities are not clearly focused on the highest risk areas, the LCRB is unable to determine the sector’s compliance with key risks such as minor’s accessing cannabis and illicit activities in CRSs.

**Figure 5: The number of contraventions issued since legalization, by type**



Between legalization in 2018 and the beginning of this audit, there were 149 contravention notices issued to licensees (see **Figure 5**). The most common contraventions have been related to cannabis products being visible from outside the store and issues with meeting store security requirements.

We sampled 28 contravention notices and found that the process for escalating an alleged infraction to a contravention notice was consistent with internal guidance. We found that 13 of the sampled contravention notices were issued within the five-day timeline and 10 samples were issued beyond five days. The remaining five samples did not have documentation supporting that the contravention notices were issued. We also noted insufficient documentation supporting the decision-making process for escalation of contraventions.

Since 2018, the LCRB has issued three NOEAs related to cannabis infractions. Two of the NOEAs related to licensees selling to minors and originated from complaints. The third NOEA was for repeated contraventions of cannabis products being visible from outside the store. All of these resulted in monetary penalties for the licensees. We reviewed these contraventions and noted no issues.

As a new industry, the LCRB’s focus has been to ensure licensees have time to understand the expectations of their license and of the LCRB. As a result, policy is centred around progressive enforcement action and procedural fairness. We found that this approach is consistent with other jurisdictions, and it aligns with good practices related to compliance and enforcement methodology.

There is an opportunity for the LCRB to improve the effectiveness of their compliance and enforcement program through comprehensively incorporating risk into their plans and activities. If LCRB is not sufficiently monitoring areas of higher risk, its activities will not identify related non-compliance. For instance, the monitoring related to minors accessing cannabis and illicit activities in CRSs is limited and may not be detecting areas of non-compliance. As a result, the LCRB is unable to clearly understand and quantify the level of compliance risk that exists across the province.

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**Recommendation:**

- (12) LCRB should ensure that its enforcement procedures are consistently executed in accordance with internal processes.
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## 4.0 Evaluation and Reporting

Evaluation and reporting are important for achieving organizational growth and providing transparency to stakeholders. Continual improvement can be pursued in many ways, and at a minimum, requires the organization to evaluate its current performance. Once an organization understands its performance, improvement strategies can be designed, implemented, and reported.

### 4.1 Evaluation

Comprehensive measurement tools are required to foster an environment of continual improvement. **Key performance indicators (KPIs)** need to be tracked, monitored, and compared to industry benchmarks to evaluate the effectiveness of the organization's activities. Outcomes of the evaluation process can be leveraged into continual improvement by incorporating them into operational plans.

**Key Performance Indicators (KPIs)** are internally set measures that are tracked to evaluate an organization's success at achieving its objectives.

We considered whether the LCRB has adopted a continual improvement approach to its compliance and enforcement program. Overall, the audit identified that continual improvement activities are ad-hoc, and the LCRB has not created a formalized process of program evaluation. Further, the main KPI for measuring performance of compliance and enforcement activities is the total number of inspections completed by each inspector. Measuring the total number of inspections, while reasonable, may create a pressure on the volume of inspections rather than emphasizing their quality. LCRB should consider adding more KPI's to round out their evaluation process and heighten documentation and quality expectations.

We found that the Branch facilitates program improvements through encouraging feedback from stakeholders, including other government bodies and LCRB staff. This feedback has been integrated into policy revisions to help clarify licensee requirements. We encourage the LCRB to continue this good practice.

Throughout the audit, we identified opportunities for the LCRB to provide greater oversight of staff through carrying out more frequent review activities. This could include more frequent, documented review of inspection reports with direct supervisory feedback provided. Providing feedback to staff will solidify a continual improvement approach when combined with meaningful KPI tracking.

There are opportunities for the LCRB to consider how it defines success and to broaden its KPI's. Without appropriate evaluation, it is unclear if compliance monitoring activities are effectively reducing risk. Further, continuous improvement requires regular evaluation of tools, resources, and processes.

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**Recommendation:**

- (13) LCRB should regularly evaluate the effectiveness of its compliance and enforcement activities, tools and resources, and make changes as needed to ensure continuous improvement.
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## 4.2 Reporting

Reporting is a key aspect of compliance and enforcement programs as it educates the public and promotes transparency, while also communicating organizational achievements. Consistent reporting allows internal and external stakeholders to see trends over time and the effects of continual improvement strategies. We reviewed how the LCRB publicly reports compliance and enforcement activities, and we conducted a jurisdictional review to understand reporting trends across Canada.

Overall, we found that the LCRB is sufficiently reporting its enforcement activities. We identified that the LCRB publicly reports enforcement activities as they occur, and a semi-annual report is published online detailing enforcement results. The results of our jurisdictional review found that Canadian provinces report on a variety of elements, including number of inspections performed, industry trends, KPI's, and the overall effectiveness of activities. The topics reported by other provinces present an opportunity for the LCRB to expand its reporting to include additional detail beyond enforcement results.

Overall, the LCRB's method of publicly reporting enforcement actions generally aligns with good practice. An opportunity exists to provide more information to licensees and the public around cannabis compliance and to become a leader with respect to external reporting and transparency.

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**Recommendation:**

- (14) LCRB should enhance its public reporting of cannabis compliance and enforcement activities and its effectiveness to reduce risks.
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## Appendix A- Summary of Recommendations

<b>1</b>	LCRB should ensure all compliance risks are appropriately monitored and staff receive sufficient guidance and support to execute their duties.
<b>2</b>	LCRB should develop a strategic plan that details the activities of a risk-based compliance and enforcement approach, including the necessary capacity, tools, training and expertise required to achieve its goals and objectives.
<b>3</b>	LCRB should ensure their resourcing plan integrates with a risk-based approach and includes appropriate staffing levels with achievable targets.
<b>4</b>	LCRB should develop a risk training program that covers evidence requirements and documentation expectations to promote consistency and help ensure data integrity.
<b>5</b>	LCRB should ensure that effective tools are available to execute compliance monitoring procedures.
<b>6</b>	LCRB should measure the effectiveness of an educational approach through direct monitoring of licensee understanding of education materials.
<b>7</b>	LCRB should develop a comprehensive compliance monitoring framework, where the nature and frequency of compliance verification activities are based on assessed risks.
<b>8</b>	LCRB should review the inspection process and procedures to consider risk and increase emphasis on documentation, overall quality and review.
<b>9</b>	LCRB should promptly implement a Minors as Agents Program that includes a strategy for program evaluation and public reporting.
<b>10</b>	LCRB should ensure that complaints are adequately investigated and that investigative procedures are fully documented to a standard of reperformance.
<b>11</b>	LCRB should integrate data analytics procedures into its compliance and enforcement activities.
<b>12</b>	LCRB should ensure that its enforcement procedures are consistently executed in accordance with internal processes.
<b>13</b>	LCRB should regularly evaluate the effectiveness of its compliance and enforcement activities, tools and resources, and make changes as needed to ensure continuous improvement.
<b>14</b>	LCRB should enhance its public reporting of cannabis compliance and enforcement activities and its effectiveness to reduce risks.

## Appendix B - Abbreviations

Act	<i>Cannabis Control and Licensing Act</i>
CRS	Cannabis Retail Store
Dynamics	Microsoft Dynamics
IAAS	Internal Audit & Advisory Services
KPI	Key Performance Indicator
LCRB or Branch	Liquor and Cannabis Regulation Branch
MAP	Minors as Agents Program
NOEA	Notice of Enforcement Action
Province or Government	Government of British Columbia