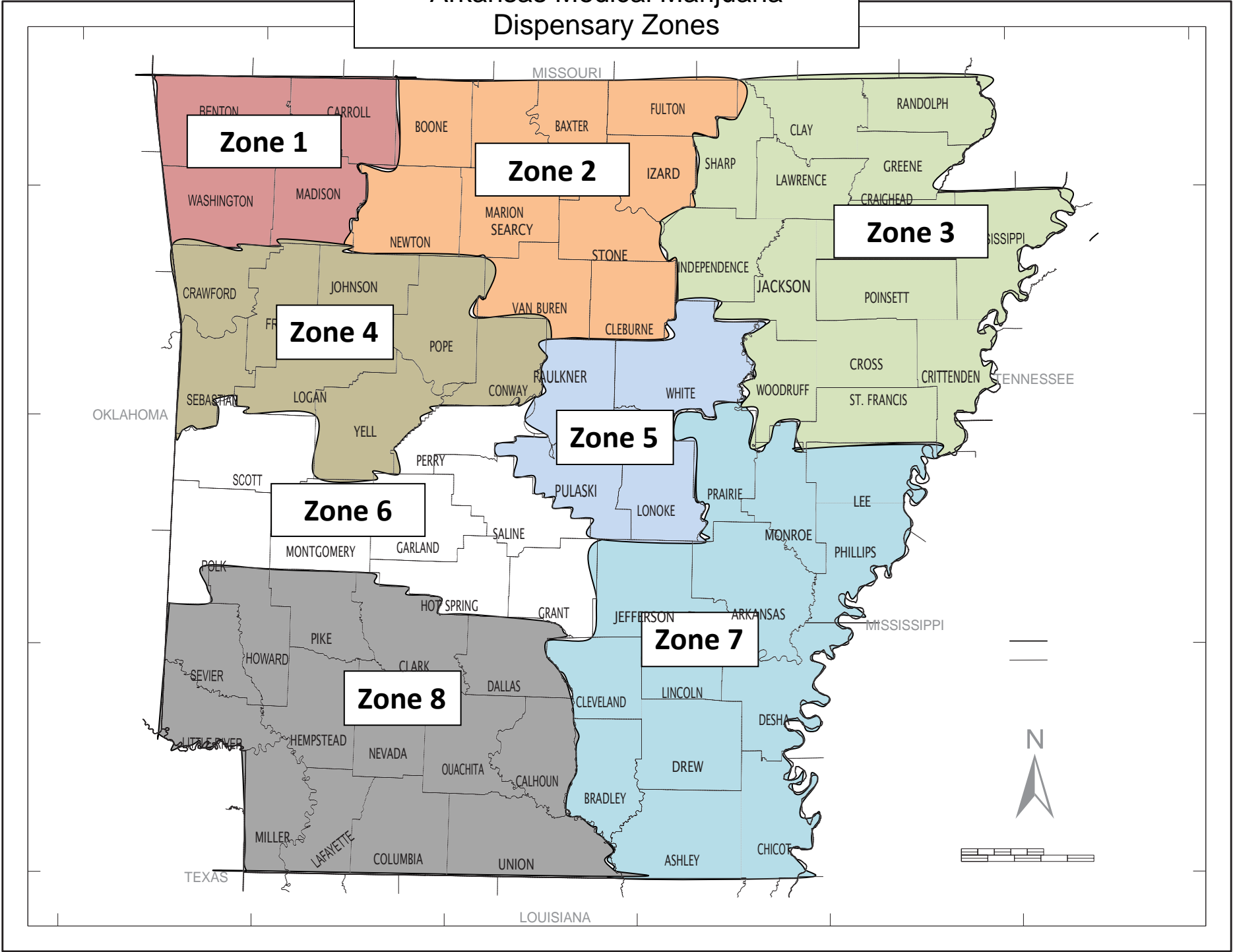


## Arkansas Medical Marijuana Dispensary Zones



# *State of Arkansas*

## *Department of Finance and Administration*



### *Alcoholic Beverage Control Division*

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#### *Rules Governing the Oversight of Medical Marijuana Cultivation Facilities, Processors and Dispensaries*

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##### *Alcoholic Beverage Control Board*

*Freddie Black, Chairman  
Pam DePriest  
Jamie Anderson  
Steve Smith  
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*Doralee Chandler, Director*

# **RULES GOVERNING THE OVERSIGHT OF MEDICAL MARIJUANA CULTIVATION FACILITIES, PROCESSORS AND DISPENSARIES BY THE ALCOHOLIC BEVERAGE CONTROL DIVISION**

## **SECTION 1. AUTHORITY OF THE BOARD**

These rules governing the oversight of medical marijuana cultivation facilities, processors and dispensaries in Arkansas are duly adopted and promulgated by the Arkansas Alcoholic Beverage Control Board pursuant to Amendment No. 98 of the Constitution of the State of Arkansas of 1874, The Medical Marijuana Amendment of 2016.

## **SECTION 2. SCOPE**

These rules govern the oversight of medical marijuana cultivation facilities, processors and dispensaries in Arkansas. These rules govern the requirements for record keeping, security, and personnel at cultivation facilities, processors and dispensaries. These rules govern the requirements for the manufacturing, processing, packaging, dispensing, disposing, advertising, and marketing of medical marijuana by cultivation facilities, processors and dispensaries. These rules govern the procedures for inspecting and investigating cultivation facilities, processors and dispensaries. These rules govern the procedures for sanctioning, suspending, and terminating cultivation facility, processors and dispensary licenses for violations of the amendment or these rules.

## **SECTION 3. DEFINITIONS**

- 3.1 “Acquire” or “Acquisition” means coming to possess marijuana by means of any legal source herein authorized, not from an unauthorized source, and in accordance with the Amendment and any rules promulgated under the Amendment.
- 3.2 “Amendment” means the Arkansas Medical Marijuana Amendment of 2016.
- 3.3 “Approved Laboratory” means a laboratory that is accredited by the National Institute on Drug Abuse (NIDA), the National Environmental Laboratory Accreditation Conference (NELAC), and the International Organization for Standardization (ISO) or similar accrediting entity as

- determined by the Department, and that has been approved by the Department specifically for the testing of usable marijuana.
- 3.4 “Authorized Personnel” means any employee employed by a licensed facility and granted permission by the facility to enter into restricted areas.
- 3.5 “Batch” means, with regard to usable marijuana, a homogenous, identified quantity of usable marijuana, no greater than ten (10) pounds, that is harvested during a specified time period from a specified cultivation area, and with regard to oils, vapors, and waxes derived from usable marijuana, means an identified quantity that is uniform, that is intended to meet specifications for identity, strength, and composition, and that is manufactured, packaged and labeled during a specified time period according to a single manufacturing, packaging and labeling protocol.
- 3.6 “Biannual” means every six (6) months.
- 3.7 “Cannabinoid” means any of the chemical compounds that are the active constituents of marijuana.
- 3.8 “Cannabinoid concentrate” means a substance obtained by separating cannabinoids from marijuana by:
- a. A mechanical extraction process;
  - b. A chemical extraction process using a nonhydrocarbon-based or other solvent, such as water, vegetable glycerin, vegetable oils, animal fats, isopropyl alcohol or ethanol; or
  - c. A chemical extraction process using the hydrocarbon-based solvent carbon dioxide, provided that the process does not involve the use of pressure or heat over 180 degrees.
- 3.9 “Cannabinoid edible” means food or potable liquid into which a cannabinoid concentrate, cannabinoid extract, or dried marijuana leaves or flowers have been incorporated.
- 3.10 “Cannabinoid extract” means a substance obtained by separating cannabinoids from marijuana by:
- a. A chemical extraction process using a hydrocarbon-based solvent, such as butane, hexane, or propane;
  - b. A chemical extraction process using the hydrocarbon-based solvent, carbon dioxide, if the process uses high heat or pressure; or
  - c. Any other processes identified by the Division.
- 3.11 “Cardholder” means a qualifying patient, a dispensary agent, a cultivation facility agent, transporter agent, processor facility agent, or a designated caregiver;
- 3.12 “Commercially available” means any candy, food, gum or beverage that is produced or sold by a third party.
- 3.13 “Commission” means the Medical Marijuana Commission.

- 3.14 “Contractor” means any person or business under contract to complete repairs or improvements or to provide services to the licensed facility.
- 3.15 “Cultivation facility” means an entity that:
- a. Has been licensed by the Medical Marijuana Commission; and
  - b. Cultivates, prepares, manufactures, processes, packages, sells to and delivers usable marijuana to a dispensary.
- 3.16 “Cultivation Facility Agent” means an employee, supervisor, or agent of a cultivation facility who:
- a. Is twenty-one (21) years of age or older;
  - b. Works at the cultivation facility; and
  - c. Has registered with the Alcoholic Beverage Control Administrative Division.
- 3.17 “Department” means the Arkansas Department of Health.
- 3.18 “Deliver” means to move medical marijuana product between a licensed dispensary and a qualified patient or designated caregiver.
- 3.19 “Designated caregiver” means:
- a. A person who is at least twenty-one (21) years of age, has not been convicted of an excluded felony offense, has agreed to assist physically disabled qualifying patient with the medical use of marijuana, and who has registered with the Department of Health pursuant to the requirements of the Amendment and these Rules.
  - b. Designated caregiver includes, without limitation, a parent:
    - i. Of a qualifying patient who is under the age of eighteen (18); and
    - ii. Required to register as a designated caregiver under the Amendment.
- 3.20 “Dispensary” means an entity that has been licensed by the Medical Marijuana Commission pursuant to the requirements of the Amendment.
- 3.21 “Dispensary agent” means:
- a. An employee, supervisor, volunteer, or agent of a dispensary who:
    - i. Is twenty-one (21) years of age or older;
    - ii. Works at the dispensary; and
    - iii. Has registered with the Alcoholic Beverage Control Division.
  - b. An owner, officer, or board member of a dispensary who has registered with the Division pursuant to the requirements of the Amendment.
- 3.22 “Division” means the Arkansas Alcoholic Beverage Control Administrative Division.

- 3.23 “Enclosed, locked facility” means a room, greenhouse, or other enclosed area equipped with locks or other security devices that permit access only by an authorized individual;
- 3.24 “Enforcement” means the Alcoholic Beverage Control Enforcement Division
- 3.25 “Excluded felony offense” means:
- (a)(i)(a) A felony offense as determined by the jurisdiction where the felony offense occurred.
- (b) The Medical Marijuana Commission, the Department of Health, or the Alcoholic Beverage Control Division shall determine whether an offense is a felony offense based upon a review of the relevant court records concerning the conviction for the offense.
- ii. An offense that has been sealed by a court or for which a pardon has been granted is not considered an excluded felony offense; or
- (b) A violation of state or federal controlled-substance law that was classified as a felony in the jurisdiction where the person was convicted, but not including:
- i. An offense for which the sentence, including any term of probation, incarceration, or supervised release, was completed ten (10) or more years earlier; or
- ii. An offense that has been sealed by a court or for which a pardon has been granted.
- 3.26 “Flowering” means the reproductive state of *Cannabis* in which the plant is in a light cycle intended to stimulate the production of flowers, trichome, and cannabinoids characteristic of marijuana.
- 3.27 “Harvest Lot” means a specifically identified quantity of marijuana that is uniform in strain, cultivated using the same growing practices, harvested at the same time at the same location and cured under uniform conditions.
- 3.28 “Immature Marijuana Plant” means a seedling or nonflowering marijuana plant.
- 3.29 “Inventory Tracking System” means the required seed to sale tracking system that tracks medical marijuana from either seed or immature plant state until the usable marijuana is sold to a qualified patient or designated caregiver or is destroyed.
- 3.30 “Licensed Facility” means either a cultivation facility, processor, transporter, or dispensary licensed by the Commission.
- 3.31 “Lot” means an identified portion of a batch, that is uniform and that is intended to meet specifications for identity, strength, and composition; or in the case of a vapor, oil, or wax derived from usable marijuana, an identified quantity produced in a specified period of time in a manner that

- is uniform and that is intended to meet specifications for identity, strength, and composition.
- 3.32 “Manufacturing and Processing”:
- a. Means the manufacturing, processing, compounding or conversion of marijuana into cannabinoid products, cannabinoid concentrates, or cannabinoid extracts.
  - b. Does not mean the drying of marijuana.
- 3.33 “Marijuana” or “Medical Marijuana” means marijuana in any form described in the Amendment or rules promulgated by the Division, Department, or the Commission.
- 3.34 “Mature Marijuana Plant” means a marijuana plant that is flowering.
- 3.35 “Medical Marijuana Container” means a sealed, traceable, food compliant, child-proof packaging that cannot be opened by a child, or that prevents ready access to toxic or harmful amounts of the packaged product, and that meets the testing requirements in accordance with the method described in 16 C.F.R. § 1700.20, as existing on January 1, 2017.
- 3.36 “Process Lot” means
- a. Any amount of cannabinoid concentrates or extract of the same type and processed at the same time using the same extraction methods, standard operating procedures, and batches for the harvest lot; or
  - b. Any amount of cannabinoid products of the same type and processed at the same time using the same ingredients, standard operating procedures and batches from the same harvest lot or process lots of cannabinoid concentrate or extract.
- 3.37 “Processor” means an entity that:
- a. Has been licensed by the Medical Marijuana Commission; and
  - b. May acquire, possess, manufacture, process, prepare, deliver, transport, and supply marijuana to a dispensary or cultivation facility.
- 3.38 “Processor Agent” means an employee, supervisor, or agent of a processor who:
- a. Is twenty-one (21) years of age or older;
  - b. Works at the processor; and
  - c. Has registered with the Alcoholic Beverage Control Division
- 3.39 “Production Area” means any area in a cultivation facility or dispensary used for the growing of medical marijuana plants.
- 3.40 “Qualifying medical condition” means one or more of the following:
- a. Cancer, glaucoma, positive status for human immunodeficiency virus/acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, Tourette’s syndrome, Crohn’s disease, ulcerative colitis, post-traumatic stress disorder, severe

arthritis, fibromyalgia, Alzheimer's disease, or the treatment of these conditions;

b. A chronic or debilitating disease or medical condition or its treatment that produces one (1) or more of the following: cachexia or wasting syndrome; peripheral neuropathy; intractable pain, which is pain that has not responded to ordinary medications, treatment or surgical measures for more than six (6) months; severe nausea; seizures, including without limitation those characteristic of epilepsy; or severe and persistent muscle spasms, including, without limitation those characteristic of multiple sclerosis; and

c. Any other medical condition or its treatment approved by the Department pursuant to its Rules and the Amendment.

- 3.41 "Qualifying patient" means a person who has been diagnosed by a physician as having a qualifying medical condition and who has registered with the Department in accordance with these Rules and the Amendment.
- 3.42 "Registry identification card" means a document issued by the Department that identifies a person as a qualifying patient or a designated caregiver or a document issued by the Division that identifies a person as an agent of a cultivation facility, dispensary, processor, or transporter.
- 3.43 "Sealed" means expunge, remove, sequester, and treat as confidential the record or records of a felony offense;
- 3.44 "Shipping Container" means a sealable, tamper-evident container used for the transport of medical marijuana between licensed facilities.
- 3.45 "Testing" means the process and procedures provided by an approved laboratory for testing of usable marijuana, consistent with provisions of this rule.
- 3.46 "Transport" means to move medical marijuana between licensed facilities or between a licensed facility and approved laboratory.
- 3.47 "Usable marijuana" means the stalks, seeds, roots, dried leaves, flowers, oils, vapors, waxes, and other portions of the marijuana plant and any mixture or preparation thereof. Usable marijuana includes cannabinoid edibles, cannabinoid concentrates, and cannabinoid extracts. Usable marijuana does not include the weight of any ingredients other than marijuana that are combined with marijuana and prepared for consumption as food and drink.
- 3.48 "Unique Identification Number" ("UIN") means a unique number generated by the Inventory Tracking System and assigned to all usable marijuana for the purpose of tracking the marijuana from its seed form to ultimate sale to a qualified patient/designated caregiver or destruction.



- 3.49 “Visiting qualifying patient” means a patient with a qualifying medical condition who is not a resident of Arkansas or who has been a resident of Arkansas for less than thirty (30) days and who is in actual possession of a registry identification card or its equivalent that is issued under the laws of another state, district, territory, commonwealth, or insular possession of the United States and has registered with the Department.

## **SECTION 4. OVERSIGHT AND INSPECTION REQUIREMENTS**

### **4.1 *Inspection and Investigation***

A Licensed Facility shall be subject to reasonable inspection by the Alcoholic Beverage Control Division.

- a. The Director of the Alcoholic Beverage Control Administration, or the Director of Alcoholic Beverage Control Enforcement, or an enforcement agent, may:
  - i. Inspect, without the need for a search warrant, the licensed premises of a dispensary, cultivation facility, or processor including any marijuana and marijuana product on the premises, equipment used in cultivating, processing, testing, or storing marijuana, the licensed facility’s records and computers, at any time;
  - ii. Issue a written report or notice of his or her findings;
  - iii. Exercise law enforcement powers, if authorized, and take any other action the Director of Alcoholic Beverage Control Administration or Director of Alcoholic Beverage Control Enforcement determines is necessary; and
  - iv. Enlist the assistance of any law enforcement officer not directly employed by Alcoholic Beverage Control Enforcement toward performance of these enforcement duties.
- b. A dispensary, cultivation facility, or processor and any licensee, employee, or agent shall cooperate with the Director of Alcoholic Beverage Control Administration, the Director of Alcoholic Beverage Control Enforcement, an enforcement agent, an employee of the board, or assisting law enforcement officer, acting in an official capacity to enforce the laws related to marijuana, including but not limited to:
  - i. Permitting entry upon and inspection of the licensed premises; and
  - ii. Providing access to records required by these rules and computers, when requested by the Director of Alcoholic Beverage

Control Administration, or the Director of Alcoholic Beverage Control Enforcement, or an enforcement agent, or an assisting law enforcement officer.

- 4.2 ***Inspection required prior to operation.*** All licensed facilities shall notify the Alcoholic Beverage Control Division of their intent to commence operations. The Division shall conduct or request Enforcement to conduct a thorough inspection of the premises for the following:
- a. Verify possession and accuracy of detailed plans and elevation drawings required by rules 6.2 and 7.2;
  - b. Verify connection and accessibility to the Inventory Tracking System;
  - c. Verification of operational alarm and video surveillance systems;
  - d. Verification of secure locks throughout the facility;
  - e. Verification of controls to limited access areas;
  - f. Verification of compliance with perimeter restrictions;
  - g. Any existing personnel records as required by rule 21.4; and
  - h. Review of initial inventory required by rule 12.1 and verify for accuracy.

- 4.3 ***Biannual Inspections Required.*** The Division or Enforcement shall conduct, at minimum, one (1) inspection every six (6) months, of all licensed facilities. The biannual inspections shall include, without limitations:
- a. Verify possession and accuracy of detailed plans and elevation drawings required by rules 6.2 and 7.2;
  - b. Verify connection and accessibility to the Inventory Tracking System;
  - c. Verification of operational alarm and video surveillance systems;
  - d. Verification of secure locks throughout the facility;
  - e. Verification of controls to limited access areas;
  - f. Verification of compliance with perimeter restrictions;
  - g. Verification of current, complete, and accurate personnel records; and
  - h. Review biannual inventory reports required by rule 12.1 and verify for accuracy.

- 4.4 ***Closure of Business***
- a. The Division may issue an order providing for the manner and condition under which usable marijuana may be transferred or sold to another licensed facility or must otherwise be disposed of under the

following circumstances:

- i. Revocation of a license;
- ii. Surrender of a license; or
- iii. Expiration of a license.

## **SECTION 5. RECORD KEEPING REQUIREMENTS FOR DISPENSARIES, PROCESSORS, AND CULTIVATION FACILITIES**

### **5.1 *Records required to be kept for current year and three (3) proceeding calendar years.***

- a. Records regarding the disposal of medical marijuana.
- b. General Business Records. Licensed facilities shall keep all books and records necessary to fully account for each business transaction conducted under its license.
- c. Records of all required inventory reports.
- d. Records of pesticide and chemical applications as required by rule 13.6.
- e. Medical Marijuana Product Transactions as set out:
  - i. Dispensaries shall keep a record of each transaction, including the amount of marijuana dispensed, the amount of compensation received, and the registry identification number of the qualifying patient or designated caregiver.
  - ii. Cultivation facilities and Processors shall keep a record of all transactions for medical marijuana to another licensed facility.
- f. Personnel Records

## **SECTION 6. CONSTRUCTION SPECIFICATIONS AND SECURITY REQUIREMENTS FOR CULTIVATION FACILITIES**

### **6.1 *Duty to Operate a Secure Premises***

- a. All Cultivation Facilities shall implement appropriate security measures to deter and prevent the unauthorized entrance into areas containing marijuana and the theft and diversion of marijuana.
- b. A licensee is responsible for the security of all marijuana and marijuana processed products on the licensed premises or in transit from the facility when self-transporting.
- c. Cultivation Facilities shall comply with all applicable security requirements set forth in these rules.

### **6.2. *Construction of Premises***

- a. Enclosed and Secure Facility – All cultivation of medical marijuana shall take place within a building, greenhouse or other structure that:
- i. Has a complete roof enclosure supported by connecting walls, constructed of solid materials, extending from the ground to the roof;
  - ii. Is secure against unauthorized entry;
  - iii. Has a foundation, slab, or equivalent base to which the floor is securely attached;
  - iv. Meets performance standards ensuring that cultivation and processing activities cannot be and are not perceptible from the structure in terms of:
    1. Common visual observation;
    2. Odors, smell, fragrances, or other olfactory stimulus;
    3. Light pollution, glare, or brightness;
    4. Adequate ventilation to prevent mold; and
    5. Noise;
  - v. Provides complete visual screening, and
  - vi. Is accessible only through one (1) or more lockable doors.
- b. Commercial grade, non-residential door locks shall be installed on every external door, and gate if applicable. All external locks shall be equipped with biometric access controls with two factor authentication and the two-factor authentication must be in use at all times. Only authorized personnel shall have access to locked and secured areas. Facilities shall maintain detailed records of employees with access to locked and secured areas. Records shall be made available to the Division upon request.
- c. All cultivation facilities shall maintain detailed plans and elevation drawings of all operational areas involved with the production, processing, and manufacturing of medical marijuana. The plan shall identify the following:
- i. All storage areas, ventilation systems, and equipment used for production, processing, and manufacturing;
  - ii. All entrances and exits to the facility;
  - iii. All windows, skylights, and retractable mechanisms built into the roof;
  - iv. The location of all required security cameras;
  - v. The location of all alarm inputs, detectors, and sirens;
  - vi. All video and alarm system surveillance areas;
  - vii. All production, processing, and manufacturing areas shall

- be labeled according to the specific activity occurring within the area;
- viii. All restricted and limited access areas shall be identified; and
- ix. All non-production areas shall be labeled according to their purpose.
- d. Floor plans and elevation drawings shall be kept current and on the premises of the cultivation facility. Plans and elevation drawings shall be made available to the Division upon request.
- e. Floors, walls, and ceilings shall be constructed in such a manner that they may be adequately cleaned and kept clean and in good repair.
- f. Cultivation facilities shall have adequate lighting in all areas where Medical Marijuana is stored and where equipment and utensils are cleaned.
- g. Plumbing shall be of adequate size and design and adequately installed and maintained to carry sufficient quantities of water to required locations throughout the facility and to properly convey sewage and liquid disposable waste from the facility. There shall be no cross-connections between the potable and waste water lines.
- h. All facilities shall be constructed to meet the standards of any applicable state and local electrical, fire, plumbing, and building specification codes.

### 6.3. ***Storage Area Requirements***

- a. Harvested marijuana and any product processed from harvested marijuana shall be stored in one of the following types of secured areas:
  - i. A safe or steel cabinet;
    - 1. Which safe or steel cabinet shall have the following specification or the equivalent: thirty (30) man-minutes against surreptitious entry, ten (10) man-minutes against forced entry, twenty (20) man-hours against lock manipulation, and twenty (20) man-hours against radiological techniques;
    - 2. Which safe or steel cabinet, if it weighs less than seven hundred fifty (750) pounds, is bolted or cemented to the floor or wall in such a way that it cannot be readily removed; and
    - 3. Which safe or steel cabinet, if necessary, depending

upon the quantities and type of controlled substances stored, is equipped with an alarm system as described in RR 6.4.

ii. A vault:

1. The walls, floors, and ceilings of which vault are constructed of at least eight (8) inches of reinforced concrete or other substantial masonry, reinforced vertically and horizontally with one-half ( $\frac{1}{2}$ ) inch steel rods tied six (6) inches on center, or the structural equivalent to such reinforced walls, floors, and ceilings;
2. The door and frame unit of which vault shall conform to the following specification or the equivalent: thirty (30) man-minutes against surreptitious entry, ten (10) man- minutes against forced entry, twenty (20) man-hours against lock manipulation, and twenty (20) man-hours against radiological techniques;
3. Which vault, if operations require it to remain open for frequent access, is equipped with a “day-gate” which is self-closing and self-locking, or the equivalent, for use during the hours of operation in which the vault door is open;
4. The walls or perimeter of which vault are equipped with an alarm system as described in rule 6.4.
5. The door of which vault is equipped with contact switches; and
6. Which vault has one of the following: Complete electrical lacing of the walls, floor and ceilings; sensitive ultrasonic equipment within the vault; a sensitive sound accumulator system; or other such device designed to detect illegal entry.

#### 6.4 ***Alarm System***

- a. All cultivation facilities shall be equipped with an alarm system which, upon attempted unauthorized entry, shall transmit a signal directly to a central protection company or a local or State police agency which has a legal duty to respond. A designated agent of the cultivation facility shall also receive notification of any such signal.

- b. Alarm systems shall provide coverage for all points of ingress and egress to the facility, including, but not limited to, doorways, windows, loading bays, skylights, and retractable roof mechanisms.
- c. Alarm systems shall provide coverage of any room with an exterior wall, any room containing a safe, and any room used to grow or store medical marijuana.
- d. Alarm systems shall be equipped with a “panic device” that upon activation will not only sound any audible alarm components but will also notify law enforcement.
- e. Alarm systems shall have “duress” and “hold up” features to enable an agent to activate a silent alarm notifying law enforcement of an emergency.
- f. Alarm system must be equipped with failure notification systems to notify cultivation facilities and law enforcement of any failure in the alarm system and such systems must be in use at all times.
- g. Alarm systems shall have the ability to remain operational during a power outage and shall remain operational regardless of the length of the power outage.

**6.5. *Video Surveillance System***

- a. All cultivation facilities shall be equipped with video surveillance systems consisting of the following:
  - i. Digital video cameras with a minimum resolution of 10 frames per second;
  - ii. 24 hour per day, 7 day per week continuous recording;
  - iii. The ability to remain operational during a power outage and shall remain operational regardless of the length of the power outage;
  - iv. Digital archiving capabilities and shall maintain digital archiving for one year;
  - v. On-site and off-site monitoring; and
  - vi. All facilities must always maintain at least one on-site display monitor connected to the surveillance system. The monitor shall have a screen size of at least 12 inches.
- b. All cultivation facilities shall maintain camera coverage of the following areas:
  - i. All points of ingress and egress to the facility, including, but not limited to, doorways, windows, loading bays, skylights, and retractable roof mechanisms;

- ii. Any room with an exterior wall, except restrooms, any room containing a safe, and any room or area used to grow, process, manufacture, or store medical marijuana;
  - iii. All areas in which any part of the disposal process of marijuana occurs; and
  - iv. All parking areas and any alley areas immediately adjacent to the building.
- c. All recording devices shall display a date and time stamp on all recorded video.
- d. All recording devices shall have the capability to produce a still image from the video recording, and each facility shall maintain, on site, a video printer capable of immediately producing a clear still image from any video camera image.
- e. Access to on-site surveillance system controls and monitoring shall be limited to authorized personnel. Cultivation facilities shall identify individuals with access to surveillance system controls and monitoring upon request by the Division.
- f. All surveillance recordings shall be maintained for a minimum of 90 days.

**6.6. *Perimeter Requirements***

- a. The perimeter of all cultivation facilities shall be maintained in such a way to discourage theft and diversion of marijuana. All cultivation facilities shall maintain the following:
  - i. Adequate lighting to facilitate surveillance; and
  - ii. Foliage and landscaping that does not allow for a person or persons to conceal themselves from sight.
- b. All stages of medical marijuana production and the disposal of unusable medical marijuana on the premises of a cultivation facility shall not be visible or accessible to the public.
- c. The cultivation facility shall maintain any walls or fencing necessary to shield the operations of the facility from public access and view.
- d. The cultivation facility shall ensure any odors that may arise from any stage of marijuana production or the disposal of marijuana are not detectable by the public from outside the cultivation facility.



## **SECTION 7. CONSTRUCTION SPECIFICATIONS AND SECURITY REQUIREMENTS FOR DISPENSARIES**

### **7.1 *Duty to Operate a Secure Premises***

- a. All dispensaries shall implement appropriate security measures to deter and prevent the theft and diversion of marijuana.
- b. A licensee is responsible for the security of all marijuana items on the licensed premises or in transit from the facility when self-transporting.
- c. Dispensaries shall comply with all applicable security requirements set forth in these rules.

### **7.2 *Construction of Premises***

- a. Enclosed and Secure Facility
  - i. Dispensaries shall be enclosed on all sides by permanent walls and doors.
- b. All cultivation of medical marijuana by a dispensary shall take place within a building, greenhouse or other structure connected to the dispensary that:
  - i. Has a complete roof enclosure supported by connecting walls, constructed of solid materials, extending from the ground to the roof;
  - ii. Is secure against unauthorized entry;
  - iii. Has a foundation, slab, or equivalent base to which the floor is securely attached;
  - iv. Meets performance standards ensuring that cultivation and processing activities cannot be and are not perceptible from the structure in terms of:
    - 1. Common visual observation;
    - 2. Odors, smell, fragrances, or other olfactory stimulus;
    - 3. Light pollution, glare, or brightness;
    - 4. Adequate ventilation to prevent mold; and
    - 5. Noise;
  - v. Provides complete visual screening, and
  - vi. Is accessible only through one (1) or more lockable doors.
- c. Commercial grade, non-residential door locks shall be installed on every external door, and gate if applicable. All external locks shall be equipped with biometric access controls with two factor authentication and the two-factor authentication must be in use at all

times. Only authorized personnel shall have access to locked and secured areas. Facilities shall maintain detailed records of employees with access to locked and secured areas. Records shall be made available to the Division upon request.

d. All dispensaries shall maintain detailed plans and elevation drawings of all operational areas involved with the dispensing and production of medical marijuana. The plan shall identify the following:

- i. All entrances and exits to the facility;
- ii. All windows, skylights, and retractable mechanisms built into the roof;
- iii. All designated areas for qualified patients and designated care givers;
- iv. All limited access areas;
- v. All storage areas, ventilation systems, and equipment used for production, processing, and manufacturing;
- vi. The location of all required security cameras;
- vii. The location of all alarm inputs, detectors, and sirens;
- viii. All video and alarm system surveillance areas;
- ix. All production, processing, and manufacturing areas shall be labeled according to the specific activity occurring within the area;
- x. All restricted and limited access areas shall be identified; and
- xi. All areas shall be labeled according to their purpose.

e. Floor plans and elevation drawings shall be kept current and on the premises of the dispensary. Plans and elevation drawings shall be made available to the Division upon request.

f. Floors, walls, and ceilings shall be constructed in such a manner that they may be adequately cleaned and kept clean and in good repair.

g. Dispensaries shall have adequate lighting in all areas where Medical Marijuana is stored and where equipment and utensils are cleaned.

h. Plumbing shall be of adequate size and design and adequately installed and maintained to carry sufficient quantities of water to required locations throughout the facility and to properly convey sewage and liquid disposable waste from the facility. There shall be no cross-connections between the potable and waste water lines.

- i. All facilities shall be constructed to meet the standards of any applicable state and local electrical, fire, plumbing, and building specification codes.

### **7.3 *Storage Area Requirements***

- a. Any dispensary storing usable marijuana harvested from mature plants pursuant to rule 13.3, marijuana stored for retail, or marijuana products for retail shall comply with the storage area requirements in 6.3.
- b. Dispensaries may keep usable marijuana in locked display case during business hours for patients to inspect. All usable marijuana shall be stored in accordance with Rule 7.3(a) after operating hours.

### **7.4 *Alarm System***

- a. All dispensaries shall be equipped with an alarm system which, upon attempted unauthorized entry, shall transmit a signal directly to a central protection company or a local or State police agency which has a legal duty to respond. A designated agent of the dispensary shall also receive notification of any such signal.
- b. Alarm systems shall provide coverage for all points of ingress and egress to the facility, including, but not limited to, doorways, windows, loading bays, skylights, and retractable roof mechanisms.
- c. Alarm systems shall provide coverage of any room with an exterior wall, any room containing a safe, and any room used to grow or store medical marijuana.
- d. Alarm systems shall be equipped with a “panic device” that upon activation will not only sound any audible alarm components but will also notify law enforcement.
- e. Alarm systems shall have “duress” and “hold up” features to enable an agent to activate a silent alarm notifying law enforcement of an emergency.
- f. Alarms system must be equipped with failure notification systems to notify dispensaries and law enforcement of any failure in the alarm system and such systems shall be in use at all times.
- g. Alarm systems shall have the ability to remain operational during a power outage and shall remain operational regardless of the length of the power outage.

### **7.5 *Video Surveillance System***

- a. All dispensaries shall be equipped with video surveillance systems consisting of the following:

- i. Digital video cameras with a minimum resolution of 10 frames per second;
  - ii. 24 hour per day, 7 day per week continuous recording;
- iii. The ability to remain operational during a power outage;
- iv. Digital archiving capabilities and shall maintain digital archiving for ninety (90) days;
  - v. On-site and off-site monitoring; and
  - vi. All facilities must maintain at least one on-site display monitor connected to the surveillance system at all times. The monitor shall have a screen size of at least 12 inches.
- b. All dispensaries shall maintain camera coverage of the following areas:
  - i. All points of ingress and egress to the facility, including, but not limited to, doorways, windows, loading bays, skylights, and retractable roof mechanisms;
  - ii. Any room with an exterior wall, except restrooms, any room containing a safe, and any room or area used to grow, process, manufacture, or store medical marijuana;
  - iii. All areas in which any part of the disposal process of marijuana occurs;
  - iv. All point of sale areas.
  - v. All areas for qualified patients and designated caregivers, except restrooms; and
  - vi. All parking areas and any alley areas immediately adjacent to the building.
- c. All recording devices shall display a date and time stamp on all recorded video.
- d. All recording devices shall have the capability to produce a still image from the video recording, and each facility shall maintain, on site, a video printer capable of immediately producing a clear still image from any video camera image.
- e. Access to on-site surveillance system controls and monitoring shall be limited to authorized personnel. Dispensaries shall identify individuals with access to surveillance system controls and monitoring upon request by the Division.
- f. All surveillance recordings shall be maintained for a minimum of 90 days.

### **7.6 *Perimeter Requirements***

- a. The perimeter of all dispensaries shall be maintained in such a way to discourage theft and diversion of marijuana. All dispensaries shall maintain the following:
  - i. Adequate lighting to facilitate surveillance; and
  - ii. Foliage and landscaping that does not allow for a person or persons to conceal themselves from sight.
- b. All stages of medical marijuana production and the disposal of unusable medical marijuana on the premises of a dispensary shall not be visible or accessible to the public from outside the premises of the facility.
- c. The dispensary shall ensure any odors, which may arise from any stage of marijuana production or the disposal of marijuana, are not detectable by the public from outside the dispensary.

## **SECTION 8. CONSTRUCTION SPECIFICATIONS AND SECURITY REQUIREMENTS FOR PROCESSORS**

### **8.1 *Duty to Operate a Secure Premises***

- a. A processor shall implement appropriate security measures to deter and prevent the unauthorized entrance into areas containing marijuana and the theft and diversion of marijuana.
- b. A processor is responsible for the security of all marijuana items on the licensed premises or in transit from the facility,
- c. A processor shall comply with all applicable security requirements set forth in these rules.

### **8.2 *Construction of Premises***

- a. Enclosed and Secure Facility. All manufacturing and processing of medical marijuana by a processor shall take place within a structure that:
  - i. Has a complete roof enclosure supported by connecting walls, constructed of solid materials, extending from the ground to the roof;
  - ii. Is secure against unauthorized entry;
  - iii. Has a foundation, slab, or equivalent base to which the floor is securely attached;
  - iv. Meets performance standards that ensure that manufacturing and processing activities cannot be and are not perceptible from the structure in terms of:

1. Common visual observation;
  2. Odors, smell, fragrances, or other olfactory stimulus;
  3. Light pollution, glare, or brightness;
  4. Adequate ventilation to prevent mold; and
  5. Noise;
- v. Provides complete visual screening; and
  - vi. Is accessible only through one (1) or more lockable doors.
- b. Commercial grade, non-residential door locks shall be installed on every external door and gate, if applicable. All external locks shall be equipped with biometric access controls with two factor authentication and the two-factor authentication must be in use at all times. Only authorized personnel shall have access to locked and secured areas. Facilities shall maintain detailed records of employees with access to locked and secured areas. Records shall be made available to the Division upon request.
  - c. A processor shall maintain detailed plans and elevation drawings of all operational areas involved with the manufacturing and processing of medical marijuana. The plan shall identify the following:
    - i. All storage areas, ventilation systems, and equipment used for manufacturing and processing;
    - ii. All entrances and exits to the facility;
    - iii. All windows, skylights, and retractable mechanisms built into the roof;
    - iv. The location of all required security cameras;
    - v. The location of all alarm inputs, detectors, and sirens;
    - vi. All video and alarm system surveillance areas;
    - vii. All manufacturing and processing areas shall be labeled according to the specific activity occurring within the area;
    - viii. All restricted and limited access areas shall be identified; and
    - ix. All areas shall be labeled according to their purpose.
  - d. Floor plans and elevation drawings shall be kept current and on the premises of the processor. Plans and elevation drawings shall be made available to the Division upon request.
  - e. Floors, walls, and ceilings shall be constructed in such a manner that they may be adequately cleaned and kept clean and in good repair.
  - f. A processor shall have adequate lighting in all areas where medical marijuana is stored and where equipment and utensils are cleaned.
  - g. Plumbing shall be of adequate size and design and adequately installed and maintained to carry sufficient quantities of water to required locations throughout the facility and to properly convey

sewage and liquid disposable waste from the facility. There shall be no cross-connections between the potable and waste water lines.

- h. All facilities shall be constructed to meet the standards of any applicable state and local electrical, fire, plumbing, and building specification codes.

### 8.3. ***Storage Area Requirements***

A processor storing marijuana or marijuana products shall comply with the storage area requirements in Rule 6.3.

### 8.4. ***Alarm System***

- a. A processor shall be equipped with an alarm system which, upon attempted unauthorized entry, shall transmit a signal directly to a central protection company or a local or State police agency which has a legal duty to respond. A designated agent of the processor shall also receive notification of any such signal.
- b. Alarm systems shall provide coverage for all points of ingress and egress to the facility, including, without limitation, doorways, windows, loading bays, skylights, and retractable roof mechanisms.
- c. Alarm systems shall provide coverage of any room with an exterior wall, any room containing a safe, and any room used to manufacture and process or store medical marijuana.
- d. Alarm systems shall be equipped with a “panic device” that upon activation will not only sound any audible alarm components, but will also notify law enforcement.
- e. Alarm systems shall have “duress” and “hold up” features to enable an agent to activate a silent alarm notifying law enforcement of an emergency.
- f. Alarms system must be equipped with failure notification systems to notify processors and law enforcement of any failure in the alarm system and such systems must be in use at all times.
- g. Alarm systems shall have the ability to remain operational during a power outage and shall remain operational regardless of the length of the power outage.

### 8.5. ***Video Surveillance System***

- a. A processor shall be equipped with video surveillance systems consisting of the following:
  - i. Digital video cameras with a minimum resolution of 10 frames per second;

- ii. 24 hour per day, 7 day per week continuous recording;
  - iii. The ability to remain operational during a power outage and shall remain operational regardless of the length of the power outage;
  - iv. Digital archiving capabilities and shall maintain digital archiving for one year;
  - v. On-site and off-site monitoring; and
  - vi. All facilities must maintain at least one on-site display monitor connected to the surveillance system at all times. The monitor shall have a screen size of at least 12 inches.
- b. A processor shall maintain camera coverage of the following areas:
    - i. All points of ingress and egress to the facility, including, but not limited to, doorways, windows, loading bays, skylights, and retractable roof mechanisms;
    - ii. Any room with an exterior wall, except restrooms, any room containing a safe, and any room or area used to manufacture and process or store medical marijuana;
    - iii. All areas in which any part of the disposal process of marijuana occurs; and
    - iv. All parking areas and any alley areas immediately adjacent to the building.
  - c. All recording devices shall display a date and time stamp on all recorded video.
  - d. All recording devices shall have the capability to produce a still image from the video recording, and each processor shall maintain, on site, a video printer capable of immediately producing a clear still image from any video camera image.
  - e. Access to on-site surveillance system controls and monitoring shall be limited to authorized personnel. A processor shall identify individuals with access to surveillance system controls and monitoring upon request by the Division.
  - f. All surveillance recordings shall be maintained for a minimum of 90 days.

#### 8.6. ***Perimeter Requirements***

- a. The perimeter of all processors shall be maintained in such a way as to discourage theft and diversion of marijuana. All processors shall maintain the following:
  - i. Adequate lighting to facilitate surveillance; and



- ii. Foliage and landscaping that does not allow for a person or persons to conceal themselves from sight.
- b. All stages of medical marijuana manufacturing and production and the disposal of unusable medical marijuana on the premises of a processor shall not be visible or accessible to the public.
- c. The processor shall maintain any walls or fencing necessary to shield the operations of the facility from public access and view.
- d. The processor shall ensure any odors that may arise from any stage of marijuana manufacture and production or the disposal of marijuana are not detectable by the public from outside the processor.

## **SECTION 9. OPERATIONAL REQUIREMENTS FOR CULTIVATION FACILITIES**

### **9.1 *Hours of Operation***

- a. A cultivation facility may operate 24 hours a day.
- b. Cultivation facilities shall not be open to the public. Only the following individuals shall be allowed on the premises.
  - i. Individuals authorized by law or these rules to be on the premises
  - ii. Visitors and contractors shall only be present on the property pursuant to rule 9.3 and shall have access to Limited Access Areas pursuant to rule 9.4.
- c. A cultivation facility may transport medical marijuana to another cultivation facility, dispensary, processors or approved laboratory between the hours of 7 a.m. and 9 p.m.

### **9.2 *Registry Identification Card Required.***

- a. Any employee, supervisor, or agent employed by a cultivation facility must have a current Registry Identification Card issued by the Alcoholic Beverage Control Division on their person at all times while present at a cultivation facility.

### **9.3 *Visitor Policy***

- a. All cultivation facilities shall prepare and keep written policies regarding any visitors to the premises who are not in possession of a registry identification card.
- b. All cultivation facilities shall maintain a log of visitors to the premises. The log shall consist of the visitor's name, name of agent assigned to escort the visitor, purpose of visit, time of arrival, and

time of departure.

- c. Visitor logs shall be maintained for a minimum of three (3) years.
- d. All visitors shall be issued a visitor identification tag. The tag shall bear the individual's name and be worn by the visitor for the duration of the individual's time on the premises.
  - i. Contractors shall be presented with a tag identifying them as contractors.
- e. All visitors shall be escorted by a cultivation facility agent at all times while present on the property.
- f. A cultivation facility may allow access by visitors to limited access areas of the cultivation facility if:
  - i. The visitor presents government-issued identification;
  - ii. The visitor is not under twenty-one (21) years of age; and
  - iii. The visitor has been invited to the facility by an employee of the facility or management of the cultivation facility.
- g. Contractors
  - i. If it is necessary for a contractor to enter a cultivation facility to conduct repairs, perform maintenance or other specific duties on the property they may be escorted to their work site and left unaccompanied while completing a job. If the contractor is left unattended, cultivation facility personnel shall ensure the contractor and area under repair are under video surveillance for the duration of the contractor's time spent on the premises.
  - ii. If it is necessary for a contractor to enter a cultivation facility's limited access area the contractor shall be escorted to their work site and must remain in the company of a cultivator's agent while the work is being completed. The contractor may be left unattended, in the limited access area, if there is no marijuana or marijuana products being stored in the area while the contractor is present. If left unattended, cultivator's agent shall ensure the contractor and area are under video surveillance for the duration of the contractor's time spent on the premises.
  - iii. If a contractor is required on the premises for more than two (2) consecutive days, the cultivation facility shall notify the division of the contractor's identity and purpose for being on the premises.

#### 9.4 ***Limited Access Areas***

- a. Cultivation Facilities shall limit access to areas where marijuana is grown, harvested, processed, and stored to authorized personnel.

- i. Signage
  - 1. Limited Access areas shall be clearly marked
- ii. Controlled Access
  - 1. Limited Access areas shall be locked and accessible only by authorized personnel, individuals authorized by law, members of the Division or Enforcement, laboratory personnel licensed by the Department to conduct required testing and contractors.
  - 2. Cultivation facilities shall keep current rosters of personnel authorized to enter limited access areas.

## 9.5 **General Sanitation Requirements for Cultivation Facilities**

- a. Any person who, by medical examination or supervisory observation, is shown to have, or appears to have, an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination for whom there is a reasonable possibility of contact with Medical Marijuana shall be excluded from any operations which may be expected to result in such contamination until the condition is corrected.
- b. Cultivation Facilities shall maintain hand-washing areas that are adequate and convenient to agents. Hand washing or sanitizing areas shall include running water at a suitable temperature and a sanitary towel service or suitable drying device.
- c. Licensees shall ensure any person working in direct contact with Medical Marijuana shall:
  - i. Maintain adequate personal cleanliness;
  - ii. Wash hands and exposed portions of his or her arms thoroughly in an adequate hand-washing area before starting work and at any other time when the hands may have become soiled or contaminated, including but not limited to:
    - 1. Any time after handling possibly soiled equipment or utensils.
    - 2. After leaving the initial room in which he or she was working, and before resuming work in any room, including the initial room.
- d. Litter and waste shall be properly removed, and waste disposal systems shall be maintained so that they do not constitute a source of contamination in areas where medical marijuana is exposed.
- e. Cultivation facilities shall provide adequate screening against the entry of pests. Rubbish shall be disposed of so as to minimize the

development of odor and minimize the potential for the waste becoming an attractant or breeding place for pests.

f. Toxic cleaning compounds, sanitizing agents, solvents used in the production of medical marijuana concentrates, and pesticide chemicals shall be identified, held and stored in a manner that protects against contamination of medical marijuana, and in a manner that is in accordance with any applicable local, state or federal law, rule, regulation or ordinance.

#### **9.6 *Material Safety Data Sheet Required.***

All cultivation facilities shall maintain a material safety data sheet for any toxic cleaning compounds, sanitizing agents, solvents used in the production of medical marijuana extracts and concentrates, pesticide chemicals, and any other agricultural chemical used or stored on the premises. A copy of the Material Safety Data Sheet shall be kept in any area of the facility where the products are used or stored. Material Safety Data Sheets shall be kept for the period of time required by any applicable state or federal regulation. If a state or federal regulation does not apply to a particular material, the material data sheet shall be kept for a minimum of three (3) years.

### **SECTION 10. OPERATIONAL REQUIREMENTS FOR DISPENSARIES**

#### **10.1 *Hours of Operation***

a. A dispensary may only operate between the hours of 7:00 a.m. and 10:00 p.m.

b. A dispensary may transport, or contract with a third party transporter licensed by the Division, medical marijuana to another dispensary, cultivation facility, approved laboratory, or processing facility between the hours of 7:00 a.m. and 9:00 p.m.

c. A dispensary may deliver medical marijuana to a qualified patient or designated caregiver between the hours of 9:00 a.m. and 7:00 p.m.

#### **10.2 *Registry Identification Card Required***

Any employee, supervisor, or agent employed by a dispensary must have a current Registry Identification Card issued by the Alcoholic Beverage Control Division on their person at all times while present at the dispensary.

### 10.3 **Qualified Patient/Designated Caregiver Areas**

Dispensaries shall identify and clearly define areas where medical marijuana will be dispensed to qualified patients and designated caregivers.

### 10.4 ***Access to the Dispensary***

a. Only the following individuals shall be allowed to access a dispensary:

- i. Individuals in possession of a current registry identification card issued by the Department or the Division,
  1. An individual in possession of a current registry identification card issued by the Department or Division in need of physical assistance may bring one guest, over the age of 18, into a waiting area inside a dispensary.
  2. A parent with a registry identification card may bring his or her child or children into a dispensary for the purpose of purchasing usable marijuana.
  3. A parent without a registry identification card may accompany his or her child, that is under the age of 18 into a dispensary if that child has a registry identification card, for the purpose of purchasing usable marijuana for the child.
- ii. Individuals authorized by law and these rules to be on the premises;
- iii. Contractors
  1. If it is necessary for a contractor to enter a dispensary to conduct repairs, maintenance or other specific duties on the property, the contractor may be escorted to their work site and left unaccompanied while completing a job. If left unattended, dispensary personnel shall ensure the contractor and area under repair are under video surveillance for the duration of the contractor's time spent on the premises.
  2. If it is necessary for a contractor to enter a cultivation facility's limited access area the contractor shall be escorted to their work site and must remain in the company of a dispensary's agent while the work is being completed. The contractor may be left unattended, in the limited access area, if there is no marijuana or marijuana products being stored in the area while the contractor is

present. If left unattended, the dispensary agent shall ensure the contractor and area are under video surveillance for the duration of the contractor's time spent on the premises.

3. If a contractor is required on the premises for more than two (2) consecutive days, the dispensary facility shall notify the division of the contractor's identity and purpose for being on the premises.

b. Dispensaries may maintain an educational facility accessible to the general public as set forth in their compassionate care plan as follows:

- i. The educational facility shall not be accessible from inside the dispensary
- ii. If the educational facility is attached to the dispensary it must maintain a separate exterior door and there shall be no door from inside the facility which accesses any portion of the dispensary.
- iii. The educational facility may be a separate structure from the dispensary and contained upon the dispensary's property.
- iv. Any educational facility maintained or operated by the dispensary shall adhere to the rules set forth in Section 19 herein.

#### 10.5 ***Limited Access Areas***

a. Dispensaries shall limit access to areas where marijuana is grown, harvested, processed, or stored to authorized personnel.

- i. Signage
  1. Limited Access areas shall be clearly marked.
  2. Any doorways separating qualified patient/designated caregiver areas and limited access areas shall be posted and equipped with controls to restrict entry.
- ii. Controlled Access
  1. Limited Access areas shall be locked and accessible only by authorized personnel, individuals authorized by law, member of the Division or Enforcement, and laboratory personnel licensed by the Department to conduct required testing.
  2. Dispensaries shall keep current rosters of personnel authorized to enter limited access areas.
  3. Contractors may access limited access areas subject to the provisions in 10.4(a)(iii).

**10.6 *General Sanitation Requirements for Dispensaries Facilities***

- a. Any person who, by medical examination or supervisory observation, is shown to have, or appears to have, an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination for whom there is a reasonable possibility of contact with Medical Marijuana shall be excluded from any operations which may be expected to result in such contamination until the condition is corrected.
- b. Dispensaries shall maintain hand-washing areas that are adequate and convenient to agents. Hand washing or sanitizing areas shall include running water at a suitable temperature and a sanitary towel service or suitable drying device.
- c. Licensees shall ensure any person working in direct contact with Medical Marijuana shall:
  - i. Maintain adequate personal cleanliness;
  - ii. Wash hands and exposed portions of his or her arms thoroughly in an adequate hand-washing area before starting work and at any other time when the hands may have become soiled or contaminated, including but not limited to:
    - 1. Any time after handling possibly soiled equipment or utensils
    - 2. After leaving the initial room in which he or she was working, and before resuming work in any room.
- d. Litter and waste shall be properly removed, and waste disposal systems shall be maintained so that they do not constitute a source of contamination in areas where medical marijuana is exposed.
- e. Dispensaries shall provide adequate screening against the entry of pests. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for the waste becoming an attractant or breeding place for pests.
- f. Toxic cleaning compounds, sanitizing agents, solvents used in the production of medical marijuana concentrates, and pesticide chemicals shall be identified, held and stored in a manner that protects against contamination of medical marijuana, and in a manner that is in accordance with any applicable local, state or federal law, rule, regulation, or ordinance.

**10.7. *Material Safety Data Sheet Required.***

All dispensaries shall maintain a material safety data sheet for any toxic cleaning compounds, sanitizing agents, solvents used in the production of

medical marijuana concentrates and extracts, pesticide chemicals, and any other agricultural chemical used or stored on the premises. A copy of the Material Safety Data Sheet shall be kept in any area of the facility where the products are used or stored. Material Safety Data Sheets shall be kept for the period of time required by any applicable state or federal rules or laws. If a state or federal law does not apply to a particular material, the material data sheet shall be kept for a minimum of three (3) years.

## **SECTION 11. OPERATIONAL REQUIREMENTS FOR PROCESSORS**

### **11.1 *Hours of Operation***

- a. A processor may operate 24 hours a day,
- b. A processor may transport medical marijuana between licensed facilities between the hours of 7:00 a.m. and 9:00 p.m.

### **11.2 *Registry Identification Card Required***

Any employee, supervisor, or agent employed by a processor must have a current registry identification card issued by the Alcoholic Beverage Control Division on their person at all times while present at the processor.

### **11.3. *Access to Processors***

- a. Only the following individuals shall be allowed to access a processor:
  - i. Individuals authorized by law and these rules to be on the premises; and
  - ii. Contractors.
    1. If it is necessary for a contractor to enter a processor to conduct repairs, maintenance, or other specific duties on the property, the contractor may be escorted to their work site and left unaccompanied while completing a job. If the contractor is left unattended, processor personnel shall ensure that the contractor and area under repair are under video surveillance for the duration of the contractor's time spent on the premises.
    2. If it is necessary for a contractor to enter a processor's limited access area the contractor shall be escorted to their work site and must remain in the company of a processor's agent while the work is being completed. The contractor may be left unattended, in the limited access area, if there is no marijuana or marijuana products being stored in the area while the contractor is



present. If left unattended, processor's agent shall ensure the contractor and area are under video surveillance for the duration of the contractor's time spent on the premises.

3. If a contractor is required on the premises for more than two (2) consecutive days, the processor shall notify the Division of the contractor's identity and purpose for being on the premises.

#### 11.4. ***Limited Access Areas***

- a. Processors shall limit access to areas where marijuana is manufactured and processed and stored to authorized personnel.
- b. Controlled Access
  - i. Limited Access areas shall be clearly marked "Controlled Access"
  - ii. Limited Access areas shall be locked and accessible only by authorized personnel, individuals authorized by law, members of the Division or Enforcement, laboratory personnel licensed by the Department to conduct required testing and contractor to complete repairs.
  - iii. A processor shall keep current rosters of employees authorized to enter limited access areas.

#### 11.5. ***General Sanitation Requirements for Processors.***

- a. Any person who, by medical examination or supervisory observation, is shown to have, or appears to have, an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination and for whom there is a reasonable possibility of contact with medical marijuana shall be excluded from any operations which may be expected to result in such contamination until the condition is corrected.
- b. A processor shall maintain hand-washing areas that are adequate and convenient to agents. Hand washing or sanitizing areas shall include running water at a suitable temperature and a sanitary towel service or suitable drying device.
- c. Any person working in direct contact with medical marijuana shall:
  - i. Maintain adequate personal cleanliness;
  - ii. Wash hands and exposed arms thoroughly in an adequate hand-washing area before starting work and at any other time when the hands may have become soiled or contaminated

- d. Litter and waste shall be properly removed and waste disposal systems shall be maintained so that they do not constitute a source of contamination in areas where medical marijuana is exposed.
- e. A processor shall provide adequate screening against the entry of pests. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for the waste becoming an attractant or breeding place for pests.
- f. Toxic cleaning compounds, sanitizing agents, solvents used in the production of medical marijuana concentrates, and pesticide chemicals shall be identified, held, and stored in a manner that protects against contamination of medical marijuana, and in a manner that is in accordance with any applicable local, state, or federal law, rule, or ordinance.

#### **11.6. *Material Safety Data Sheet Required***

A processor shall maintain a material safety data sheet for any toxic cleaning compounds, sanitizing agents, solvents used in the production of medical marijuana concentrates and extracts, pesticide chemicals, and any other agricultural chemical used or stored on the premises. A copy of the Material Safety Data Sheet shall be kept in any area of the facility where the products are used or stored. Material Safety Data Sheets shall be kept for the period of time required by any applicable state or federal law. If a state or federal law does not apply to a particular material, the material data sheet shall be kept for a minimum of three (3) years.

## **SECTION 12. INVENTORY AND TRACKING REQUIREMENTS**

Failure to comply with the tracking requirements set forth in these rules may result in suspension or revocation of the license, and/or imposition of a monetary fine.

### **12.1 *Minimum Inventory Requirements***

- a. Each dispensary, processor, and cultivation facility shall:
  - i. Conduct an initial comprehensive inventory of all marijuana, including without limitation usable marijuana available for dispensing, mature marijuana plants, and seedlings at each authorized location prior to the first date the applicable license first dispenses usable marijuana, or cultivates, prepares, manufactures, processes, or packages usable marijuana;
  - ii. Conduct a biannual comprehensive inventory of all marijuana, including without limitation usable marijuana available for dispensing, mature marijuana plants, and seedlings at each

authorized location.

1. Biannual inventories shall be conducted every six (6) months.
2. The first inventory required under section a(ii) shall be conducted six (6) months after the initial comprehensive inventory described in section a(i)

## 12.2 ***Inventory Tracking System***

All licensed facilities shall utilize the Inventory Tracking System implemented by the State of Arkansas to track medical marijuana from seed to distribution to qualified patients and designated caregivers.

- a. All usable marijuana shall be tagged or labeled with a unique identification number and entered into the Inventory Tracking System.
- b. The cultivation facility, processors, and dispensary shall bear the cost of the labels and tags. All licensed facilities shall acquire and maintain all software, hardware, and communications infrastructures to ensure connectivity to the Inventory Tracking System.

## 12.3 ***Batching Required***

At the time of harvesting, all plants shall be accounted for as a batch with a unique batch number that shall remain with the batch through final packaging.

## 12.4 ***Plant Identification***

- a. All plants shall be assigned a specific number and so tagged with an individual tag with a unique identification number that will be recorded electronically or kept in an electronic file until harvest or destruction.
- b. Immature, nonflowering marijuana plants under twenty-four (24") inches shall be individually tagged. Each tag shall contain a legible UIN and may either be physically on the plant or in the soil or other growth medium. Such label must be clearly legible and free from dirt and debris. After plants reach twenty-four (24") inches in height or width or begin flowering, whichever occurs earlier, the UIN tag must be physically attached to the plant.
- c. Clones are not required to be individually tagged until they are eight (8") inches in height or length and placed in soil or other growth medium, whichever occurs earlier. Clones shall, however, be recorded in the Inventory Tracking System.

- d. Marijuana seeds must be individually tagged once they are placed in soil or other growth medium.
- e. Plant tissue is not required to be individually tagged until such tissue has grown to eight (8”) inches in height or length. Plant issues shall, however, be recorded in the Inventory Tracking System.
- f. All plants, regardless of accounting strategy, shall be physically inventoried on a weekly basis and records of the inventory shall be kept at the facility for at least three (3) years.

#### **12.5 *Cultivation Facility Tracking Requirements***

- a. Cultivation facilities shall ensure the following events are logged into the Inventory Tracking System:
  - i. The purchase or acquisition of medical marijuana seeds, plants (including immature plants and seedlings), or its derivatives.
  - ii. The sale or transfer of medical marijuana or its derivatives to a licensed facility or approved laboratory by the Commission or the Department;
  - iii. The transport of medical marijuana or its derivatives to a facility licensed by the Commission or the Department; and
  - iv. Disposal of medical marijuana
- b. The following information, without limitation, shall be provided for each transaction described in (a):
  - i. Date of transaction or event;
  - ii. Agent identification number responsible for data entry;
  - iii. License number of receiving licensed facility licensed by the Commission or the Department or name of approved laboratory;
  - iv. Batch identification number; and
  - v. Plant identification number, if applicable.
- c. Each transaction described in (a) must be recorded by a licensee immediately upon occurrence. Any licensee who fails to record any transaction listed in (a) within twenty-four (24) hours of the transaction, or who fails to include all of the requisite information listed in (b), may be subject to the disciplinary actions provided in these rules.

#### **12.6 *Dispensary Tracking Requirements***

- a. Dispensaries shall ensure the following events are logged into the Inventory Tracking System:

- i. The purchase or acquisition of marijuana (including immature plants and seedlings;
  - ii. The sale or transfer of medical marijuana or its derivatives to a another licensed facility or approved laboratory;
  - iii. The transport of medical marijuana or its derivatives to a facility licensed by the Commission or the Department;
  - iv. Disposal of medical marijuana; and
  - v. Sale of medical marijuana to a qualified patient, visiting qualified patient, or designated caregiver.
- b. The following information, without limitation, shall be provided for each transaction described in (a):
  - i. Date of transaction or event;
  - ii. Agent identification number responsible for data entry;
  - iii. License number of receiving licensed facility or approved laboratory;
  - iv. Batch identification number;
  - v. Plant identification number, if applicable; and
  - vi. Sales to a qualified patient, visiting qualified patient, or designated caregiver shall include the following in addition to any applicable information required above:
    - 1. The registry identification number of the patient or caregiver; and
    - 2. The quantity of medical marijuana dispensed.
- c. Each transaction described in (a) must be recorded by a licensee immediately upon occurrence. Any licensee who fails to record any transaction listed in (a) within twenty-four (24) hours of the transaction, or who fails to include all of the requisite information listed in (b), may be subject to the disciplinary actions provided in these rules.

#### 12.7 ***Processor Tracking Requirements***

- a. A processor shall ensure the following events are logged into the Inventory Tracking System:
  - i. The acquisition of medical marijuana;
  - ii. The transport of medical marijuana to a licensed cultivator or dispensary; and
  - iii. Disposal of medical marijuana.
- b. The following information, without limitation, shall be provided for each transaction described in (a):
  - i. Date of transaction or event;
  - ii. Agent identification number responsible for data entry;

- iii. License number of receiving cultivator or dispensary;
- iv. Batch identification number; and
- v. Plant identification number, if applicable.
- c. Each transaction described in (a) must be recorded by a licensee immediately upon occurrence. A licensee that fails to record any transaction listed in (a) within twenty-four (24) hours of the transaction or that fails to include all of the requisite information listed in subsection (b) may be subject to suspension or revocation of license(s), and/or imposition of monetary fines.

## **SECTION 13. CULTIVATION OF MEDICAL MARIJUANA**

### **13.1 *Operations Plan Required***

- a. All cultivation facilities and any dispensary cultivating medical marijuana shall establish and maintain a written Operations Plan for the production of marijuana in the facility. The plan shall include:
  - i. Standard operating procedures for the cultivation of marijuana in each production area of the facility; and
  - ii. Information regarding chemicals and pesticides applied during the production process, including but not limited to, when and the manner in which they are applied.

### **13.2 *Limitation on Plants in a Dispensary***

- a. A dispensary may grow or possess:
  - i. Fifty (50) mature marijuana plants at anyone (1) time; and
  - ii. Immature plants, clones, and other precursor genetics; and
  - iii. All usable marijuana derived from the plants under section i. of this section or predecessor plants.
- b. A dispensary may contract with a cultivation facility to cultivate one (1) or more mature marijuana plants the dispensary is permitted to grow.

### **13.3 *Limitation on Harvests in a Dispensary***

- a. No more than fifty (50) mature marijuana plants shall be harvested for usable marijuana per month.
- b. Dispensaries storing usable marijuana harvested from mature plants must be stored pursuant to the requirements of Rule 7.3.

**13.4 *Limitation on Plants in a Cultivation Facility***

- a. A cultivation facility may grow and possess usable marijuana in an amount reasonably necessary to meet the demand for and needs of qualifying patients as determined by the Commission with the assistance of the Department of Health.
- b. A cultivation facility may also possess marijuana seeds.

**13.5 *Production Areas***

- a. The size and canopy of production areas shall be maintained in accordance with the plans provided to the Commission in the application for cultivation facility or dispensary licenses.
- b. Each production area shall be maintained to allow for adequate observation and inventory.
- c. Hygiene and sanitation requirements in rule 9.5 and rule 10.6 shall be observed at all times in production areas.

**13.6 *Pesticides and Chemicals***

- a. All pesticides and chemicals shall only be applied to medical marijuana pursuant to the Operations Plan.
- b. All facilities cultivating medical marijuana shall maintain the following:
  - i. The material safety data sheet required of all cultivation facilities and dispensaries; and
  - ii. The original label or a copy thereof for all pesticides and other agricultural chemicals used during cultivation.
- c. All facilities cultivating medical marijuana and applying any pesticide or agricultural chemical during any stage of cultivation of medical marijuana shall document and maintain a record of the following:
  - i. The date and time of application;
  - ii. The name of the individual(s) who applied the pesticide or chemical;
  - iii. The batch number(s) of all plants receiving the application;
  - iv. The name of the product applied;
  - v. The EPA registration number of the pesticide or chemical; and
  - vi. The amount of product applied.

## **SECTION 14. MANUFACTURING AND PROCESSING OF MEDICAL MARIJUANA**

### **14.1 *General Requirements for Manufacturing and Processing Medical Marijuana***

- a. Medical marijuana and medical marijuana products shall only be manufactured and processed in accordance with these rules;
- b. All equipment, counters, and surfaces used for processing shall be food-grade and shall not react adversely with any solvent being used;
- c. All counters and surfaces shall be constructed in a manner that reduce the potential for development of microbials, molds and mildews and that can be easily cleaned;
- d. Every process lot shall be assigned a unique identification number that shall be entered into the Inventory Tracking System.
- e. With the exception of medical marijuana, all ingredients used to make medical marijuana edibles must meet the requirements for food products set forth by the Food and Drug Administration and the Department.

### **14.2 *General Prohibitions for Manufacturing and Processing Medical Marijuana***

- a. A cultivation facility, processor, or dispensary shall not process or manufacture a medical marijuana product in a non-child proof package or container:
  - i. That by its shape or design is likely to appeal to minors due to shape, color, taste or design, including but not limited to:
    1. Products that are modeled after non-cannabis products primarily consumed by and marketed to children;
    2. Products in the shape of an animal, vehicle, person, or character; and
    3. Products that contain cannabinoid concentrates or extracts that, as determined by the Division closely resemble foods or beverages that are attractive to minors; and
  - a. that are commonly sold in retail establishments in individually packaged portions or multiple packs of individually packaged portions, regardless of whether the foods or beverages are generic, trademarked, or branded products, including, but without limitation to, candy, cookies, cakes,



- pastries, chewing gum and brownies;
- ii. That is manufactured by applying cannabinoid concentrates or extracts to trademarked or branded food, candy, or beverages that are commercially available without cannabinoid concentrates or extracts and are commonly sold at retail establishments in individual portions or in multiple packs of individually packaged portions.
- b. A cultivation facility, processor, or dispensary shall not treat or otherwise adulterate a cannabinoid product, concentrate, or extract with any non-cannabinoid additive that would increase potency, toxicity or addictive potential, or that would create an unsafe combination, with caffeine or other chemical that may increase carcinogenicity or cardiac effects.
- c. A cultivation facility, processor, or dispensary is authorized to sell and possess hemp derived products so long as the product is clearly labeled “hemp derived” and does not violate the restrictions set forth in 14.2(b).

#### 14.3 ***Manufacturing and Processing Policies and Procedures***

- a. Cultivation Facilities, processors, and dispensaries shall create and maintain written policies and procedures for the following:
  - i. Instructions for making each cannabinoid concentrate, extract, or product produced on the premises;
  - ii. Ingredients and amount of each ingredient used for each process lot;
  - iii. Process for making each product;
  - iv. Number of servings in a process lot;
  - v. Intended amount of THC per serving and in a unit of sale of the product; and
  - vi. Process for making each process lot homogenous.
- b. Licensed facilities that manufacture and process cannabinoid concentrates or extracts shall create and maintain written policies and procedures regarding:
  - i. Procedures for conducting necessary safety checks prior to processing;
  - ii. Process for purging any solvent or other unwanted components from a cannabinoid concentrate or extract;
  - iii. Sanitization procedures for working surfaces and equipment;
  - iv. Procedures for handling or storage of any solvent, gas, or other chemical used in processing;

- v. Quality control procedures; and
- vi. Emergency procedures in case of a fire, chemical spill, or other emergency.

**14.4 *Manufacturing and Processing of Cannabinoid Edibles***

Cultivation facilities and dispensaries manufacturing, and processing cannabinoid edibles shall comply with the following:

- a. The requirements of this section, the requirements of rule 9.5 and rule 10.6;
- b. Any state and local kitchen-related health and safety standards for retail food establishments;
- c. Before sale, food or drink that has been combined with usable marijuana shall not exceed ten milligrams (10 mg) of active tetrahydrocannabinol per portion and shall be physically demarked; and
- d. If the portions cannot be physically determined, the entirety of the food or drink that has been combined with usable marijuana shall not contain more than ten milligrams (10mg) of active tetrahydrocannabinol.

**14.5 *Manufacturing and Processing of Cannabinoid Concentrates and Cannabinoid Extracts.***

- a. Licensed facilities producing cannabinoid concentrates and extracts shall:
  - i. Not use solvent classified as “Class 1” by the Federal Drug Administration Guidance, Table 1, published in the Federal Register on December 24, 1997 (62 FR 67377);
  - ii. Only use a hydrocarbon-based solvent that is at least 99 percent purity;
  - iii. Only use a non-hydrocarbon-based solvent that is food-grade;
  - iv. Work in an environment with proper ventilation, controlling all sources of ignition where a flammable atmosphere is or may be present; and
  - v. Use only potable water and ice made from potable water in processing.
- b. Licensed facilities producing cannabinoid extracts shall:
  - i. Not use pressurized canned flammable fuel, including but not limited to butane and other fuels intended for use in camp stoves, handheld torch devices, refillable cigarette lighters

- and similar consumer products;
- ii. Process only in a fully enclosed room clearly designated on the floor plan of the licensed facility;
- iii. Ensure that all processing rooms and equipment, including all electrical installations, comply with applicable electrical codes and fire codes;
- iv. Use a professional grade closed loop extraction system designed to recover the solvents and built to recognized codes and generally accepted engineering standards, such as those of:
  - 1. American National Standards Institute (ANSI);
  - 2. Underwriters Laboratories (UL); or
  - 3. The American Society for Testing and Materials (ASTM).
- v. If using carbon dioxide in processing, use a professional grade closed loop carbon dioxide gas extraction system where every vessel is rated to a minimum of six hundred pounds per square inch;
- vi. Have equipment and facilities used in processing approved for use by the local fire code official;
- vii. Have a licensed engineer certify that the closed-loop system was commercially manufactured, and is safe for its intended purposes;
- viii. Have an emergency eye-wash station in any room in which cannabinoid extract is being processed; and
- ix. Have all applicable material safety data sheets readily available in processing areas.
- c. Licensed facilities producing cannabinoid concentrates may:
  - i. Use a mechanical extraction process;
  - ii. Use a chemical extraction process using a nonhydrocarbon-based or other solvent, such as water, vegetable glycerin, vegetable oils, animal fats, isopropyl alcohol or ethanol; and
  - iii. Use a chemical extraction process using the hydrocarbon-based solvent carbon dioxide, provided that the process does not involve the use of pressure or heat over 180 degrees.
- d. Licensed facilities producing cannabinoid concentrates shall:
  - i. Not use denatured alcohol;
  - ii. Not apply pressure or heat over 180 degrees if using carbon dioxide; and
  - iii. Only use or store dry ice in a well-ventilated room to

prevent against the accumulation of dangerous levels of carbon dioxide.

## **SECTION 15. PACKAGING OF MEDICAL MARIJUANA**

### **15.1 *Medical Marijuana Packaging.***

Cultivation facilities, processors, and dispensaries shall:

- a. Package usable medical marijuana that is intended for transport to another licensed facility, and not intended for sale to qualified patients and designated caregivers without repackaging, in a shipping container affixed with a UIN generated by the Inventory Tracking System.
- b. Package usable medical marijuana that is intended for sale to a qualified patient or designated caregiver without re-packaging in a medical marijuana container.
  - i. All medical marijuana containers shall:
    1. Be sealed, traceable, and food compliant.
    2. Be child-proof:
      - a. So that it cannot be opened by a child; or
      - b. So that it prevents ready access to toxic or harmful amounts of the packaged product; and
      - c. So that it meets the testing requirements in accordance with the method described in 16 C.F.R. § 1700.20, as existing on January 1, 2017.
  - ii. Medical marijuana packages shall not be shaped or designed in a manner that is likely to appeal to minors, including but not limited to:
    1. Packaging that is modeled after non-cannabis products primarily consumed by and marketed to children;
    2. Packaging that is in the shape of or that depicts an animal, vehicle, person, or character; and
    3. Packaging that closely resembles that of familiar food and drink items, including candy.
  - iii. All medical marijuana containers shall be labeled according to the standards established by the Arkansas Department of Health.

## **SECTION 16. DISTRIBUTION OF MEDICAL MARIJUANA**

### **16.1 *Dispensaries***

A dispensary may:

- a. Acquire marijuana seedlings, plants, or usable marijuana from another licensed facility.
- b. Acquire marijuana seeds from any individual lawfully entitled to possess marijuana seeds, seedlings, and plants under the laws of the state in which the individual resides;
- c. Enter into a contract with a licensed transporter to transport medical marijuana or marijuana products to and from another dispensary, cultivator, processing facility or licensed laboratory.
- d. Transfer or sell marijuana seedlings, plants, or usable marijuana to other licensed facilities and approved laboratories:
- e. Sell usable marijuana to qualified patients, qualified visitor patients, and designated caregivers within the parameters set forth by the Medical Marijuana Commission, Arkansas Department of Health, and Arkansas Alcoholic Beverage Control.

### **16.2 *Cultivation Facilities***

- a. A cultivation facility may sell marijuana plants, seeds, and usable marijuana only to a dispensary, other cultivation facility, or processing facility within the State of Arkansas or outside of the State as Federal law permits.
- b. Enter into a contract with a licensed transporter to transport medical marijuana or marijuana products to and from another dispensary, processor, cultivator or licensed laboratory.

### **16.3 *Processors***

- a. A processor may acquire medical marijuana from and supply medical marijuana to a licensed cultivator or dispensary.
- b. Enter into a contract with a licensed transporter to transport medical marijuana or marijuana products to and from another dispensary, processor, cultivator or licensed laboratory.

### **16.4 *Weights and Measures***

- a. Cultivation, dispensary, and processors shall utilize standardized weights and measures in accordance with the Arkansas Weights and

Measures laws and rules.

b. Any scale located within a cultivation, dispensary, or processing facility shall be certified once every twelve months by the Department of Agriculture division of Weights and Measures or a private scale company, certified by the Department of Agriculture, and shall comply with their rules for weights and measures.

c. A copy of the certification report for any scale within a facility shall be produced, on request, to the Division or Enforcement.

d. A cultivation, dispensary, or processor may have certification performed less frequently, so long as they maintain compliance with Arkansas Weights and Measures' laws and rules.

## **SECTION 17. DISPENSING OF MEDICAL MARIJUANA AND RELATED SUPPLIES**

### **17.1 *Dispensing Medical Marijuana***

- a. Prior to dispensing medical marijuana to a qualified patient or designated caregiver, a dispensary agent shall:
  - i. Verify the identity of the qualifying patient or the designated caregiver;
  - ii. Verify the validity of the qualifying patient or designated caregiver's registry identification card;
  - iii. Enter the qualifying patient or designated caregiver's registry identification number listed on the registry identification card into the Inventory Tracking System;
  - iv. Verify that the qualified patient or designated caregiver has a current authorization by the Arkansas Department of Health to purchase medical marijuana;
  - v. Verify that the amount of medical marijuana the qualifying patient or designated caregiver is requesting would not cause the qualifying patient to exceed the limit on obtaining no more than two and one-half (2 ½ oz.) ounces of usable medical marijuana during any fourteen-day period;
  - vi. Enter the following information into the Inventory Tracking System:
    1. The dispensary agent's registry identification number;
    2. The dispensing organization's registry identification number;
    3. The amount, type and strain of medical marijuana dispensed;

4. Any UIN associated with the medical marijuana;
  5. Purchase price of the medical marijuana;
  6. Identity of the individual to whom the medical marijuana was dispensed, whether the qualifying patient or the qualifying patient's designated caregiver; and
  7. The date and time the medical marijuana was dispensed.
  8. If an order is placed for delivery, the following information shall also be recorded:
    - a. Registry identification numbers for the agents assigned to deliver the medical marijuana;
    - b. Address for delivery;
    - c. Estimated time of delivery; and
    - d. Actual time of delivery.
- b. Dispensaries may sell medical marijuana to a visiting qualifying patient if the patient produces evidence of his or her registry identification card or its equivalent that is issued under the laws of another state, district, or territory, commonwealth, or insular possession of the United States and proof of registration with the Department.
- i. For each sale to a visiting qualifying patient, the following information shall be entered into the Inventory Tracking System:
    1. The dispensary agent's registry identification number;
    2. The dispensing organization's registry identification number;
    3. The amount, type and strain of medical marijuana dispensed;
    4. Any UIN associated with the medical marijuana;
    5. Identity of the individual to whom the medical marijuana was dispensed; and
    6. The date and time the medical marijuana was dispensed.
- c. A dispensary shall not use a self-service machine such as a vending machine for the purchase and dispensing of medical marijuana.
- d. Use or consumption of medical marijuana on the premises of the dispensary is prohibited.

## **17.2 Marijuana Paraphernalia, Supplies, and Educational Materials**

- a. A dispensary shall:

- i. Make marijuana vaporizers available for sale to qualifying patients and designated caregivers;
- ii. Provide educational materials to qualified patients, qualified visiting patients, and caregivers regarding methods of ingestion to qualifying patients and designated caregivers, including without limitation:
  - 1. Warnings on the potential health risks of smoking or combusting marijuana; and
  - 2. Information on potential health benefits of vaporizing marijuana compared to smoking or combusting.
- b. A dispensary may acquire, possess, manufacture, process, prepare, deliver, transfer, transport, supply and dispense marijuana paraphernalia, marijuana-related supplies, and educational materials to qualifying patients and designated caregivers; however, a dispensary shall not supply, possess, manufacture, deliver, transfer or sell marijuana paraphernalia that requires the combustion of marijuana to be properly utilized, including the following:
  - i. Pipes;
  - ii. Water Pipes;
  - iii. Bongs;
  - iv. Chillums;
  - v. Rolling Papers, including pre-rolled products; and
  - vi. Roach Clips.

### 17.3 ***Recall Policy***

- a. All dispensaries shall establish a policy for communicating a recall for any usable marijuana that has been shown to present a reasonable probability that use of or exposure to the product will cause serious adverse health consequences. The policy shall include:
  - i. Procedure for contacting all qualifying patients, visiting qualifying patients, or designated caregivers who have, or likely have, obtained the product from the dispensary.
  - ii. Information and procedures for returning the product to the dispensary.
  - iii. Procedure for contacting the originating cultivation facility or dispensary;
  - iv. Procedure for contacting the processor of the product;
  - v. Procedure for notifying and communicating with the Alcoholic Beverage Control Division and the Arkansas Department of Health within 24 hours of the discovery of hazardous product.



- b. A dispensary shall be responsible for disposing of any recalled marijuana in the manner described in these rules.

## **SECTION 18. TRANSPORTATION AND DELIVERY OF MEDICAL MARIJUANA**

### **18.1 *Authorized Transportation for Cultivation Facility***

A cultivation facility shall only transport or deliver medical marijuana to another licensed cultivation facility, a licensed processor, a licensed transporter, a licensed dispensary, or an approved laboratory.

### **18.2 *Authorized Transportation for Dispensary***

A dispensary shall only transport medical marijuana to a licensed cultivation facility, licensed processor, licensed dispensary, or approved laboratory.

### **18.3 *Authorized Transportation for Processor***

A processor shall only transport medical marijuana to and from a licensed cultivation facility, another licensed processor, or a licensed dispensary.

### **18.4 *Inventory Manifest Required***

- a. Prior to the transport of any medical marijuana, a printed inventory manifest shall be generated from the Inventory Tracking System. The manifest shall include the following information:
  - i. The following information for the cultivation facility, processor, or dispensary originating the transport:
    - 1. License Number; and
    - 2. Name and contact information for licensee.
  - ii. The following information for the cultivation facility, processor, dispensary, or approved laboratory receiving the medical marijuana:
    - 1. License Number if the destination is a licensed facility or business name if the destination is an approved laboratory;
    - 2. Address of the destination;
    - 3. Name and contact information of the licensee or contact information for the approved laboratory.
  - iii. Quantities by weight or unit of each type of medical marijuana or medical marijuana product contained in transport, along with the UINs for every item;
  - iv. The date of transport and approximate time of departure;

- v. Arrival date and estimated time of arrival;
  - vi. Identity of the agents accompanying the transport;
  - vii. Delivery vehicle make and model and license plate number.
- b. A separate manifest shall be prepared for each licensed facility or approved laboratory;
- c. The originating facility shall provide the receiving facility with a copy of the inventory manifest;
- d. An inventory manifest shall not be altered after departing the originating premises;
- e. Receiving cultivation facilities, processors, and dispensaries shall enter the quantities of each marijuana item received, along with the UINs for every item, into the Inventory Tracking System.
- f. A cultivation facility, processors, dispensary, or approved laboratory shall refuse to accept any medical marijuana or medical marijuana product that is not accompanied by an inventory manifest.
- g. Originating and receiving licensed facilities shall maintain copies of inventory manifests for three (3) years

#### 18.5 ***Shipping Container Required***

All medical marijuana packaged for transport shall be placed inside a shipping container. Each shipping container shall be tagged with a UIN.

#### 18.6 ***Secured Container Required***

- a. All medical marijuana in transport shall be shielded from public view and secured in the following manner:
  - i. In a locked, safe and secure storage compartment that is within the motor vehicle transporting the medical marijuana; or
  - ii. In a locked storage container that has a separate key or combination pad.

#### 18.7 ***Vehicle and Personnel Requirements***

- a. Vehicles used in the transport of medical marijuana shall be:
  - i. Insured at or above the legal requirements in Arkansas;
  - ii. Capable of securing medical marijuana during transport;
  - iii. Equipped with an alarm system; and
  - iv. Free of any markings that would indicate the vehicle is being used to transport medical marijuana.
- b. Individuals transporting medical marijuana shall:
  - i. Have a valid cultivation facility agent, processor agent, dispensary agent, or transporter agent registry identification

- card issued by the Division;
  - ii. Have a valid, government-issued, driver's license; and
  - iii. Have possession of both the registry identification card and driver's license while operating the motor vehicle used to transport medical marijuana.
- c. All transport vehicles shall be staffed with a minimum of two (2) employees when a vehicle contains medical marijuana. At least one (1) employee shall remain with the vehicle at any time that it contains medical marijuana.

**18.8 *Routes and Additional Security Requirements for Transporting Medical Marijuana***

- a. Any vehicle transporting medical marijuana shall travel directly from the originating licensed facility to the receiving licensed facility or approved laboratory and shall not make any unnecessary stops in between, except to other licensed facilities or approved laboratories receiving inventory.
- b. If a vehicle transporting medical marijuana is involved in any accident or experiences any type of failure causing the vehicle to be stopped any location, other than a licensed facility or approved laboratory, for more than two (2) hours, the originating licensee shall notify the Division immediately.

**18.9 *Requirements for Delivery to Qualified Patients and Designated Caregivers.***

- a. A dispensary may deliver usable marijuana to a qualified patient or designated caregiver pursuant to the following:
  - i. All requirements for dispensaries set forth in RR 17.1(a) shall be completed prior to delivery;
  - ii. Deliveries may only occur on the date an order is received and processed through the inventory tracking system pursuant to rule 17.1;
  - iii. Deliveries may only occur between the hours of 9:00 a.m. and 7:00 p.m.;
  - iv. A delivery manifest shall accompany each delivery or series of deliveries, and agents shall not deviate from the delivery route or make unnecessary stops;
  - v. All deliveries shall be accompanied by a delivery ticket listing the name of the qualified patient or designated caregiver and describing the products ordered;

- vi. At the time of delivery, the dispensary agent shall check the registry identification card of the qualified patient or designated caregiver to verify the person accepting delivery is the same person who placed the order. The qualified patient or designated caregiver who placed the order shall sign the delivery ticket to confirm receipt of the product; and
- vii. Medical marijuana may only be delivered to the Arkansas residence listed on the registry identification card for the designated care giver or qualified patient. "Residence" means a dwelling, such as a house, apartment, nursing home, or retirement center. It does not include a dormitory, hotel, motel, bed and breakfast, or other commercial business.
- b. Delivery vehicle and personnel requirements
  - i. Vehicles used for the delivery of medical marijuana shall be:
    - 1. Insured at or above the legal requirements in Arkansas;
    - 2. Capable of securing medical marijuana during transport;
    - 3. Equipped with an alarm system; and
    - 4. Free of any markings that would indicate the vehicle is being used to deliver medical marijuana.
  - ii. Individuals delivering medical marijuana shall:
    - 1. Have a valid dispensary agent registry identification card issued by the Division;
    - 2. Have a valid Arkansas Driver's License; and
    - 3. Have possession of both the registry identification card and driver's license while operating the motor vehicle used to deliver medical marijuana.
  - iii. All delivery vehicles shall be staffed with a minimum of two (2) employees when a vehicle contains medical marijuana. At least one (1) employee shall remain with the vehicle at any time that it contains medical marijuana.
- c. Secure Container Required.
  - i. All medical marijuana in transport shall be shielded from public view and secured in the following manner:
    - 1. In a locked, safe and secure storage compartment that is part of the motor vehicle transporting the medical marijuana; or
    - 2. In a locked storage container that has a separate key or combination pad.
- d. Emergency Notification Required.
  - i. If a vehicle delivering medical marijuana is involved in any

accident or experiences any type of failure rendering the vehicle immobile or requiring the use of a tow truck, the dispensary agent shall notify the Division immediately.

## **SECTION 19. MARKETING AND ADVERTISING**

### **19.1 Advertising and Marketing Medical Marijuana**

- a. Cultivation Facility and Processor Advertising and Marketing.
  - i. Cultivation facilities and processors shall not advertise through any public medium or means designed to market its products to the public.
  - ii. Cultivation facilities may market their products directly to dispensaries by any means directed solely to the dispensaries and not available to the public.
  - iii. Processors may market their services directly to licensed cultivation facilities and dispensaries by any means directed solely to the cultivation facilities and dispensaries and not available to the public.
  - iv. A cultivation or dispensary facility shall not use any of the following images within an advertisement, including without limitation:
    - 1. A cross;
    - 2. A caduceus; or
    - 3. Any other symbol that is commonly associated with the practice of medicine or the practice of pharmacy.
- b. Dispensary Advertising and Marketing.
  - i. Advertising for medical marijuana by dispensaries shall not:
    - 1. Contain statements that are deceptive, false, or misleading;
    - 2. Contain any content that can reasonably be considered to target children, including, but not limited to:
      - a. Cartoon characters;
      - b. Toys; or
      - c. Similar images and items typically marketed towards children.
    - 3. Encourage the transportation of medical marijuana across state lines;
    - 4. Display consumption of marijuana;
    - 5. Contain material that encourages or promotes marijuana for use as an intoxicant; or

6. Contain material that encourages excessive or rapid use or consumption.
- ii. Advertising and marketing for medical marijuana shall include the following statements:
  1. “Marijuana is for use by qualified patients only. Keep out of reach of children.”;
  2. “Marijuana use during pregnancy or breastfeeding poses potential harms.”;
  3. “Marijuana is not approved by the FDA to treat, cure, or prevent any disease.”; and
  4. “Do not operate a vehicle or machinery under the influence of marijuana.”
- iii. Dispensaries shall not make any deceptive, false, or misleading assertions or statement on any information material, any sign, or any document provided to a consumer.
- iv. Advertising Location Restrictions.
  1. A dispensary shall not place or maintain, or cause to be placed or maintained, any advertisement or marketing material for medical marijuana in the following locations:
    - a. Within 1,000 feet of the perimeter of a public or private school or daycare center.
    - b. On or in a public transit vehicle or public transit shelter; or
    - c. On or in a publicly-owned or operated property.
- v. Advertising Audience Restrictions
  1. A dispensary shall not utilize television, radio, print media, or the internet to advertise and market medical marijuana, unless the licensee has reliable evidence that no more than 30 percent of the audience for the program, publication, or website in or on which the advertisement is to air or appear is reasonably expected to be under the age of 18.
  2. Upon request by the division, a licensee shall provide the evidence relied upon to make the determination that no more than thirty (30) percent of the audience for the program, publication, or website in or on which the advertisement is to air or appear is reasonably expected to be under the age of 18.
- vi. Licensed facilities shall not offer any coupons, rebates, or promotions for medical marijuana purchases, unless offered as

part of a compassionate care plan presented to the Medical Marijuana Commission as part of the application for licensure.

## **19.2 Building Signage Requirements**

- a. Licensed facilities shall have no more than three (3) signs visible to the general public from the public right-of-way, that identify the facility by its business name.
- b. Each sign shall not exceed thirty-six (36 sq. ft.) square feet in length or width.
- c. Signs shall be placed inside the licensed facility's window or attached to the outside of the building.
- d. Signage shall not display any of the following:
  - i. Any content or symbol that can reasonably be considered to target children, including, but not limited to:
    - a. Cartoon characters;
    - b. Toys; or
    - c. Similar images and items typically marketed towards children.
  - ii. Any content or symbol commonly associated with the practice of medicine or the practice of pharmacy, including, but not limited to:
    - a. A cross of any color;
    - b. A caduceus; or
    - c. Any other symbol that is commonly associated with the practice of medicine, the practice of pharmacy, or healthcare, in general.

## **SECTION 20. DISPOSAL OF MEDICAL MARIJUANA**

### **20.1 *Disposal of Marijuana by Cultivation Facilities, Processors, and Dispensaries***

All medical marijuana waste shall be disposed of in accordance with this rule.

- a. All medical marijuana waste shall be stored in a secure, limited access area on the premises of the licensed facility.
- b. All medical marijuana shall be rendered unusable pursuant to the methods set forth in this rule prior to disposal.
- c. All steps taken to render the marijuana unusable shall be conducted under video surveillance by the licensed facility's video surveillance system.

- d. All medical marijuana waste set for disposal shall be properly weighed and recorded in the Inventory Tracking System.
- e. A cultivation facility, processor or dispensary shall notify the Division at least seventy-two (72) hours prior to rendering the medical marijuana waste unusable and disposing of it. The notification shall include the weight of the marijuana to be rendered unusable.
- f. Liquid waste shall be disposed of in compliance with all applicable federal, state and local laws, regulations, rules and other requirements.
- g. Disposal of chemical, dangerous or hazardous waste must be conducted in a manner consistent with federal, state and local laws, regulations, rules or other requirements. This may include, without limitation, the disposal of all pesticide or other chemicals used in the cultivation or manufacturing and production process.
- h. Medical marijuana shall be rendered unusable by grinding and incorporating the cannabis plant waste with other ground materials, so the resulting mixture is at least 50% non-cannabis waste by volume. The following acceptable materials may be combined with cannabis plant waste:
  - i. Compostable Mixed Waste: Cannabis waste to be disposed of as compost or in another organic waste method may be mixed with the following types of waste materials:
    - 1. Food waste;
    - 2. Yard waste;
    - 3. Vegetable based grease oils;
    - 4. Agricultural Materials;
    - 5. Biodegradable products and paper;
    - 6. Clean wood;
    - 7. Fruits and vegetables; or
    - 8. Plant matter.
  - ii. Noncompostable Mixed Waste: Cannabis waste to be disposed of in a landfill or another disposal method, such as incineration, may be mixed with the following types of waste materials:
    - 1. Paper waste;
    - 2. Cardboard waste;
    - 3. Plastic waste;
    - 4. Soil;
    - 5. Nonrecyclable plastic; or
    - 6. Broken glass.



- i. Medical Marijuana waste rendered unusable by the methods described in section (h), may be delivered to a permitted solid waste facility for final disposition. Permitted solid waste facilities may include:
  - i. Compostable Mixed Waste: Compost, anaerobic digester, or other facility approved by the Division.
  - ii. Non-compostable Mixed Waste: Landfill, incinerator, or other facility approved by the Division.

## **SECTION 21. PERSONNEL REQUIREMENTS FOR DISPENSARIES, PROCESSORS, AND CULTIVATION FACILITIES.**

### **21.1 *Registry Identification Card Required***

- a. Any employee, supervisor, or agent employed by a cultivation facility or processor must have a current Registry Identification Card issued by the Division.
- b. Any employee, supervisor, or agent of a dispensary and any volunteer of a dispensary must have a current Registry Identification Card issued by the Division.
- c. The requirements and restrictions for the issuance of a Registry Identification Card are set forth in Section 22 of these Rules.

### **21.2 *Hiring Procedure***

- a. A cultivation facility, processor, or dispensary shall provide a prospective cultivation facility agent, processor agent, or dispensary agent with a completed Notice of Intent to Hire form for submission to the Division.
- b. The prospective agent may not perform any duties on behalf of the licensed facility until such time as their Registry Identification Card has been issued by the Division.

### **21.3 *Separation of Employment***

- a. A cultivation facility, processor or dispensary shall notify the Division when any agent ceases to be employed by the cultivation facility, processor, or dispensary.
- b. Notice of Separation of Employment shall be on a form provided by the Division, and it shall be submitted within seven (7) days of the last date of the agent's employment.

#### 21.4 ***Personnel Records***

- a. A cultivation facility, processor, or dispensary shall keep a record of all individuals employed as cultivation facility, processor, or dispensary agents, including, but not limited to the following information:
  - 1. Name of Employee;
  - 2. Detailed Job Description;
  - 3. Records of any specialized training received or acquired by the employee;
  - 4. Date(s) of Employment;
  - 5. Record of days worked and time off; and
  - 6. Any disciplinary action taken against an employee and the cause therefore.
- b. A licensed facility shall maintain required records for at least three (3) years after an employee ceases to work at the facility.

#### 21.5 ***Dispensary Pharmacist Consultant Required***

- a. A dispensary shall appoint a pharmacist consultant who is a pharmacist licensed with the Arkansas State Board of Pharmacy.
- b. A pharmacist consultant shall:
  - i. Register as a dispensary agent under this amendment and follow all procedures;
  - ii. Develop and provide training to other dispensary agents at least one (1) time every twelve (12) months from the initial date of the opening of the dispensary on the following subjects:
    - 1. Guidelines for providing information to qualifying patients related to risks, benefits, and side effects associated with medical marijuana;
    - 2. Guidelines for recognizing signs and symptoms of substance abuse; and
    - 3. Guidelines for refusing to provide medical marijuana to an individual who appears to be impaired or abusing medical marijuana;
  - iii. Assist in the development and implementation of review and improvement processes for patient education and support provided by the dispensary;
  - iv. Provide oversight for the development and dissemination of:
    - 1. Education materials for qualifying patients and designated caregivers that include:
      - a. Information about possible side effects and

- contraindications of medical marijuana;
  - b. Guidelines for notifying the physician who provided the written certification for medical marijuana if side effects or contraindications occur;
  - c. A description of the potential effects of differing strengths of medical marijuana strains and products;
  - d. Information about potential drug-to-drug interactions, including interactions with alcohol, prescription drugs, nonprescription drugs, and supplements;
  - e. Techniques for the use of medical marijuana and marijuana paraphernalia; and
  - f. Information about different methods, forms, and routes of medical marijuana administration;
- 2. Systems for documentation by a qualifying patient designated caregiver of the symptoms of a qualifying patient that includes a logbook, rating scale for pain and symptoms, and guidelines for a patient's self-assessment; and
- 3. Policies and procedures for refusing to provide medical marijuana to an individual who appears to be impaired or abusing medical marijuana; and
- v. Be accessible by the dispensary or dispensary agent through:
  - 1. Telephonic means at all times during operating hours; and
  - 2. Telephone or video conference for a patient consultant during operating hours.
- c. A dispensary shall:
  - i. Post signage at the check-in station of the dispensary notifying the qualifying patient, visiting patient, or caregiver of the availability of a pharmacist consultant;
  - ii. Provide to new qualifying patients, visiting patients, or caregivers a card containing language about a consultation with a pharmacist consultant and the contact information of the pharmacist consultant; and
  - iii. Post information on the website of the dispensary regarding a consultation with a pharmacist consultant, the availability of the

pharmacist consultant, and the contact information of the pharmacist consultant.

## **SECTION 22. REGISTRATION AND CERTIFICATION OF CULTIVATION FACILITY AGENTS, PROCESSOR AGENTS, AND DISPENSARY AGENTS**

### **22.1 *Registration and Certification Required***

- a. Any employee, supervisor, volunteer, or agent of a cultivation facility, processor, or dispensary, including a dispensary pharmacist consultant, shall register with the Division and obtain a registry identification card prior to the commencement of any activity within the scope of employment or service at a cultivation facility, processor, or dispensary.
- b. If an individual is employed by multiple licensed facilities, he or she shall obtain a separate registry identification card for each licensed facility he or she is employed.

### **22.2 *Application***

- a. The following items must be submitted to the Alcoholic Beverage Control Division to apply for a Cultivation Facility, Processor, or Dispensary Agent Registry Card:
  - i. An application form from the Division to include the following information:
    - 1. Legal name of applicant;
    - 2. Date of birth;
    - 3. Address of applicant;
    - 4. Current employment information, including intended position in cultivation facility, processor or dispensary; and
    - 5. Criminal history information.
  - ii. A completed “Notice of Intent to Hire” form from the cultivation facility or dispensary specifying the intended job duties of the applicant.
  - iii. A signed, notarized “Authority to Release Information” form provided by the Division.
  - iv. An in-state criminal background check through the Arkansas State Police, which may be submitted by electronic submission by an Arkansas State Police approved vendor.
  - v. The applicant shall also furnish finger prints to the Arkansas

State Police, which may be collected by an Arkansas State Police approved vendor for electronic submission, for transmission to the United States Federal Bureau of Investigation for investigation of the applicant's criminal history, if any.

- vi. The following signed forms to be provided by the Division:
  - 1. "Agency Privacy Requirements for Noncriminal Justice Applicants" form; and
  - 2. "Noncriminal Justice Applicant's Privacy Rights" form.
- vii. An applicant shall not have to submit the information in sections iv., v., and vi.:
  - 1. If the applicant holds an existing registry identification card for another licensed facility; or
  - 2. If the applicant has completed the required background checks for the purpose of obtaining a registry identification card in the 2 years prior to the application, and the applicant has never had a registration card suspended or revoked.

### **22.3 Registry Identification Card**

- a. Any employee, supervisor, volunteer, or agent of a cultivation facility, processor, or dispensary, including a dispensary pharmacist consultant, shall maintain possession of their registry identification card during any activity within the scope of employment or service at a cultivation facility or dispensary. The card shall either be kept on the individual's person or in an accessible location on the premises of the licensed facility.
- b. The registry identification card shall identify the following information:
  - i. Name of the cardholder;
  - ii. Date of birth;
  - iii. Name of cultivation facility, processor, or dispensary;
  - iv. Date of issuance;
  - v. Date of expiration;
  - vi. Registry identification number assigned by the Division.

### **22.4 Fee**

- a. The total fee for a registry identification card issued by the Division shall be \$50.00.
- b. The total fee shall be collected as follows:
  - i. One half of the fee shall be remitted along with the application.

- ii. One half of the fee shall be remitted upon notification by the Division that the application has been approved.

#### **22.5 *Issuance***

- a. The Division shall not issue a registry identification card until:
  - i. It has received the results of both criminal background checks required by rule 22.2; and
  - ii. It has received the fees required by rule 22.4.
- b. Registry identification cards shall be issued by the Division within ten (10) days of receipt of the entire fee as described in rule 20.4.

#### **22.6 *Replacement***

- a. The Division shall issue a replacement registry identification card to a dispensary, processor, cultivation facility agent if the card has not expired.
- b. In order to receive a replacement registry identification card, a person must present the following to the Division:
  - i. A valid government-issued photo i.d.
  - ii. A completed “Request for Replacement Registry Identification Card” form to be provided by the Division.
  - iii. A replacement fee of \$25.00.

#### **22.7 *Expiration and Renewal***

- a. A registry identification card shall expire on June 30 of each calendar year and is renewable on or before June 30 of each calendar year for the fiscal year beginning July 1.
- b. A registry identification card shall expire upon notification to the Division by a dispensary, processor, or cultivation facility that the person is no longer employed by the dispensary, processor, or cultivation facility.
- c. Cardholders shall submit a renewal form to be provided by the Division and a fee of \$50.00 in order to renew their cards.
- d. Cards shall be renewed within ten (10) days of receipt of the items described in section c.
- e. Renewals received after the date of expiration shall be subject to a penalty of \$25.00, in addition to the renewal fee. If a card is not renewed within one (1) month of expiration, the card shall be considered expired.

## **22.8 *Separation of Employment***

A dispensary, processor, cultivation facility shall notify the Division of any separation of employment with a registered agent by filing a Notice of Separation of Employment with the Division any time a dispensary agent, processor agent, or cultivation facility's agent ceases to be employed by the dispensary, processor or cultivation facility. The Notice of Separation of Employment shall be filed within 7 days following an agent's last day of employment at the licensed facility.

## **22.9 *Persons Disqualified***

- a. The Division shall not issue a registry identification card to the following individuals:
  - i. Any person under twenty-one (21) years of age;
  - ii. Any person who has been convicted of an excluded felony offense;
  - iii. Any person who has had a registry identification card revoked by the Division within five (5) years of application; or
  - iv. Any person who has not paid the fees required by rule 22.4.
- b. The Division shall not issue a registry identification card to any person who fails to provide the information required in rule 22.2.

## **22.10 *Suspension and Revocation***

- a. The Division may revoke the registry identification card of a dispensary, processor, or cultivation facility agent who knowingly violates any provision set forth in Section 23 of these Rules.
- b. The Division may revoke or suspend the dispensary license, cultivation facility license, or processor license of a dispensary, cultivation facility or processor facility that the Division determines knowingly aided or facilitated a violation of any provision set forth in Section 23 of these Rules.

# **SECTION 23. PROHIBITED ACTIVITIES; GROUNDS FOR SUSPENSION, REVOCATION, OR LEVY OF FINE AGAINST ANY LICENSE OR REGISTRY IDENTIFICATION CARD.**

## **23.1 *Grounds for Suspension or Revocation of a Registry Identification Card***

The Division may suspend or revoke the registry identification card of any cultivation facility agent, processor agent, or dispensary facility's agent who knowingly violates any provision of the Amendment or the rules promulgated by the Commission, Department, or Division.

**23.2 *Grounds for Suspension, Revocation, or Placing of Monetary Fine against a Dispensary, Processor, or Cultivation Facility***

Any dispensary, cultivation, or processing license may be suspended, revoked, or may be assessed against the licensee a monetary fine of up to five thousand (\$5000) dollars for any violation of the Arkansas Medical Marijuana Act by any licensee or any employee, agent or servant of the licensee, including the following violations:

- a. False material statements made by a licensee to the Arkansas Medical Marijuana Commission during the application process;
- b. Failure of the licensed facility to pay taxes owed to the State of Arkansas or to any political subdivision of the State of Arkansas;
- c. Failure to prevent diversion or theft of medical marijuana;
- d. Allowing any employee, supervisor, volunteer, or agent who has not obtained or had suspended or revoked, a registry identification card from the Division to work on a licensed premise or perform any duty on behalf of the dispensary, processor, or cultivation facility;
- e. Failure to allow entry to the licensed premises to Enforcement agents or duly authorized police officers in the course and scope of their employment;
- f. Failure to maintain operational alarm systems and video surveillance systems;
- g. Failure to maintain or keep any record required by these rules or Arkansas law;
- h. Failure to comply with advertising and marketing restrictions;
- i. Failure to properly package or secure medical marijuana on the licensed premises or during transport;
- j. Failure to properly dispose of medical marijuana;
- k. Operating a cultivation facility, processor, or dispensary when a license has been suspended;
- l. Failure to comply with any rule promulgated by the Arkansas Department of Health regarding medical marijuana;
- m. Failure to comply with any rule promulgated by the Arkansas Medical Marijuana Commission;
- n. Failure to comply with any law of the State of Arkansas concerning medical marijuana;
- o. Failure to comply with any local regulation regarding medical marijuana;
- p. Failure to comply with any rule of the Division.



- q. Knowingly aiding or facilitating in a violation of the Amendment, rules promulgated by the Commission, Department, or Division, or any other law of the State of Arkansas.

**23.3 *Grounds for Suspension, Revocation, or Placing of Monetary Fine against a Cultivation Facility License***

Any cultivation license may be suspended, revoked, or may be assessed against the licensee a monetary fine of up to five thousand (\$5000) dollars for any violation of the Arkansas Medical Marijuana Act by any licensee or any employee, agent or servant of the licensee, including the following violations:

- a. Possession of usable marijuana in excess of the amount reasonably necessary to meet the demand for and needs of qualifying patients as determined by the Arkansas Medical Marijuana Commission and the Arkansas Department of Health;
- b. Selling, delivering, or transporting marijuana in any form to any person or entity without the required license issued by the Arkansas Medical Marijuana Commission or an approved laboratory for testing purposes;
- c. Giving marijuana to any person or entity;
- d. Selling marijuana to any dispensary or cultivation facility that has a license under suspension, revocation, or that has not been renewed;
- e. Failure to properly label and package marijuana that is moved between the cultivation facility and a dispensary or other cultivation facility.
- f. Failure to utilize the Inventory Tracking System for reporting and inventory control.

**23.4 *Grounds for Suspension, Revocation, or Placing of Monetary Fine against a Processor License***

A processor license may be suspended, revoked, or a monetary fine of up to five thousand (\$5000) dollars may be assessed against the licensee for any violation of the Arkansas Medical Marijuana Act by any licensee or any employee, agent or servant of the licensee, including the following violations:

- a. Possession of usable marijuana in excess of the amount reasonably necessary to meet the demand for and needs of qualifying patients as determined by the Arkansas Medical Marijuana Commission and the Arkansas Department of Health;
- b. Growing, selling, or dispensing medical marijuana;

- c. Giving marijuana to any person or entity;
- d. Failure to properly label and package marijuana that is moved between the processor and a dispensary or cultivation facility.
- e. Failure to utilize the Inventory Tracking System for reporting and inventory control.

**23.5 *Grounds for Suspension, Revocation, or Placing of Monetary Fine against a Dispensary License***

Any dispensary license may be suspended, revoked, or assessed a monetary fine of up to five thousand (\$5000) dollars for any violation of the Arkansas Medical Marijuana Act by any licensee or any employee, agent or servant of the licensee, including the following violations:

- a. Accepting marijuana seeds, seedlings, plants, or usable marijuana from an unauthorized source;
- b. Transferring, selling, or delivering marijuana seedlings, plants, or usable marijuana to any entity or person, except as allowed by law by dispensaries, transporters, processors, and cultivation facilities licensed by the Arkansas Medical Marijuana Commission, qualifying patients, visiting qualifying patients, designated caregivers, and approved laboratories for testing purposes;
- c. Dispensing more than a total of two and one-half ounces (2 ½ oz.) of usable marijuana to either a qualifying patient or designated caregiver acting on behalf of a qualifying patient during a fourteen (14) day period. A dispensary shall not dispense more than a total of two and one-half ounces (2 ½ oz.) of usable marijuana to a visiting qualifying patient during a fourteen (14) day period;
- d. Failure to record and report required information for all transactions for the dispensing of usable marijuana;
- e. Giving samples of marijuana or marijuana products.
- f. Failure to utilize the Inventory Control Tracking System for reporting and inventory control.
- g. Use of a self-service machine such as a vending machine for the purchase and dispensing of medical marijuana.
- h. Failure to properly label and package marijuana or marijuana products that are to be sold to qualified patients, qualified visiting patients, and qualified patient care providers.

## **SECTION 24. PROCEDURE FOR LEVYING MONETARY PENALTIES AGAINST LICENSES AND FOR THE SUSPENSION AND REVOCATION OF LICENSES AND REGISTRY IDENTIFICATION CARDS; NOTICE REQUIREMENTS; HEARING PROCEDURES; AND APPEALS.**

### **24.1 *Violation Reports and Notices.***

- a. The Director of the Division, the Director of Enforcement, an enforcement agent, an employee of the board, or assisting law enforcement officer, may issue an inspection report, an advisory report, or a notice of violation before taking action to fine, suspend, or revoke a dispensary license, processor, cultivation facility license, or agent registry identification card.
- b. An inspection report documents an inspection of a licensed premises. An inspection report must be prepared on a form prescribed by the Alcoholic Beverage Control Board.
- c. The Director of the Division may issue a notice of violation if an inspection report or other credible information shows a licensed facility or its agent is in violation of the Arkansas Medical Marijuana Amendment; any Rule promulgated by the Division, the Medical Marijuana Commission, or the Department; any Order of the Division, the Medical Marijuana Commission, or the Department; or any law relating to marijuana; or any law relating to taxation.
- d. A notice of violation shall be delivered to the licensed facility at its licensed premises.
- e. A notice of violation regarding cultivation facility agent, dispensary agent, or processing facility agent shall be delivered to the agent at his or her place of employment. A copy of the notice shall be provided to the licensee of the cultivation facility, dispensary, processing facility.
- f. The notice shall describe any violation, and cite the applicable Constitutional Amendment provision, statute, Rule, order of the board, or other law. A violation report or notice may be the basis of a proceeding to fine, suspend, revoke, or otherwise penalize a licensed facility's license. The notice may include the Director's proposed fine, as well as any proposed penalty to be imposed. A licensed facility cultivation facility agent, processor agent, or dispensary agent, that receives a notice of violation shall in writing, not later than 10 days after service of the notice, either consent to the proposed penalty set forth in the notice and waive the right to a hearing, or request an opportunity to appear before the Director of Alcoholic Beverage Control Administration or an authorized hearing officer.

- g. If the licensee or agent consents to the penalty set forth in the offer and settlement served upon them and waives the right to a hearing, the licensee or agent shall fulfill the terms set forth in the notice of violation.
- h. If a hearing is requested, a hearing shall be scheduled, and the recipient of the violation shall receive a notice of hearing in compliance with these rules.
- i. If the recipient of the notice of violation fails to respond to the notice of violation, the Director shall enter an order in compliance with these rules.

**24.2 *All Hearings for Suspension, Revocation, or Money Fine of Licenses to be Before Director or Designated Hearing Officer Upon Notice of Hearing; Emergency Exception***

- a. All hearings for the suspension, revocation, or money fine of licenses or registry identification cards of dispensary agents, processor agents, and cultivation facility agents shall initially be before the Alcoholic Beverage Control Director or a Hearing Officer designated as provided in these rules pursuant to the notice required by these Rules, with an opportunity for interested parties to respond and present evidence and argument on all issues involved.
- b. If the Director finds, pursuant to ACA § 25-15-211(c), that the public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in his Order, summary suspension of the license or registry identification card may be ordered pending proceedings for revocation or other action, which proceedings shall be promptly instituted and determined.
- c. If the Director makes the determination set out in (b), the provisions of rule 24.1 shall not apply.

**24.3 *Contents of Notice Required.***

- a. In every case in which a hearing is required by these Rules or by any law of the State of Arkansas pursuant to notice, such notice shall include the following:
  - i. A statement of the time, place and nature of the hearing;
  - ii. A statement of the legal authority and jurisdiction under which the hearing is to be held;
  - iii. A short and plain statement of the matters of fact and law asserted; and

- iv. A statement advising the recipient of the notice that the license or registry identification card may be suspended or revoked.

**24.4 *Conduct of Hearing by Director or Hearing Officer***

In the conduct of any hearing held by the Director or the Hearing Officer designated as provided in these Rules, the Director or such Hearing Officer shall be authorized to examine or cause to be examined under oath any person, and to examine or cause to be examined books and records of any licensee or agent; to hear testimony, to take proof material for his information and for the purposes of the hearing; to administer or cause to be administered oaths; and for such purposes to issue subpoenas to require the appearance of witnesses and the production of books and records, which subpoenas shall be effective in any part of this state. Any Circuit Court may by order duly entered require the attendance of witnesses or the production of relevant books and records subpoenaed by the Director and the Court may compel obedience to its orders by proceedings for contempt. Any licensee or agent involved in a hearing before the Director shall be entitled, on request, to a subpoena for the compulsory attendance of witnesses desired by him.

**24.5 *Order Denying, Suspending, Revoking or Imposing a Money Fine Against Licensee or Agent***

Whenever the Director shall deny, suspend, or revoke any license or application, or impose a money fine against any licensee or agent, he or she shall prepare an Order so providing, which shall be signed by the Director or some person designated by him or her. Said Order shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. Said Order shall be mailed by certified mail by the Director to the licensee or agent to the address provided by the licensee or the agent. Said Order shall be final and binding on all parties until such Order has been appealed as provided in these Rules and a decision rendered by the Alcoholic Beverage Control Board.

**24.6 *Appeal by Person Aggrieved by Order of Director***

Any licensee or agent aggrieved by an Order of denial, suspension, revocation, or the imposition of a money fine by the Director may appeal from such Order to the Alcoholic Beverage Control Board by filing a notice of appeal with the Board. The notice of appeal must be mailed or delivered to the offices of the Alcoholic Beverage Control Division within fifteen (15)

days after the Order to be appealed from was received by the recipient, as shown by the Certified Mail Return Receipt card returned to the Alcoholic Beverage Control Division. The notice of appeal shall designate the name of the licensee or agent. At least ten (10) days before the time set for the hearing the Alcoholic Beverage Control Division shall notify the licensee or agent of the time and place where said appeal shall be heard by the Board or by a Hearing Officer designated as provided in these rules. Such notice to the licensee or agent shall be mailed by regular first-class mail. Said hearing shall be held within at least sixty (60) days after the date of the filing of the notice of appeal unless the person appealing shall consent to a later hearing.

**24.7 *Conduct of Hearing by Board***

For the purpose of hearing or conducting any appeal authorized to be heard by it, the Board or any Hearing Officer designated as provided in these Rules, shall have the power to examine or cause to be examined under oath any licensee or agent, or any other person, and to examine or cause to be examined the books and records of any such licensee or agent; to hear testimony and to take proof, presented by the Division, Enforcement or such licensee or agent material for its information or the information of such Hearing Officer in hearing such appeal; to administer or cause to be administered oaths; and for such purposes to issue subpoenas requiring the attendance of witnesses and the production of books and records, such subpoenas to be effective in any part of this State; and any Circuit Court may by order duly entered require the attendance of witnesses and the production of relevant books and records subpoenaed by the Board and the Court may compel obedience to its orders by proceedings for contempt. A licensee or agent involved in a hearing before the Board shall be entitled, on request, to a subpoena for the compulsory attendance of witnesses desired by him.

**24.8 *Order by Board***

Within five (5) days after a hearing is concluded by the Board, the Board shall render its written decision or Order. Such written Order shall include findings of facts and conclusions of law, separately stated. Findings of fact, if set forth in statutory language shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. A copy of such Order shall be mailed by the Board by certified mail to the licensee or agent. Said Order shall be final and binding on the licensee or agent. Provided, however, that an appeal may be taken from any Order against a licensee or agent as provided for in these Rules.

**24.9 *Appeal from Board to Courts.***

Any licensee or agent aggrieved by an Order of the Board may appeal to the Circuit Court system in accordance with the Arkansas Administrative Procedure Act. An appeal from the judgment of the Circuit Court may be taken to the Arkansas Court of Appeals or the Supreme Court of Arkansas in the manner provided for the appeal of civil matters from the Circuit Court.

**24.10 *Appellant to Pay Costs of Preparing Transcript of Board Hearings***

Pursuant to the provisions of the Arkansas Administrative Procedure Act, the Alcoholic Beverage Control Division shall prepare the certified copy of the agency record for filing in any appeal filed under the Arkansas Administrative Procedure Act. However, the Alcoholic Beverage Control Division will recover \$1.50 per page for each page of the transcript of the Alcoholic Beverage Control proceedings filed with the Circuit Court, if the Alcoholic Beverage Control Division is determined to be the prevailing party in the Administrative Procedure Act review. In the event any parties request that the Alcoholic Beverage Control Division provide a copy of the agency record, the Alcoholic Beverage Control Division shall be entitled to recover forty cents (\$.40) per page for each copy of the transcript. Any copies of Alcoholic Beverage Control files, records, or transcripts shall be paid for at the rates noted above. All monies received by the Alcoholic Beverage Control Division pursuant to the above provisions shall be deposited to the General Revenues of the State of Arkansas.

**24.11 *Admissibility of Evidence in Hearings***

In any hearing provided for by these Rules or by any law of the State of Arkansas, the Director, the Board and any Hearing Officer designated pursuant to these Rules to conduct such hearing, shall not be bound by the legal rules of evidence in conducting any hearing and in making any decision, and may take into consideration any testimony, papers or documents which may be deemed relevant to the issues involved.

**24.12 *Designation of Hearing Officer***

Pursuant to the power granted to the Alcoholic Beverage Control Division, in part by ACA § 25-15-213 and pursuant to other powers granted to the Director and the Board, the Director or the Board may designate any member of the Alcoholic Beverage Control Division to conduct any hearing authorized by this Article or by any Medical Marijuana law of the State of

Arkansas.

**24.13 *Right to Counsel and to Cross-Examine Witnesses for Any Person Compelled to Appear at Hearing***

Any person compelled to appear at any hearing provided by these Rules or by any Arkansas Medical Marijuana law of the State of Arkansas, including but not limited to the violation recipient, shall have the right to be accompanied and advised by counsel and to cross-examine witnesses.

**24.14 *Suspended or Revoked License or Registry Identification Card to be Surrendered***

After a license or registry identification card has been suspended or revoked by Order of the ABC Director, the ABC Board, or any Court Order which has become final, notice thereof shall be given by the ABC Director to any authorized agent of the Alcoholic Beverage Control Enforcement Division and said agent shall immediately take possession of the license or registry identification card and return it to the Director.

**SECTION 25. ABANDONMENT OF LICENSE**

**25.1 *Notice of Intent to Commence Operations***

- a. If a licensed cultivator, licensed processor, licensed dispensary, or licensed transporter within 365 days of its initial license being issued or within 365 days of its renewal, if the initial license was issued prior to January 1, 2020, fails to notify the Division of its intent to commence operations pursuant to rule 4.2, the license shall be considered abandoned and shall be immediately surrendered to the Director.
- b. A licensed cultivator, licensed processor, licensed dispensary, or licensed transporter prior to the abandonment of the license may submit a written petition to Director for a one-time 60 day extension which will be granted upon a finding that the delay was not due to inattention on the part of the licensee and there is a good faith basis to grant the extension.

**25.2 *Petition for Return***

Within thirty (30) days of the date the license is abandoned, the licensee may petition the Board to have the license returned by submitting evidence of the following information:

- a. That all taxes and fees owing the state have been paid;



- b. The reason for the delay; and
- c. The date the licensee intends to commence operations.

### 25.3 ***Return of License***

The Board may return the license if the Board finds that:

- a. Business circumstances exist to justify the delay;
- b. The delay to commence operations was not due to mere deferral or inattention on the part of the licensee; and
- c. The license should be returned

### 25.4 ***License Revocation***

If the licensee does not petition for the return of the license, or if the Board rejects the petition, the license shall be considered revoked.

# Arkansas Medical Marijuana Amendment of 2016

As revised through 2017 General and First Extraordinary Sessions

## § 1. Short title.

This amendment shall be known and cited as the "Arkansas Medical Marijuana Amendment of 2016".

[As added by Const. Amend. 98.]

## § 2. Definitions.

As used in this amendment:

**(1)** "Acquire" or "acquisition" means coming to possess marijuana by means of any legal source herein authorized, not from an unauthorized source, and in accordance with this amendment and any rules promulgated under this amendment;

**(2)** "Assist" or "assisting" means helping a qualifying patient make medical use of marijuana by enabling the medical use by any means authorized under this amendment;

**(3)** "Cardholder" means a qualifying patient, a dispensary agent, a cultivation facility agent, or a designated caregiver;

**(4)** "Cultivation facility" means an entity that:

**(A)** Has been licensed by the Medical Marijuana Commission under § 8 of this amendment; and

**(B)** Cultivates, prepares, manufactures, processes, packages, sells to and delivers usable marijuana to a dispensary;

**(5)** "Cultivation facility agent" means an employee, supervisor, or agent of a cultivation facility who:

**(A)** Is twenty-one (21) years of age or older;

**(B)** Works at the cultivation facility; and

**(C)** Has registered with the Alcoholic Beverage Control Division under § 9 of this amendment;

**(6) (A)** "Designated caregiver" means a person who is at least twenty-one (21) years of age, has not been convicted of an excluded felony offense, has agreed to assist a physically disabled qualifying patient with the medical use of marijuana, and who has registered with the Department of Health under § 5 of this amendment.

**(B)** "Designated caregiver" includes without limitation a parent:

**(i)** Of a qualifying patient who is under the age of eighteen (18); and

**(ii)** Required to register as a designated caregiver under this amendment.

**(C)** "Designated caregiver" shall not include a member of the Arkansas National Guard or the United States military;

**(7)** "Dispensary" means an entity that has been licensed by the Medical Marijuana Commission under § 8 of this amendment;

**(8)** "Dispensary agent" means:

**(A)** An employee, supervisor, volunteer, or agent of a dispensary who:

**(i)** Is twenty-one (21) years of age or older;

**(ii)** Works at the dispensary; and

**(iii)** Has registered with the division under § 9 of this amendment; and

**(B)** An owner, officer, or board member of a dispensary who has registered with the division under § 8 of this amendment;

**(9)** "Enclosed, locked facility" means a room, greenhouse, or other enclosed area equipped with locks or other security devices that permit access only by an authorized individual;

**(10)** "Excluded felony offense" means:

**(A) (i) (a)** A felony offense as determined by the jurisdiction where the felony offense occurred.

**(b)** The Medical Marijuana Commission, the Department of Health, or the Alcoholic Beverage Control Division shall determine whether an offense is a felony offense based upon a review of the relevant court records concerning the conviction for the offense.

**(ii)** An offense that has been sealed by a court or for which a pardon has been granted is not considered an excluded felony offense; or

**(B)** A violation of a state or federal controlled-substance law that was classified as a felony in the jurisdiction where the person was convicted, but not including:

**(i)** An offense for which the sentence, including any term of probation, incarceration, or supervised release, was completed ten (10) or more years earlier; or

**(ii)** An offense that has been sealed by a court or for which a pardon has been granted;

**(11)** "Medical use" means the acquisition, possession, use, delivery, transfer, or

transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a qualifying patient's qualifying medical condition or symptoms associated with the qualifying patient's qualifying medical condition;

**(12)** "Physician" means a doctor of medicine or doctor of osteopathic medicine who holds a valid, unrestricted, and existing license to practice in the state of Arkansas and has been issued a registration from the United States Drug Enforcement Administration to prescribe controlled substances;

**(13)** "Qualifying medical condition" means one (1) or more of the following:

**(A)** Cancer, glaucoma, positive status for human immunodeficiency virus/acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, Tourette's syndrome, Crohn's disease, ulcerative colitis, post-traumatic stress disorder, severe arthritis, fibromyalgia, Alzheimer's disease, or the treatment of these conditions;

**(B)** A chronic or debilitating disease or medical condition or its treatment that produces one (1) or more of the following: cachexia or wasting syndrome; peripheral neuropathy; intractable pain, which is pain that has not responded to ordinary medications, treatment, or surgical measures for more than six (6) months; severe nausea; seizures, including without limitation those characteristic of epilepsy; or severe and persistent muscle spasms, including without limitation those characteristic of multiple sclerosis; and

**(C)** Any other medical condition or its treatment approved by the Department of Health under § 4 of this amendment;

**(14) (A)** "Qualifying patient" means a person who has been diagnosed by a physician as having a qualifying medical condition and who has registered with the department under § 5 of this amendment.

**(B)** "Qualifying patient" shall not include a member of the Arkansas National Guard or the United States military;

**(15)** "Registry identification card" means a document issued by the department or the division that identifies a person as a qualifying patient, a dispensary agent, a cultivation facility agent, or a designated caregiver;

**(16)** "Sealed" means to expunge, remove, sequester, and treat as confidential the record or records of a felony offense;

**(17) (A)** "Usable marijuana" means the stalks, seeds, roots, dried leaves, flowers, oils, vapors, waxes, and other portions of the marijuana plant and any mixture or preparation thereof.

**(B)** "Usable marijuana" does not include the weight of any ingredients other than marijuana that are combined with marijuana and prepared for consumption as food or drink;

**(18)** "Visiting qualifying patient" means a patient with a qualifying medical condition who

is not a resident of Arkansas or who has been a resident of Arkansas for less than thirty (30) days and who is in actual possession of a registry identification card or its equivalent that is issued under the laws of another state, district, territory, commonwealth, or insular possession of the United States and pertains to a qualifying medical condition under this section;

**(19) (A)** "Written certification" means a document signed by a physician stating that in the physician's professional opinion, after having completed an assessment of the qualifying patient's medical history and current medical condition made in the course of a physician-patient relationship, the qualifying patient has a qualifying medical condition.

**(B)** A written certification shall specify the qualifying patient's qualifying medical condition, which also shall be noted in the physician's records.

**(C)** A physician shall not issue a written certificate to a patient based on an assessment performed through telemedicine.

**(D)** A written certification is not a medical prescription.

**(20) (A)** "Current use of marijuana" means use of marijuana that justifies the good faith belief of an employer that an applicant or employee is engaging in the use of marijuana.

**(B)** "Current use of marijuana" is presumed when a positive test result for marijuana occurs;

**(21)** "Employee" means an individual employed by an employer, but does not include:

**(A)** An individual employed by his or her parents, spouse, or child;

**(B)** An individual participating in a specialized employment training program conducted by a nonprofit sheltered workshop or rehabilitation facility;

**(C)** An individual employed outside the State of Arkansas; or

**(D)** An independent contractor;

**(22)** "Employer" means an entity that who employs nine (9) or more employees in the State of Arkansas in twenty (20) or more calendar weeks in the current or preceding calendar year;

**(23) (A)** "Good faith belief" means reasonable reliance on a fact, or that which is held out to be factual, without intent to deceive or be deceived and without reckless or malicious disregard for the truth.

**(B)** "Good faith belief" does not include a belief formed with gross negligence.

**(C)** "Good faith belief" may be based on any of the following:

**(i)** Observed conduct, behavior, or appearance;

**(ii)** Information reported by a person believed to be reliable, including without limitation a report by a person who witnessed the use or possession of marijuana or marijuana paraphernalia by an applicant or employee in the workplace;

**(iii)** Written, electronic, or verbal statements from the employee or other persons;

- (iv)** Lawful video surveillance;
- (v)** A record of government agencies, law enforcement agencies, or courts;
- (vi)** A positive test result for marijuana;
- (vii)** A warning label, usage standard, or other printed material that accompany instructions for usable marijuana;
- (viii)** Information from a physician, medical review officer, or a dispensary;
- (ix)** Information from reputable reference sources in print or on the internet;
- (x)** Other information reasonably believed to be reliable or accurate; or
- (xi)** Any combination of the items listed in subdivisions (23)(C)(i)-(x) of this section;

**(24)** "Positive test result for marijuana" means a result that is at or above the cutoff concentration level established by the United States Department of Transportation or the Arkansas laws regarding being under the influence, whichever is lower;

**(25) (A)** "Safety sensitive position" means any position involving a safety sensitive function pursuant to federal regulations governing drug and alcohol testing adopted by the United States Department of Transportation or any other rules, guidelines, or regulations adopted by any other federal or state agency.

**(B)** "Safety sensitive position" also means any position designated in writing by an employer as a safety sensitive position in which a person performing the position while under the influence of marijuana may constitute a threat to health or safety, including without limitation a position:

- (i)** That requires any of the following activities:
  - (a)** Carrying a firearm;
  - (b)** Performing life-threatening procedures;
  - (c)** Working with confidential information or documents pertaining to criminal investigations; or
  - (d)** Working with hazardous or flammable materials, controlled substances, food, or medicine; or
- (ii)** In which a lapse of attention could result in injury, illness, or death, including without limitation a position that includes the operating, repairing, maintaining, or monitoring of heavy equipment, machinery, aircraft, motorized watercraft, or motor vehicles as part of the job duties; and

**(26) (A)** "Under the influence" means symptoms of the current use of marijuana that may negatively impact the performance of the job duties or tasks or constitute a threat to health or safety.

**(B)** "Under the influence" includes without limitation:

- (i)** Symptoms of the applicant's or employee's speech, walking, standing, physical dexterity, agility, coordination, actions, movement, demeanor, appearance, clothing, odor,

or other irrational or unusual behavior that are inconsistent with the usual conduct of the applicant or employee;

(ii) Negligence or carelessness in operating equipment, machinery, or production or manufacturing processes;

(iii) Disregard for safety;

(iv) Involvement in an accident that results in:

(a) Damage to equipment, machinery, or property;

(b) Disruption of a production or manufacturing process; or

(c) An injury; or

(v) Other symptoms causing a reasonable suspicion that the current use of marijuana may negatively impact the performance of the job duties or tasks or constitute a threat to health or safety.

[As added by Const. Amend. 98; as amended by Acts 2017, No. 5, § 1, No. 438, § 1, No. 479, §§ 1 & 2, No. 544, § 1, No. 593, §§ 1 & 2.]

### **§ 3. Protections for the medical use of marijuana.**

(a) A qualifying patient or designated caregiver in actual possession of a registry identification card shall not be subject to arrest, prosecution, or penalty in any manner or denied any right or privilege, including without limitation a civil penalty or disciplinary action by a business, occupational, or professional licensing board or bureau, for the medical use of marijuana in accordance with this amendment if the qualifying patient or designated caregiver possesses not more than two and one-half ounces (2 1/2 oz.) of usable marijuana.

(b) (1) A qualifying patient or designated caregiver is presumed to be lawfully engaged in the medical use of marijuana in accordance with this amendment if the qualifying patient or designated caregiver is in actual possession of a registry identification card and possesses an amount of usable marijuana that does not exceed the amount allowed under this amendment.

(2) The presumption made in subdivision (b)(1) of this section may be rebutted by evidence that conduct related to marijuana was not for the purpose of treating or alleviating the qualifying patient's qualifying medical condition or symptoms associated with the qualifying medical condition in accordance with this amendment.

(c) A qualifying patient or designated caregiver shall not be subject to arrest, prosecution, or penalty in any manner or denied any right or privilege, including without limitation a civil penalty or disciplinary action by a business, occupational, or professional licensing board or bureau, for giving, or offering to give, up to two and one-half ounces (2 1/2 oz.) of usable marijuana to a qualifying patient or designated caregiver for the qualifying patient's medical use when nothing of value is transferred in return.

(d) A designated caregiver is not prohibited from receiving compensation or reimbursement

of expenses from a qualifying patient for assisting a qualifying patient with the medical use of marijuana.

**(e)** A dispensary may:

**(1)** Accept marijuana seedlings, plants, or usable marijuana from:

**(A)** Cultivation facilities;

**(B)** Other dispensaries in Arkansas; and

**(C)** If permissible under federal law, out-of-state dispensaries;

**(2)** Transfer or sell marijuana seedlings, plants, or usable marijuana to:

**(A)** Cultivation facilities;

**(B)** Other dispensaries in Arkansas; and

**(C)** If permissible under federal law, out-of-state dispensaries; and

**(3)** Accept marijuana seeds from any individual lawfully entitled to possess marijuana seeds, seedlings, or plants under the laws of the state in which the individual resides.

**(f) (1)** A school or landlord shall not refuse to enroll, refuse to lease to, or otherwise penalize an individual solely for his or her status as a qualifying patient or designated caregiver unless doing so would put the school or landlord in violation of federal law or regulations.

**(2)** For the purposes of medical care, including without limitation organ transplants, a qualifying patient's authorized use of marijuana in accordance with this amendment is considered the equivalent of the authorized use of any other medication used at the direction of a physician and does not constitute the use of an illicit substance.

**(3) (A)** An employer shall not discriminate against an applicant or employee in hiring, termination, or any term or condition of employment, or otherwise penalize an applicant or employee, based upon the applicant's or employee's past or present status as a qualifying patient or designated caregiver.

**(B)** A cause of action shall not be established against an employer based upon, and an employer is not prohibited from, any of the following actions:

**(i)** Establishing and implementing a substance abuse or drug-free workplace policy that may include a drug testing program that complies with state or federal law and taking action with respect to an applicant or employee under the policy;

**(ii)** Acting on the employer's good faith belief that a qualifying patient;

**(a)** Possessed, smoked, ingested, or otherwise engaged in the use of marijuana while on the premises of the employer or during the hours of employment; or



**(b)** Was under the influence of marijuana while on the premises of the employer or during the hours of employment, provided that a positive test result for marijuana cannot provide the sole basis for the employer's good faith belief; or

**(iii)** Acting to exclude a qualifying patient from being employed in or performing a safety sensitive position based on the employer's good faith belief that the qualifying patient was engaged in the current use of marijuana.

**(C)** The authorized or protected actions of an employer under this subdivision (f)(3) include without limitation:

**(i)** Implementing, monitoring, or taking measures to assess, supervise, or control the job performance of an employee;

**(ii)** Reassigning an employee to a different position or job duties;

**(iii)** Placing an employee on paid or unpaid leave; (iv) Suspending or terminating an employee;

**(v)** Requiring an employee to successfully complete a substance abuse program before returning to work;

**(vi)** Refusing to hire an applicant; or

**(vii)** Any combination of the actions listed in subdivisions (f)(3)(C)(i) - (f)(3)(C)(vi) of this section.

**(D) (i)** Damages established for an employment discrimination claim based on an applicant's or employee's past or present status as a qualifying patient or designated caregiver in violation of this amendment shall be limited to the damages available for an employment discrimination claim under § 16-123-107(c) of the Arkansas Civil Rights Act of 1993, § 16-123-101 et seq., including the statutory limits provided under § 16-123-107(c)(2)(A)(i)-(v).

**(ii)** Liability for back pay shall not accrue from a date more than two (2) years prior to the filing of an action.

**(iii)** Damages under this subdivision (f)(3) shall not duplicate or increase an award for damages over the statutory limit allowed by state law or federal law existing on January 1, 2017, whichever is lower.

**(E)** An action based on employment discrimination in violation of this subdivision (f)(3) shall be brought within one (1) year of the occurrence of the alleged discrimination.

**(F)** An individual employee, agent of the employer, or employee of the agent of the employer is not liable for any violation of this subdivision (f)(3) that the employer is found to have committed.

**(G)** This amendment does not waive the sovereign immunity of the State of Arkansas.

**(g)** A person otherwise entitled to custody of, or visitation or parenting time with, a minor shall not be denied custody, visitation, or parenting time solely for conduct allowed under this amendment, nor shall there be:

**(1)** A finding of abuse solely for conduct allowed under this amendment; or

**(2)** A presumption of neglect or child endangerment for conduct allowed under this amendment.

**(h) (1)** A physician shall not be subject to arrest, prosecution, or penalty in any manner or denied any right or privilege, including without limitation a civil penalty or disciplinary action by the Arkansas State Medical Board or by any other business, occupational, or professional licensing board or bureau, solely for providing a written certification.

**(2)** Subdivision (g)(1) of this section does not prevent a professional licensing board from sanctioning a physician for failing to properly evaluate a patient's medical condition or for otherwise violating the applicable physician-patient standard of care.

**(i)** A person shall not be subject to arrest, prosecution, or penalty in any manner or denied any right or privilege, including without limitation a civil penalty or disciplinary action by a business, occupational, or professional licensing board or bureau, for providing a qualifying patient or designated caregiver with marijuana paraphernalia for purposes of facilitating the qualifying patient's medical use of marijuana.

**(j)** Any marijuana, marijuana paraphernalia, licit property, or interest in licit property, that is possessed, owned, or used exclusively in connection with the medical use of marijuana as allowed under this amendment, or property incidental to such use, shall not be seized or forfeited.

**(k)** A person shall not be subject to arrest, prosecution, or penalty in any manner or denied any right or privilege, including without limitation a civil penalty or disciplinary action by a business, occupational, or professional licensing board or bureau, simply for being in the presence or vicinity of the medical use of marijuana as allowed under this amendment or for directly assisting a physically disabled qualifying patient with the medical use of marijuana.

**(l) (1)** A registry identification card or its equivalent that is issued under the laws of another state, district, territory, commonwealth, or insular possession of the United States that allows a visiting qualifying patient to possess or use marijuana for medical use in the jurisdiction of issuance has the same force and effect when held by a visiting qualifying patient as a registry identification card issued by the Department of Health if the same qualifying medical condition exists.

**(2) (A)** A visiting qualifying patient may obtain marijuana from a dispensary upon producing evidence of his or her registry identification card or its equivalent that is issued under the laws of another state, district, territory, commonwealth, or insular possession of the United States.

**(B)** The department shall promulgate necessary rules concerning a visiting qualifying patient obtaining marijuana from a dispensary.

**(m)** A pharmacist shall not be subject to arrest, prosecution, or penalty in any manner or denied any right or privilege, including without limitation a civil penalty or disciplinary action by the Arkansas State Board of Pharmacy or by any other business, occupational, or

professional licensing board or bureau, solely for performing his or her duties as a pharmacist consultant for a registered dispensary.

[As added by Const. Amend. 98; Acts 2017, No. 593, § 3, No. 1024, § 1.]

#### **§ 4. Qualifying patient -- Administration and enforcement -- Rules.**

**(a) (1)** The Department of Health shall administer and enforce the provisions of this amendment concerning qualifying patients, qualifying medical conditions, and designated caregivers, including without limitation the issuance of a registry identification card to a qualifying patient and designated caregiver.

**(2)** The department shall adopt rules necessary to:

**(A)** Carry out the purposes of this amendment; and

**(B)** Perform its duties under this amendment.

**(3)** Rules adopted under this section are rules as defined in the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

**(4) (A)** The Department of Health shall require each applicant for a designated caregiver registry identification card to apply for or authorize the Department of Health to obtain state and national criminal background checks to be conducted by the Identification Bureau of the Department of Arkansas State Police and the Federal Bureau of Investigation.

**(B)** The criminal background checks shall conform to the applicable federal standards and shall include the taking of fingerprints.

**(C)** The applicant shall authorize the release of the criminal background checks to the Department of Health and shall be responsible for the payment of any fee associated with the criminal background checks.

**(D)** Upon completion of the criminal background checks, the Identification Bureau of the Department of Arkansas State Police shall forward to the Department of Health all information obtained concerning the applicant.

**(b)** Not later than one hundred eighty (180) days after the effective date of this amendment, the department shall adopt rules governing:

**(1)** The manner in which the department considers applications for and renewals of registry identification cards;

**(2)** Labeling and testing standards for marijuana distributed to qualifying patients, including a warning label on all marijuana for medical use that is processed or sold for smoking that communicates the health and safety risks associated with smoking and a list of places and conditions in which smoking marijuana for medical use is illegal in the State of Arkansas; and

**(3)** Any other matters necessary for the department's fair, impartial, stringent, and comprehensive administration of this amendment.

**(c) (1)** Not later than one hundred eighty (180) days after the effective date of this amendment, the department shall adopt rules that govern the manner in which the department considers petitions from the public to add medical conditions or treatments to the list of qualifying medical conditions set forth in § 2 of this amendment.

**(2)** In considering a petition, the department shall add medical conditions or treatments to the list of qualifying medical conditions set forth in § 2 of this amendment if patients suffering from the medical conditions or undergoing the treatments in question would derive therapeutic benefit from the use of marijuana, taking into account the positive and negative health effects of such use.

**(3) (A)** The department shall, after hearing, approve or deny a petition within one hundred twenty (120) days of submission of the petition.

**(B)** The approval or denial of a petition constitutes final agency action, subject to judicial review, and jurisdiction for judicial review is vested in the Pulaski County Circuit Court.

**(d)** The department shall adopt rules within one hundred eighty (180) days of the effective date of this amendment that govern the manner in which a designated caregiver assists a physically disabled qualifying patient or a qualifying patient under the age of eighteen (18) with the medical use of marijuana.

**(e)** The department may collect fines or fees for any violation of a rule adopted under this section.

[As added by Const. Amend. 98; as amended by Acts 2017, No. 4, §§ 2 & 3, No. 545, § 1, No. 639, § 1, No. 740, § 2.]

## **§ 5. Registry identification cards.**

**(a)** The Department of Health shall issue registry identification cards to qualifying patients and designated caregivers who submit in accordance with the rules promulgated by the department:

**(1)** Written certification issued by a physician within thirty (30) days of the application;

**(2) (A)** A reasonable application or renewal fee as established by the department by rule.

**(B)** The department may establish a sliding scale of application and renewal fees based upon a qualifying patient's family income;

**(3)** The name, address, and date of birth of the qualifying patient or designated caregiver, except that if the applicant is homeless, no address is required;

**(4)** For a designated caregiver application:

**(A)** The name of the physically disabled qualifying patient or qualifying patient under the age of eighteen (18) whom the applicant will be assisting; and

**(B)** Documentation from the qualifying patient's physician indicating that the qualifying patient is physically disabled or under the age of eighteen (18);

**(5)** The name, address, and telephone number of the qualifying patient's physician; and

**(6)** A signed statement from the qualifying patient or designated caregiver pledging not to divert marijuana to anyone who is not allowed to possess marijuana under this amendment.

**(b)** The department shall not issue a registry identification card to a qualifying patient who is under eighteen (18) years of age unless:

**(1)** The qualifying patient's physician has explained the potential risks and benefits of the medical use of marijuana to the qualifying patient and to a parent, guardian, or person having legal custody of the qualifying patient; and

**(2)** A parent, guardian, or person having legal custody:

**(A)** Consents in writing to:

**(i)** Allow the qualifying patient's medical use of marijuana;

**(ii)** Assist the qualifying patient in the medical use of marijuana; and

**(iii)** Control the acquisition of the marijuana, the dosage, and the frequency of the medical use of marijuana by the qualifying patient; and

**(B)** Registers as a designated caregiver under this amendment.

**(c) (1)** The department shall review the information contained in an application or renewal submitted under this section within fourteen (14) days of receiving it.

**(2)** The department shall deny an application or renewal if the:

**(A)** Applicant previously had a registry identification card revoked; or

**(B)** Department determines the written certification was not made in the context of a physician-patient relationship or that the written certification was fraudulently obtained.

**(3)** Rejection of an application or renewal is considered a final agency action, subject to judicial review, and jurisdiction is vested in the Pulaski County Circuit Court.

**(d) (1)** A registry identification card expires one (1) year after the date of issuance unless the physician states in the written certification that he or she believes the qualifying patient would benefit from the medical use of marijuana only until a specified earlier date.

**(2)** If the written certification specifies an earlier date, the registry identification card shall expire on that date.

**(f) (1)** An application or renewal and supporting information submitted by a qualifying patient or designated caregiver under this amendment, including without limitation information regarding the qualifying patient's physician, are considered confidential records that are exempt from the Freedom of Information Act of 1967, § 25-19-101 et seq.

**(2) (A) (i)** The department shall maintain a confidential list of the persons to whom the department has issued registry identification cards.

**(ii) (a)** The department may share information from the confidential list under this subsection with the Alcoholic Beverage Control Division and the Medical Marijuana Commission as necessary and the State Insurance Department for the purposes of the Arkansas all-payer claims database established under § 23-61-901 et seq.

**(b)** Confidential information shared with the division or commission shall remain confidential while in the division's or commission's possession.

**(B)** Individual names and other identifying information on the confidential list are confidential, exempt from the Freedom of Information Act of 1967, § 25-19-101 et seq., and not subject to disclosure except to authorized employees of the department, division, and commission as necessary to perform official duties of the department, division, and commission.

**(3)** The department shall verify to law enforcement personnel whether a registry identification card is valid without disclosing more information than is reasonably necessary to verify the authenticity of the registry identification card.

**(4)** A person, including without limitation an employee or official of the department, division, commission, or another state agency or local government, who knowingly breaches the confidentiality of information obtained under this amendment commits a Class A misdemeanor.

**(g) (1)** Except as provided in § 3 of this amendment, a cardholder who transfers marijuana to a person who is not a qualifying patient or designated caregiver under this amendment shall have his or her registry identification card revoked and shall be subject to any other penalties established by law.

**(2)** The department may revoke the registry identification card of any cardholder who knowingly violates any provision of this amendment, and the cardholder is subject to any other penalties established by law.

**(3)** This subsection does not prohibit:

**(A)** A qualifying patient or designated caregiver from giving up to two and one-half ounces (2 1/2 oz.) of usable marijuana to another qualifying patient or designated caregiver as set forth in § 3 of this amendment; or

**(B)** The transfer of marijuana seedlings, plants, or usable marijuana as set forth in § 3 of this amendment.

**(h)** The department, division, and commission shall submit to the General Assembly an annual report that does not disclose any identifying information about cardholders or physicians but contains at a minimum:

**(1)** The number of applications and renewals filed for registry identification cards;

**(2)** The nature of the qualifying medical conditions of the qualifying patients;

**(3)** The number of registry identification cards revoked and the number of licenses to operate a dispensary and licenses to operate a cultivation facility revoked;

**(4)** The number of physicians providing written certifications for qualifying patients;

**(5)** The number of licensed dispensaries;

**(6)** The number of licensed cultivation facilities;

**(7)** The number of dispensary agents; and

**(8)** The number of cultivation facility agents.

[As added by Const. Amend. 98; as amended by Acts 2017, No. 5, § 2, No. 948, § 1.]

## **§ 6. Scope.**

**(a)** This amendment does not permit a person to:

**(1)** Undertake any task under the influence of marijuana when doing so would constitute negligence or professional malpractice;

**(2)** Possess, smoke, or otherwise engage in the medical use of marijuana:

**(A)** On a school bus;

**(B)** On the grounds of a daycare center, preschool, primary or secondary school, college, or university;

**(C)** At a drug or alcohol treatment facility;

**(D)** At a community or recreation center;

**(E)** In a correctional facility;

**(F)** On any form of public transportation;

**(G)** In a public place; or

**(H)** On any property that is under control of the Arkansas National Guard or the United State military; or

**(3)** Operate, navigate, or be in actual physical control of a motor vehicle, aircraft, motorized watercraft, or any other vehicle drawn by power other than muscle power while under the influence of marijuana.

**(4)** Smoke marijuana:

**(A)** In a place where the smoking of tobacco is prohibited by law;

**(B)** In the presence of a person who is under fourteen (14) years of age;

(C) Inside a motor vehicle, aircraft, motorized watercraft, or any vehicle drawn by power other than muscle power;

(D) Knowingly in the presence of a pregnant woman; or

(E) In a place where the smoking of marijuana for medical use is likely to cause another person not authorized to use marijuana to be under the influence of marijuana; or

(5) Smoke marijuana for medical use if the person is under twenty-one (21) years of age.

(b) This amendment does not require:

(1) A government medical assistance program or private health insurer to reimburse a person for costs associated with the medical use of marijuana unless federal law requires reimbursement;

(2) An employer to accommodate the ingestion of marijuana in a workplace or an employee working while under the influence of marijuana;

(3) An individual or establishment in lawful possession of property to allow a guest, client, customer, or other visitor to use marijuana on or in that property;

(4) An individual or establishment in lawful possession of property to admit a guest, client, customer, or other visitor who is inebriated as a result of his or her medical use of marijuana;

(5) A landlord to permit a qualifying patient to smoke marijuana on or in leased property, except that a landlord may not prohibit the medical use of marijuana through means other than smoking on leased property by a qualifying patient; or

(6) A public school to permit a qualifying patient who is a student to be present on school grounds, to attend a school event, or to participate in extracurricular activities in violation of the public school's student discipline policies when a school official has a good faith belief that the behavior of the qualifying patient is impaired.

[As added by Const. Amend. 98; as amended by Acts 2017, No. 479, § 3, No. 740, § 1, No. 1099, § 1.]

## **§ 7. Affirmative defense and dismissal for medical use of marijuana.**

(a) Except as provided in § 6 of this amendment and this section, an individual may assert a medical purpose for using marijuana as an affirmative defense to prosecution for an offense involving marijuana intended for the individual's medical use, and this defense shall be presumed valid and the prosecution shall be dismissed where the evidence demonstrates that the individual is:

(1) A qualifying patient or a designated caregiver; and

(2) In compliance with the conditions set forth in § 3 of this amendment.

(b) The defense and motion to dismiss shall not prevail if either of the following are proven:

(1) The individual's registry identification card had been revoked at the time of the



alleged offense; or

**(2)** The purposes for the possession of marijuana were not solely for medical use.

**(c)** An individual is not required to be in actual physical possession of a registry identification card to raise the affirmative defense set forth in this section.

**(d)** If an individual demonstrates a medical use of marijuana under this section, except as provided in § 6 of this amendment, the individual shall not be subject to the following:

**(1)** Disciplinary action by a business, occupational, or professional licensing board or bureau; or

**(2)** Forfeiture of any interest in or right to nonmarijuana, licit property. [As added by Const. Amend. 98.]

## **§ 8. Licensing of dispensaries and cultivation facilities.**

**(a) (1)** Dispensaries and cultivation facilities shall be licensed by the Medical Marijuana Commission.

**(2)** The commission shall administer and regulate the licensing of dispensaries and cultivation facilities, including the issuance of a:

**(i)** License to operate a dispensary; and

**(ii)** License to operate a cultivation facility.

**(3)** The Alcoholic Beverage Control Division shall administer and enforce the provisions of this amendment concerning dispensaries and cultivation facilities.

**(b) (1)** The commission and division shall each adopt rules necessary to:

**(A)** Carry out the purposes of this amendment; and

**(B)** Perform its duties under this amendment.

**(2)** Rules adopted under this section are rules as defined in the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

**(c)** The following individuals associated with a dispensary or cultivation facility shall be current residents of Arkansas who have resided in the state for the previous seven (7) consecutive years:

**(1)** The individual(s) submitting an application to license a dispensary or cultivation facility; and,

**(2)** Sixty percent (60%) of the individuals owning an interest in a dispensary or cultivation facility.

**(d)** Not later than one hundred eighty (180) days after the effective date of this amendment, the commission shall adopt rules governing:

**(1)** The manner in which the commission considers applications for and renewals of licenses for dispensaries and cultivation facilities;

**(2)** The form and content of registration and renewal applications for dispensaries and cultivation facilities; and

**(3)** Any other matters necessary for the commission's fair, impartial, stringent, and comprehensive administration of its duties under this amendment.

**(e)** Not later than one hundred eighty (180) days after the effective date of this amendment, the division shall adopt rules governing:

**(1)** Oversight requirements for dispensaries and cultivation facilities;

**(2)** Recordkeeping requirements for dispensaries and cultivation facilities;

**(3)** Security requirements for dispensaries and cultivation facilities;

**(4)** Personnel requirements for dispensaries and cultivation facilities;

**(5)** The manufacture, processing, packaging, labeling, and dispensing of usable marijuana to qualifying patients and designated caregivers, including without limitation;

**(A)** Before sale, food or drink that has been combined with usable marijuana shall not exceed ten milligrams (10 mg) of active tetrahydrocannabinol per portion and shall be physically demarked; and

**(B)** If portions cannot be physically determined, the entirety of the food or drink that has been combined with usable marijuana shall not contain more than ten milligrams (10 mg) of active 31 tetrahydrocannabinol;

**(6)** Procedures for suspending or terminating the licenses of dispensaries and cultivation facilities that violate the provisions of this amendment or the rules adopted under this amendment, procedures for appealing penalties, and a schedule of penalties;

**(7)** Procedures for inspections and investigations of dispensaries and cultivation facilities;

**(8)** Advertising restrictions for dispensaries and cultivation facilities, including without limitation the advertising, marketing, packaging, and promotion of dispensaries and cultivation facilities with the purpose to avoid making the product of a dispensary or a cultivation facility appealing to children, including without limitation:

**(A)** Artwork;

**(B)** Building signage;

**(C)** Product design, including without limitation shapes and flavors;

**(D)** Child-proof packaging that cannot be opened by a child or that prevents ready access to toxic or harmful amount of the product, and that meets the testing

requirements in accordance with the method described in 16 C.F.R. § 1700.20, as existing on January 1, 2017;

**(E)** Indoor displays that can be seen from outside the dispensary or cultivation facility; and

**(F)** Other forms of marketing related to medical marijuana;

**(9)** Procedures for the disposal or other use of marijuana not dispensed to a qualifying patient; and

**(10)** Any other matters necessary for the division's fair, impartial, stringent, and comprehensive administration of its duties under this amendment.

**(f) (1)** Not later than one hundred eighty (180) days after the effective date of this amendment, the commission shall adopt rules establishing license application and license renewal fees for dispensary and cultivation facility licenses.

**(2) (A)** The initial dispensary application fee shall be a maximum of seven thousand five hundred dollars (\$7,500).

**(B)** The initial cultivation facility application fee shall be a maximum of fifteen thousand dollars (\$15,000).

**(C)** A license that is initially issued between January 1 and July 1 may have the licensing fees up to fifty percent (50%) prorated and refunded as determined by the commission.

**(g) (1)** Not later than July 1, 2017, the commission shall begin accepting applications for licenses to operate a dispensary and cultivation facility.

**(2)** The application shall include without limitation the following:

**(A)** The application fee;

**(B)** The legal name of the dispensary or cultivation facility;

**(C)** The physical address of the:

**(i)** Dispensary, the location of which may not be within one thousand five hundred feet (1,500') of a public or private school, church, or daycare center existing before the date of the dispensary application, which shall be calculated from the primary entrance of the dispensary to the nearest property boundary of a public or private school, church, or daycare center; or

**(ii)** Cultivation facility, the location of which may not be within three thousand feet (3,000') of a public or private school, church, or daycare center existing before the date of the cultivation facility application, which shall be calculated from the primary entrance of the cultivation facility to the nearest property boundary of a public or private school, church, or daycare center;

**(D)** The name, address, and date of birth of each dispensary agent or cultivation facility

agent; and

**(E)** If the city, town, or county in which the dispensary or cultivation facility would be located has enacted zoning restrictions, a sworn statement certifying that the dispensary or cultivation facility will operate in compliance with the restrictions.

**(3)** None of the owners, board members, or officers of the dispensary or cultivation facility:

**(A)** Shall have been convicted of an excluded felony offense;

**(B)** Shall have previously been an owner of a dispensary or cultivation facility that has had its license revoked; and

**(C)** Shall be under twenty-one (21) years of age.

**(4) (A)** The commission may issue a temporary license to a another natural person in conjunction with a dispensary or a cultivation facility when the natural person whose name is on the license for the dispensary or cultivation facility ceases to be in actual control of the dispensary or cultivation facility.

**(B)** The commission shall adopt rules as necessary to provide temporary licenses.

**(h)** The commission shall issue at least twenty (20) but no more than forty (40) dispensary licenses.

**(i)** There shall be no more than four (4) dispensaries in any one (1) county.

**(j)** The commission shall issue at least four (4) but no more than eight (8) cultivation facility licenses.

**(k) (1)** The commission shall conduct a criminal background check in order to carry out this section.

**(2)** The commission shall require each applicant for a dispensary license or cultivation facility license to apply for or authorize the commission to obtain state and national criminal background checks to be conducted by the Identification Bureau of the Department of Arkansas State Police and the Federal Bureau of Investigation.

**(3)** The criminal background checks shall conform to the applicable federal standards and shall include the taking of fingerprints.

**(4)** The applicant shall authorize the release of the criminal background checks to the commission and shall be responsible for the payment of any fee associated with the criminal background checks.

**(5)** Upon completion of the criminal background checks, the Identification Bureau of the Department of Arkansas State Police shall forward to the commission all information obtained concerning the applicant.

**(l) (1)** No individual shall own an interest in more than:

**(1)** One (1) cultivation facility; and,

**(2)** One (1) dispensary.

**(m) (1) (A)** A dispensary licensed under this section may acquire, possess, manufacture, process, prepare, deliver, transfer, transport, supply, and dispense marijuana, marijuana paraphernalia, and related supplies and educational materials to a qualifying patient or designated caregiver, but shall not supply, possess, manufacture, deliver, transfer, or sell marijuana paraphernalia that requires the combustion of marijuana to be properly utilized, including pipes, water pipers, bongs, chillums, rolling papers, and roach clips.

**(B)** A dispensary licensed under this section shall:

**(i)** Make marijuana vaporizers available for sale to qualifying patients; and

**(ii)** Provide educational materials about medical marijuana methods of ingestion to qualifying patients and designated caregivers, including without limitation:

**(a)** Warnings on the potential health risks of smoking or combusting marijuana; and

**(b)** Information on potential health benefits of vaporizing marijuana compared to smoking or combusting.

**(2) (A)** A dispensary may receive compensation for providing the goods and services allowed by this section.

**(B)** A dispensary may contract with a transporter, distributor, or processor to extent of the license of the transporter, 1 distributor, or processor.

**(3) (A)** A dispensary may grow or possess:

**(i)** Fifty (50) mature marijuana plants at any one (1) time plus seedlings; and

**(ii)** All usable marijuana derived from the plants under subdivision (m)(3)(A)(i) of this section or predecessor plants.

**(B)** A dispensary may contract with a cultivation facility to cultivate one (1) or more mature marijuana plants the dispensary is permitted to grow.

**(4) (A) (i)** A cultivation facility may cultivate and possess usable marijuana in an amount reasonably necessary to meet the demand for and needs of qualifying patients as determined by the commission with the assistance of the Department of Health.

**(ii)** However, a cultivation facility shall not sell marijuana in any form except to a dispensary or other cultivation facility.

**(B)** A cultivation facility may also possess marijuana seeds.

**(C)** The commission with the assistance of the Department of Health shall promulgate rules determining the amount of marijuana reasonably necessary under subdivision (m)(4)(A) of this section.

**(5) (A)** A cultivation facility may receive compensation for providing the goods and services allowed by this section.

**(B)** A cultivation facility may contract with a transporter, distributor, or processor to extent of the license of the transporter, distributor, or processor.

**(n) (1)** A dispensary license and cultivation facility license shall expire on June 30 of each calendar 7 year and are renewable on or before June 30 of each calendar year for the 8 fiscal year beginning July 1.

**(2)** The commission shall issue a renewal dispensary license or a renewal cultivation facility license within ten (10) days to any entity who complies with the requirements contained in this amendment, including without limitation the payment of a renewal fee.

**(o)** The commission may charge a reasonable fee as established by rule for the issuance of a renewal license.

**(p)** The commission and the division may collect fines or fees for any violation of a rule adopted under this section.

**(q) (1)** A license for a dispensary or cultivation facility shall only be issued to a natural person.

**(2)** A license issued for a dispensary or cultivation facility shall be transferable only to a natural person upon approval of the commission.

**(r)** Data or records submitted to the division or commission under rules adopted under this amendment may be shared with the Department of Health and the State Insurance Department for purposes of the Arkansas all-payer claims database established under § 23-61-901 et seq.

**(s) (1)** A dispensary shall appoint a pharmacist consultant who is a pharmacist licensed with the Arkansas State Board of Pharmacy.

**(2)** A pharmacist consultant shall:

**(A)** Register as a dispensary agent under this amendment and follow all procedures;

**(B)** Develop and provide training to other dispensary agents at least one (1) time every twelve (12) months from the initial date of the opening of the dispensary on the following subjects:

**(i)** Guidelines for providing information to qualifying patients related to risks, benefits, and side effects associated with medical marijuana;

**(ii)** Recognizing the signs and symptoms of substance abuse; and

**(iii)** Guidelines for refusing to provide medical marijuana to an individual who appears to be impaired or abusing medical marijuana;

**(A)** Assist in the development and implementation of review and improvement processes for patient education and support provided by the dispensary;

**(B)** Provide oversight for the development and dissemination of:

(i) Education materials for qualifying patients and designated caregivers that include:

**(a)** Information about possible side effects and contraindications of medical marijuana;

**(b)** Guidelines for notifying the physician who provided the written certification for medical marijuana if side effects or contraindications occur;

**(c)** A description of the potential effects of differing strengths of medical marijuana strains and products;

**(d)** Information about potential drug-to-drug interactions, including interactions with alcohol, prescription drugs, nonprescription drugs, and supplements;

**(e)** Techniques for the use of medical marijuana and marijuana paraphernalia; and

**(f)** Information about different methods, forms, and routes of medical marijuana administration;

**(i)** Systems for documentation by a qualifying patient or designated caregiver of the symptoms of a qualifying patient that includes a logbook, rating scale for pain and symptoms, and guidelines for a patient's self-assessment; and

**(ii)** Policies and procedures for refusing to provide medical marijuana to an individual who appears to be impaired or abusing medical marijuana; and

**(A)** Be accessible by the dispensary or dispensary agent through:

**(i)** Telephonic means at all times during operating hours; and

**(ii)** Telephone or video conference for a patient consultation during operating hours.

**(t) (1)** A cultivation facility shall meet the following security requirements:

**(A)(i)** The physical security controls set forth in 21 C.F.R. § 1301.72 — 1301.74, as existing on January 1, 2017.

**(ii)** The Alcoholic Beverage Control Division of the Department of Finance and Administration shall adopt rules to implement subdivision (p)(1)(A)(i) of this section;

**(B)** All cultivation of marijuana occurs within a building, greenhouse, or other structure that:

**(i)** Has a complete roof enclosure supported by connecting walls that are constructed of solid material extending from the ground to the roof;

**(ii)** Is secure against unauthorized entry;

**(iii)** Has a foundation, slab, or equivalent base to which the floor is securely attached;

**(iv)** Meets performance standards ensuring that cultivation and processing activities cannot be and are not perceptible from the structure in terms of:

- (a)** Common visual observation;
- (b)** Odors, smell, fragrances, or other olfactory stimulus;
- (c)** Light pollution, glare, or brightness;
- (d)** Adequate ventilation to prevent mold; and
- (e)** Noise;
- (v)** Provides complete visual screening; and
- (vi)** Is accessible only through one (1) or more lockable doors;

**(C)** Current detailed plans and elevation drawings of all operational areas involved with the production of medical marijuana are maintained on the premises of the cultivation facility, including:

- (i)** All storage areas, ventilation systems, and equipment used for production;
- (ii)** All entrances and exits to the cultivation facility;
- (iii)** All windows, skylights, and retractable mechanisms built into the roof;
- (iv)** The location of all required security cameras;
- (v)** The location of all alarm inputs, detectors, and sirens;
- (vi)** All video and alarm system surveillance areas;
- (vii)** All production areas labeled according to the specific activity occurring within the area;
- (viii)** All restricted and limited access areas identified; and
- (ix)** All nonproduction areas labeled according to purpose;

**(D)** Access to areas where marijuana is grown, harvested, processed, and stored is limited to authorized personnel and:

- (i)** Designated by clearly marked signage; and
- (ii)** Locked and accessible only by authorized personnel on a current roster of authorized personnel;

**(E)(i)** Written policies regarding any nonregistered agent who may visit the premises and a log of all visitors to the premises are developed and maintained.

**(ii)** The log shall consist of the visitor's name, purpose of visit, time of arrival, and time of departure.

**(iii)** Visitors to a cultivation facility shall be:



(a) Issued a visitor identification tag containing the visitor's name that shall be worn for the duration of the visit on the premises; and

(b) Escorted by a cultivation facility agent at all times while present on the premises.

(iv)(a) However, contractors conducting repairs, maintenance, or other specific duties may be escorted to their work site and left unaccompanied while completing a job.

(b) Cultivation facility agents shall ensure that the contractor and area under repair are under video surveillance for the duration of the time spent on the premises by the contractor; and

(F) (i) An alarm system is equipped that upon attempted unauthorized entry, transmits a signal directly to a central protection company for a local or state police agency and a designated cultivation facility agent.

(ii) The alarm system shall:

(a) Provide coverage for all points of ingress and egress to the cultivation facility, including without limitation doorways, windows, loading bays, skylights, and retractable roof mechanisms;

(b) Provide coverage of any room with an exterior wall, any room containing a safe, and any room used to grow or store medical marijuana;

(c) Be equipped with a panic drive that upon activation will not only sound any audible alarm components but will also notify law enforcement;

(d) Have duress and hold up features to enable a cultivation facility agent to activate a silent alarm notifying law enforcement of an emergency;

(e) Be equipped with failure notification systems to notify cultivation facilities and law enforcement of any failure in the alarm system; and

(f) Have the ability to remain operational during a power outage.

(2) A cultivation facility shall maintain compliance with applicable city or county building or structure rules, regulations, or ordinances and any other applicable state laws or rules regarding buildings or structures.

[As added by Const. Amend. 98; as amended by Acts 2017, No. 4, §§ 4-6, No. 545, § 2, No. 587, § 1, No. 594, §§ 1-2, No. 639, § 2, No. 640, § 1, No. 641, § 1, No. 642, § 1, No. 948, § 2, No. 1023, § 3, No. 1024, §§ 2-3, No. 1100, § 1.]

## **§ 9. Registration and certification of cultivation facility agents and dispensary agents.**

(a) (1) Cultivation facility agents and dispensary agents shall register with the Alcoholic Beverage Control Division.

(2) The division shall administer and enforce the provisions of this amendment concerning cultivation facility agents and dispensary agents, including without limitation the

issuance of a:

**(A)** Registry identification card to a dispensary agent; and

**(B)** Registry identification card to a cultivation facility agent.

**(b) (1)** The division shall adopt rules necessary to:

**(A)** Carry out the purposes of this amendment; and

**(B)** Perform its duties under this amendment.

**(2)** Rules adopted under this section are rules as defined in the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

**(c)** Not later than one hundred eighty (180) days after the effective date of this amendment, the division shall adopt rules governing:

**(1)** The manner in which the division considers applications for and renewals of registry identification cards for dispensary agents and cultivation facility agents;

**(2)** The form and content of registration and renewal applications for dispensary agents and cultivation facility agents;

**(3)** Procedures for suspending or terminating the registration of dispensary agents and cultivation facility agents who violate the provisions of this amendment or the rules adopted under this amendment, procedures for appealing penalties, and a schedule of penalties; and

**(4)** Any other matters necessary for the division's fair, impartial, stringent, and comprehensive administration of its duties under this amendment.

**(d) (1)** The division shall conduct criminal background checks in order to carry out this section.

**(2)** The division shall require each applicant for a dispensary agent license or cultivation facility agent license to apply for or authorize the division to obtain state and national criminal background checks to be conducted by the Identification Bureau of the Department of Arkansas State Police and the Federal Bureau of Investigation.

**(3)** The criminal background checks shall conform to the applicable federal standards and shall include the taking of fingerprints.

**(4)** The applicant shall authorize the release of the criminal background checks to the division and shall be responsible for the payment of any fee associated with the criminal background checks.

**(5)** Upon completion of the criminal background checks, the Identification Bureau of the Department of Arkansas State Police shall forward to the division all information obtained concerning the applicant.

**(e)** Except as provided herein, the division shall issue each dispensary agent and cultivation facility agent a registry identification card within ten (10) days of receipt of:

**(1)** The person's name, address, and date of birth under this amendment; and

**(2)** A reasonable fee in an amount established by rule of the division.

**(f) (1)** The division shall not issue a registry identification card to a dispensary agent or cultivation facility agent who has been convicted of an excluded felony offense.

**(2)** The division shall conduct a criminal background check as described in subsection (d) of this section of each dispensary agent or cultivation facility agent in order to carry out this provision.

**(3)** The division shall notify the dispensary or cultivation facility in writing of the reason for denying the registry identification card.

**(g) (1)** A registry identification card for a dispensary agent or cultivation facility agent shall expire on June 30 of each calendar year and is renewable on or before June 30 of each calendar year for the fiscal year beginning July 1.

**(2)** A registry identification card of a dispensary agent or cultivation facility agent expires upon notification to the division by a dispensary or cultivation facility that the person ceases to work at the dispensary or cultivation facility.

**(h)** The division may charge a reasonable fee as established by rule for the issuance of a new, renewal or replacement registry identification card.

**(i) (1)** The division may revoke the registry identification card of a dispensary agent or cultivation facility agent who knowingly violates any provision of this amendment, and the cardholder is subject to any other penalties established by law for the violation.

**(2)** The division may revoke or suspend the dispensary license or cultivation facility license of a dispensary or cultivation facility that the division determines knowingly aided or facilitated a violation of any provision of this amendment, and the licenseholder is subject to any other penalties established in law for the violation.

**(j)** The division may collect fines or fees for any violation of a rule adopted under this section.

[As added by Const. Amend. 98; as amended by Acts 2017, No. 4, § 7, No. 545, §§ 3-4, No. 594, § 3, No. 639, § 3.]

## **§ 10. Dispensary and cultivation facility inspections and requirements.**

**(a)** Dispensaries and cultivation facilities are highly regulated by the state, and a dispensary and cultivation facility is therefore subject to reasonable inspection by the Alcoholic Beverage Control Division.

**(b) (1)** This subsection governs the operations of dispensaries and cultivation facilities.

**(2)** A dispensary and a cultivation facility shall be an entity incorporated in the State of Arkansas.

**(3)** A dispensary and cultivation facility shall implement appropriate security measures to deter and prevent unauthorized entrance into areas containing marijuana and the theft of

marijuana.

**(4)** A dispensary and cultivation facility shall have procedures in place to ensure accurate recordkeeping.

**(5)** Each dispensary shall keep the following records, dating back at least three (3) years:

**(A)** Records of the disposal of marijuana that is not distributed by the dispensary to qualifying patients; and

**(B)** A record of each transaction, including the amount of marijuana dispensed, the amount of compensation, and the registry identification number of the qualifying patient or designated caregiver.

**(6)** Each dispensary and cultivation facility shall:

**(A)** Conduct an initial comprehensive inventory of all marijuana, including without limitation usable marijuana available for dispensing, mature marijuana plants, and seedlings at each authorized location on the date the dispensary first dispenses usable marijuana or the cultivation facility first cultivates, prepares, manufactures, processes, or packages usable marijuana; and

**(B)** Conduct a biannual comprehensive inventory of all marijuana, including without limitation usable marijuana available for dispensing, mature marijuana plants, and seedlings at each authorized location.

**(7)** All cultivation of marijuana shall take place in an enclosed, locked facility.

**(8) (A)** A qualifying patient or designated caregiver acting on behalf of a qualifying patient shall not be dispensed more than a total of two and one-half ounces (2 1/2 oz.) of usable marijuana during a fourteen-day period.

**(B)** A dispensary or a dispensary agent may not dispense more than a total of two and one-half ounces (2 1/2 oz.) of usable marijuana to either a qualifying patient or designated caregiver acting on behalf of a qualifying patient during a fourteen-day period.

**(C)** Each time a dispensary agent dispenses usable marijuana to a qualifying patient or designated caregiver, he or she shall verify that the dispensing of usable marijuana would not cause the qualifying patient or designated caregiver to receive more usable marijuana than is permitted in a fourteen-day period.

**(D)** Each time usable marijuana is dispensed, the dispensary agent shall:

**(i)** Record the date the usable marijuana was dispensed and the amount dispensed; and

**(ii)** Notify the Department of Health in the manner required by the department.

**(E)** The department shall maintain a database that enables a dispensary to verify that dispensing usable marijuana to a qualifying patient or designated caregiver will not cause the qualifying patient or designated caregiver to exceed the amount allowed by law.

**(F)** All records shall be kept according to the registry identification number of the

qualifying patient or designated caregiver.

**(G)** It is the specific intent of this Amendment that no qualifying patient or designated caregiver acting on behalf of a qualifying patient be dispensed more than a total of two and one-half ounces (2 1/2 oz.) of usable marijuana during a fourteen-day period whether the usable marijuana is dispensed from one or any combination of dispensaries.

**(9)** The dispensary records with patient information shall be treated as confidential records that are exempt from the Freedom of Information Act of 1967, § 25-19-101 et seq.

[As added by Const. Amend. 98; as amended by Acts 2017, No. 5, § 3.]

### **§ 11. Immunity for dispensaries and cultivation facilities.**

**(a)** A dispensary, cultivation facility, transporter, distributor, or processor is not subject to the following:

**(1)** Prosecution for the acquisition, possession, cultivation, processing, preparation, manufacture, delivery, transfer, transport, sale, supply, or dispensing of marijuana and related supplies in accordance with the provisions of this amendment and any rule adopted under this amendment;

**(2)** Inspection, except under § 10 of this amendment or upon a search warrant issued by a court or judicial officer;

**(3)** Seizure of marijuana, except upon any order issued by a court or judicial officer and with due process of law; or

**(4)** Imposition of a penalty or denial of a right or privilege, including without limitation imposition of a civil penalty or disciplinary action by a business, occupational, or professional licensing board or entity, solely for acting in accordance with this amendment.

**(b) (1)** A dispensary agent, cultivation facility agent, transporter agent, distributor agent, or processor agent shall not be subject to arrest, prosecution, search, seizure, or penalty in any manner or denied any right or privilege, including without limitation civil penalty or disciplinary action by a business, occupational, or professional licensing board or entity, solely for working for or with a dispensary, cultivation facility, transporter, distributor, or processor to engage in acts permitted by this amendment.

**(2) (A)** A dispensary agent, cultivation facility agent, or processor agent may possess and manufacture marijuana at the dispensary, cultivation facility location, or processor location or locations for which the dispensary agent, cultivation facility agent, or processor agent is registered or when transferring marijuana under this section.

**(B) (i)** A dispensary agent who is a volunteer may possess and manufacture marijuana at a dispensary location.

**(ii)** A dispensary agent who is a volunteer may not dispense or transport marijuana.

**(3)** A cultivation facility and processor shall label the marijuana that is moved between the cultivation facility or processor and a dispensary, other cultivation facility, or processor with a trip ticket that identifies the cultivation facility by identification number, the time,

date, origin, and destination of the marijuana being transported, and the amount and form of marijuana that is being transported.

**(4)** A transporter agent or distributor agent may possess marijuana at any location while the transporter agent or distributor agent is transferring marijuana from a dispensary, cultivation facility, or processor to another dispensary, cultivation facility, or processor.

(c) Importation of seeds, cuttings, clones, or plants by a dispensary or cultivation facility shall not be prosecuted in the courts of this state.

[As added by Const. Amend. 98; Acts 2017, No. 642, § 2. No. 1022, § 1.]

## **§ 12. Prohibitions for dispensaries.**

**(a) (1)** Except as provided in § 3 of this amendment and subdivision (a)(2) of this section, a dispensary may not dispense, deliver, or otherwise transfer marijuana to a person other than a qualifying patient or designated caregiver.

**(2)** A dispensary may transfer marijuana to a transporter, distributor, or processor to operate to extent of the license of the transporter, distributor, or processor.

**(b) (1)** Except as provided in § 3 of this amendment, the Alcoholic Beverage Control Division shall immediately revoke the registry identification card of a dispensary agent who has dispensed, delivered, or otherwise transferred marijuana to a person other than a qualifying patient or designated caregiver, and that dispensary agent shall be disqualified from serving as a dispensary agent.

**(2)** A dispensary employing a dispensary agent found to violate subdivision (b)(1) of this section is not subject to penalties, including without limitation the revocation of its license, for the actions of a dispensary agent unless the dispensary knowingly aided or facilitated the violation.

[As added by Const. Amend. 98; Acts 2017, No. 642, § 2.]

## **§ 13. Prohibitions for cultivation facilities.**

**(a)** A cultivation facility may sell marijuana plants, seeds, and usable marijuana only to a dispensary, other cultivation facility, or processor.

**(b)** A cultivation facility may employ a transporter or a distributor to transfer marijuana from the cultivation facility to a dispensary, other cultivation facility, or processor.

[As added by Const. Amend. 98; Acts 2017, No. 642, § 2.]

## **§ 14. Local regulation.**

**(a)** This amendment does not prohibit a city, incorporated town, or county of this state from enacting reasonable zoning regulations applicable to dispensaries or cultivation facilities, provided that those zoning regulations are the same as those for a licensed retail pharmacy.

**(b)** This section does not allow a city, incorporated town, or county to prohibit the operation

of any dispensaries or cultivation facilities in the city, incorporated town, or county unless such a prohibition is approved at an election under Article 5, § 1, of this constitution.

[As added by Const. Amend. 98.]

### **§ 15. Prohibited conduct for physicians.**

A physician shall not:

(1) Accept, solicit, or offer any form of pecuniary remuneration from or to a dispensary or cultivation facility provided however, that this does not prohibit a physician who is also a qualifying patient from purchasing usable marijuana from a dispensary;

(2) Offer a discount or other thing of value to a qualifying patient who uses or agrees to use a particular dispensary;

(3) Examine a patient for purposes of diagnosing a qualifying medical condition at a dispensary; or

(4) Hold an economic interest in a dispensary or cultivation facility if the physician certifies the qualifying medical condition of a patient for medical use of marijuana.

[As added by Const. Amend. 98.]

### **§ 16. Failure to adopt rules or issue registry identification cards or licenses.**

If the Department of Health, Alcoholic Beverage Control Division, or Medical Marijuana Commission fails to adopt rules to implement this amendment within the time prescribed or fails to issue the minimum number of dispensary licenses or cultivation facility licenses, any person who would be a qualifying patient under this amendment may commence a mandamus action in Pulaski County Circuit Court to compel the department, division, or commission to perform the actions mandated under the provisions of this amendment.

[As added by Const. Amend. 98.]

### **§ 17. Taxation and distribution of proceeds.**

(a) (1) The sale of usable marijuana is subject to all state and local sales taxes at the same rate as other tangible personal property.

(2) The sale of usable marijuana is also subject to the Arkansas Medical Marijuana Special Privilege Tax Act of 2017, Ark. Code § 26-57-1501 et seq., or its successor.

(b) The state sales and special privilege tax revenues received by the Department of Finance and Administration from the sale of usable marijuana under this amendment shall be distributed as follows:

(1) All moneys received as part of this amendment are designated as special revenue and the funds collected shall be deposited in the State Treasury and credited to the Arkansas Medical Marijuana Implementation and Operations Fund;

**(2)** All moneys received as part of this amendment prior to the effective date of this section shall be immediately transferred to the Arkansas Medical Marijuana Implementation and Operations Fund upon the effective date of this section;

**(3)** In order for the Chief Fiscal Officer of the State to determine the expenses that state agencies incurred due to the passage of this amendment, the following state entities shall submit a report to the Chief Fiscal Officer of the State no later than May 1 of each year of the projected expenses for the next fiscal year, including without limitation expenses as set out in subdivision (b)(4) of this section:

**(A)** The Alcoholic Beverage Control Division of the Department of Finance and Administration;

**(B)** The Department of Health;

**(C)** The Medical Marijuana Commission; and

**(D)** Any other state agency that incurs implementation, administration, or enforcement expenses related to this amendment; and

**(4) (A)** From time to time, the Chief Fiscal Officer of the State shall transfer on his or her books and those of the Treasurer of State and the Auditor of State the amounts as set out in subdivision (b)(3) of this section or so much as is available in proportion to the amount identified by each agency in subdivision (b)(3) of this section from the Arkansas Medical Marijuana Implementation and Operations Fund to the Miscellaneous Agencies Fund Account for the Alcoholic Beverage Control Division of the Department of Finance and Administration, the paying account as determined by the Chief Fiscal Officer for the Department of Health, the Medical Marijuana Commission Fund, and any other fund necessary to the implementation, administration, or enforcement of this amendment to pay for or reimburse personal services, operating expenses, professional fees, equipment, monitoring, auditing, and other miscellaneous expenses of this amendment.

**(B)** At the end of each fiscal year, any unobligated balances of the amounts transferred shall be deducted from the amount transferred in the next fiscal year as authorized in subdivision (b)(4)(A) of this section.

**(C)** Any unanticipated expenses or expenses over the amount transferred may be added from time to time to the transfer amount authorized in subdivision (b)(4)(A) of this section.

**(D)** The Department of Finance and Administration shall report at the end of the fiscal year to the Legislative Council or the Joint Budget Committee if during a legislative session the following information:

**(i)** The total annual amount received as a result of this amendment;

**(ii)** The amount transferred to each agency; and

**(iii)** Copies of the report submitted to the Chief Fiscal Officer of the State identifying estimated expenses as set out in subdivision (b)(3) of this section.

**(c)** After the transfer described in subsection (b) of this section, the amounts remaining in the Arkansas Medical Marijuana Implementation and Operations Fund shall be distributed



one hundred percent (100%) to the General Revenue Fund Account.

**(d)** An entity receiving a grant of state sales tax revenue under subsection (b) of this section may make one (1) or more successive grant applications for the same project or projects.

[As added by Const. Amend. 98; Acts 2017, No. 670, § 1, No. 1098, § 1.]

**§ 18. Costs of administration and regulation of amendment.**

**(a)** The following funds shall be used by the Department of Health to perform its duties under this amendment:

**(1)** State sales tax revenues received under § 17 of this amendment;

**(2) (A)** The revenue generated from fees, penalties, and other assessments of the department provided for by this amendment, including without limitation:

**(i)** Registry identification card application and renewal fees; and

**(ii)** Fees for replacement registry identification cards.

**(B)** Revenue generated from fees, penalties, and other assessments under this amendment shall be used solely for the performance of the department's duties under this amendment and shall be used for no other purpose;

**(3)** Private donations, if such funds are available; and

**(4)** Other appropriations by the General Assembly, if such funds are available.

**(b)** The following funds shall be used by the Alcoholic Beverage Control Division to perform its duties under this amendment:

**(1)** State sales tax revenues received under § 17 of this amendment;

**(2) (A)** The revenue generated from fees, penalties, and other assessments of the division provided for by this amendment.

**(B)** Revenue generated from fees, penalties, and other assessments of the division under this amendment shall be used solely for the performance of the division's duties under this amendment and shall be used for no other purpose;

**(3)** Private donations, if such funds are available; and

**(4)** Other appropriations by the General Assembly, if such funds are available.

**(c)** The following funds shall be used by the Medical Marijuana Commission to perform its duties under this amendment:

**(1)** State sales tax revenues received under § 17 of this amendment;

**(2)** The revenue generated from fees, penalties, and other assessments of the commission provided for by this amendment, including without limitation dispensary and

cultivation facility application fees, licensing fees, and renewal fees;

**(3)** Private donations, if such funds are available; and

**(4)** Other appropriations by the General Assembly, if such funds are available.

[As added by Const. Amend. 98.]

### **§ 19. Medical Marijuana Commission -- Creation.**

**(a) (1)** There is created a Medical Marijuana Commission within the Department of Finance and Administration to determine the qualifications for receiving a license to operate a dispensary or a license to operate a cultivation facility and the awarding of licenses.

**(2)** Each member of the commission shall serve a term of four (4) years.

**(3)** The commission shall consist of five (5) members as follows:

**(A)** Two (2) members appointed by the President Pro Tempore of the Senate;

**(B)** Two (2) members appointed by the Speaker of the House of Representatives; and

**(C)** One (1) member appointed by the Governor.

**(4)** Vacancies on the commission shall be filled in the manner of the original appointment.

**(5)** The commission shall select one (1) of its members as chair.

**(6)** An affirmative vote of a majority of a quorum present shall be necessary to transact business.

**(b) (1) (A)** One (1) of the initial members appointed by the President Pro Tempore of the Senate shall serve a term of two (2) years and one (1) of the initial members appointed by the President Pro Tempore of the Senate shall serve a term of four (4) years.

**(B)** The initial members appointed by the President Pro Tempore of the Senate shall draw lots to determine which member shall serve a term of two (2) years.

**(2) (A)** One (1) of the initial members appointed by the Speaker of the House of Representatives shall serve a term of two (2) years and one (1) of the initial members appointed by the Speaker of the House of Representatives shall serve a term of four (4) years.

**(B)** The initial members appointed by the Speaker of the House of Representatives shall draw lots to determine which member shall serve a term of two (2) years.

**(3)** The initial member appointed by the Governor shall serve a term of four (4) years.

**(4)** All subsequent persons appointed to the commission shall serve a term of four (4) years.

**(c)** A member of the commission shall be:

- (1) A citizen of the United States;
  - (2) A resident of the State of Arkansas for at least ten (10) years preceding his or her appointment;
  - (3) A qualified elector;
  - (4) At least twenty-five (25) years of age; and
  - (5) Have no economic interest in a dispensary or cultivation facility.
- (d) (1) The commission, by a majority vote of the total membership of the commission cast during its first regularly scheduled meeting of each calendar year, may authorize payment to its members of a stipend not to exceed eighty-five dollars (\$85.00) per day for each meeting attended or for any day while performing any proper business of the commission.
- (2) Members of the commission shall receive no other compensation, expense reimbursement, or in-lieu-of payments.
- (e) (1) The commission may employ staff necessary to assist in the performance of its duties under this amendment.
- (2) The Alcoholic Beverage Control Division shall provide staff for the commission if the commission does not have employees available for that purpose.
- (f) (1) Initial members of the commission shall be appointed within thirty (30) days of the effective date of this section.
- (2) The President Pro Tempore of the Senate shall call the first meeting of the commission, which shall occur within forty-five (45) days of the effective date of this section.

[As added by Const. Amend. 98 Acts 2017, No. 638, § 1.]

## **§ 20. No implied repeal.**

- (a) By adoption of this amendment, there is no implied repeal of the existing Arkansas laws criminalizing possession of marijuana for purposes not specified in this amendment.
- (b) This amendment acknowledges that marijuana use, possession, and distribution for any purpose remains illegal under federal law.

[As added by Const. Amend. 98.]

## **§ 21. Limitation on growing.**

This amendment:

- (1) Authorizes the growing of marijuana at a dispensary or cultivation facility that is properly licensed with the state; and

**(2)** Does not authorize a qualifying patient, designated caregiver, or other person to grow marijuana.

[As added by Const. Amend. 98.]

## **§ 22. Severability.**

If any provision or section of this amendment or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provisions or application of the amendment that can be given effect without the invalid provisions or applications, and to this end the provisions of this amendment are declared to be severable.

[As added by Const. Amend. 98.]

## **§ 23. Amendment by General Assembly.**

**(a)** Except as provided in subsection (b) of this section, the General Assembly, in the same manner as required for amendment of laws initiated by the people, may amend the sections of this amendment so long as the amendments are germane to this section and consistent with its policy and purposes.

**(b)** The General Assembly shall not amend the following provisions of this amendment:

- (1)** Subsections (a), (b), and (c) of § 3;
- (2)** Subsection (h), (i), and (j) of § 8; and
- (3)** Section 23.

[As added by Const. Amend. 98.]

## **§ 24. Licensure for transporters, distributors, and processors.**

**(a) (1)** The Medical Marijuana Commission shall license transporters, distributors, and processors.

**(2)** The Alcoholic Beverage Control Division shall administer and enforce the provisions of this section concerning transporters, distributors, and processors.

**(b)** The owners, board members, or officers of a transporter, distributor, or processor shall not:

- (1)** Have been convicted of an excluded felony offense;
- (2)** Have previously been an owner of a dispensary, cultivation facility, transporter, distributor, or processor that has had a license revoked; and
- (3)** Be under twenty-one (21) years of age.

**(c)** The commission may conduct a criminal records check in order to carry out this section.

**(d) (1)** A transporter license, distributor license, and processor license shall expire one (1) year after the date of issuance.

**(2)** The commission shall issue a renewal license within ten (10) days to any entity who complies with the requirements contained in this amendment, including without limitation the payment of a renewal fee.

**(e)** The commission may charge a reasonable fee as established by rule for the issuance of an initial license and a renewal license.

**(f) (1) (A)** A transporter or distributor licensed under this section may:

**(i)** Acquire, possess, deliver, transfer, transport, or distribute marijuana to a dispensary, cultivation facility, or processor; and

**(ii)** Receive compensation for providing services allowed by this section.

**(B)** A transporter or distributor licensed under this section shall not grow, manufacture, process, prepare, supply, or dispense marijuana.

**(2) (A)** A processor licensed under this section may:

**(i)** Acquire, possess, manufacture, process, prepare, deliver, transport, and supply marijuana to a dispensary or cultivation facility; and

**(ii)** Receive compensation for providing services allowed by this section.

**(B)** A processor licensed under this section shall not grow or dispense marijuana.

**(g)** The division may make reasonable inspections on a transporter, distributor, and processor to ensure that the transporter, distributor, and processor:

**(1)** Is an entity incorporated in the State of Arkansas;

**(2)** Has implemented appropriate security measures to deter and prevent unauthorized entrance into areas containing marijuana and the theft of marijuana;

**(3)** Conducts an initial comprehensive inventory of all marijuana and a biannual comprehensive inventory of all marijuana; and

**(4)** Records each transaction between the transporter, distributor, or processor and a dispensary, cultivation facility, or another processor and maintains the records for three (3) years;

**(5)** Has adopted procedures to ensure accurate recordkeeping.

**(h) (1)** The commission shall adopt rules governing the applications for a transporter license, distributor license, or processor license.

**(2)** The division shall adopt rules governing:

**(A)** Oversight requirements for transporters, distributors, and processors;

**(B)** Recordkeeping requirements for transporters, distributors, and processors;

(C) Security requirements for transporters, distributors, and processors;

(D) Personnel requirements for transporters, distributors, and processors;

(E) The manufacture, processing, packaging, and dispensing of usable marijuana to qualifying patients and designated caregivers;

(F) Procedures for suspending or terminating the licenses of transporters, distributors, and processors that violate the provisions of this amendment or the rules adopted under this amendment, procedures for appealing penalties, and a schedule of penalties;

(G) Procedures for inspections and investigations of transporters, distributors, and processors;

(H) Advertising restrictions for transporters, distributors, and processors; and

(J) Any other matters necessary to the fair, impartial, stringent, and comprehensive administration of the duties of the division under this section.

[As added by Acts 2017; No. 642, § 2.]

**§ 25. Registration and certification of transporter agents, distributor agents, and processor agents.**

(a) The Alcoholic Beverage Control Division shall:

(1) License transporter agents, distributor agents, and processor agents; and

(2) Administer and enforce the provisions of this section concerning transporter agents, distributor agents, and processor agents.

(b) The division may conduct criminal records checks in order to carry out this section.

(c) Except as prohibited by subdivision (d)(1) of this section, the division shall issue each transporter agent, distributor agent, and processor agent a registry identification card within ten (10) days of receipt of:

(1) The person's name, address, and date of birth under this amendment; and

(2) A reasonable fee in an amount established by rule for the division.

(d) (1) The division shall not issue a registry identification card to a transporter agent, distributor agent, or processor agent who has been convicted of an excluded felony offense.

(2) The division may conduct a criminal background check of each transporter agent, distributor agent, and processor agent in order to carry out this provision.

(3) The division shall notify the transporter, distributor, or processor in writing of the reason for denying the registry identification card.

(e) (1) A registry identification card for a transporter agent, distributor agent, or processor agent shall expire one (1) year after the date of issuance.

**(2)** A registry identification card of a transporter agent, distributor agent, or processor agent expires upon notification to the division by a dispensary or cultivation facility that the person ceases to work at the transporter, distributor, or processor.

**(f)** The division may charge a reasonable fee as established by rule for the issuance of a new, renewal, or replacement registry identification card.

**(g) (1)** The division may revoke the registry identification card of a transporter agent, distributor agent, or processor agent who knowingly violates any provision of this amendment, and the cardholder is subject to any other penalties established by law for the violation.

**(2)** The division may revoke or suspend the transporter license, distributor license, or processor license of a transporter, distributor, or processor that the division determines knowingly aided or facilitated a violation of any provision of this amendment, and the cardholder is subject to any other penalties established in law for the violation.

**(h)** The division shall adopt rules governing:

**(1)** The manner in which the division considers applications for and renewals of registry identification cards for transporter agents, distributor agents, and processor agents;

**(2)** The form and content of registration and renewal applications for transporter agents, distributor agents, and processor agents;

**(3)** Procedures for suspending or terminating the registration of transporter agents, distributor agents, and processor agents who violate the provisions of this section or the rules adopted under this section, procedures for appealing penalties, and a schedule of penalties; and

**(4)** Any other matters necessary for the fair, impartial, stringent, and comprehensive administration of the duties of the division under this section.

[As added by Acts 2017; No. 642, § 2.]

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# *State of Arkansas*

## *Department of Finance and Administration*



### *Medical Marijuana Commission*

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#### *Rules Governing the Licensure of Medical Marijuana Cultivation Facilities, Processors and Dispensaries*

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##### *Medical Marijuana Commissioners*

*James Miller, Chairman  
J.P. Mobley  
Kevin Case  
Reginal Thomas, Sr.  
Tyler Ketner*



**RULES GOVERNING THE APPLICATION FOR, ISSUANCE, AND  
RENEWAL OF LICENSES FOR MEDICAL MARIJUANA  
CULTIVATION FACILITIES, DISPENSARIES, AND PROCESSORS IN  
ARKANSAS**

**SECTION I.  
AUTHORITY OF THE COMMISSION**

These Rules Governing the Application For, Issuance, and Renewal of Licenses for Medical Marijuana Cultivation Facilities, Dispensaries, and Processors in Arkansas are duly adopted and promulgated by the Medical Marijuana Commission pursuant to Amendment No. 98 of the Constitution of the State of Arkansas of 1874, The Medical Marijuana Amendment of 2016.

**SECTION II.  
SCOPE, PURPOSE, AND  
SEVERABILITY**

These rules govern the application procedures for the issuance and renewal of licenses for medical marijuana cultivation facilities. dispensaries, and processors in Arkansas. These rules also govern the selection methods to be used and the criteria to be considered by the Medical Marijuana Commission in awarding licenses for medical marijuana cultivation facilities and dispensaries.

If any provision of these rules or the application thereof to any person or circumstance is held invalid for any reason the invalidity shall not affect the other provisions or any other application of these rules that can be given effect without the invalid provisions or application. Therefore, all provisions of these rules are declared to be severable.

**SECTION III.  
DEFINITIONS**

- (1) “Amendment” means the Arkansas Medical Marijuana Act of 2016.
- (2) “Applicant” means the natural person in whose name a license would be issued and any entity: (a) the natural person represents; or (b) on whose behalf the application is being submitted.

- (3) “Commission” means the Medical Marijuana Commission.
- (4) “Cultivation facility” means an entity that:
  - a. Has been licensed by the Medical Marijuana Commission;
  - b. Cultivates, prepares, manufactures, processes, packages, sells to and delivers usable marijuana to a dispensary.
- (5) “Department” means the Arkansas Department of Health.
- (6) “Dispensary” means an entity that has been licensed by the Medical Marijuana Commission pursuant to the requirements of the Amendment.
- (7) “Excluded felony offense” means:
  - (a)(i)(A) A felony offense as determined by the jurisdiction where the felony offense occurred;
    - (B) The Medical Marijuana Commission, the Department of Health, or the Alcoholic Beverage Control Division shall determine whether an offense is a felony offense based upon a review of the relevant court records concerning the conviction for the offense.
  - (ii) An offense that has been sealed by a court or for which a pardon has been granted is not considered an excluded felony offense; or
  - (b) A violation of a state or federal controlled-substance law that was classified as a felony in the jurisdiction where the person was convicted, but not including:
    - (i) An offense for which the sentence, including any term of probation, incarceration, or supervised release, was completed ten (10) or more years earlier; or
    - (ii) An offense that has been sealed by a court or for which a pardon has been granted;
- (8) “Licensed facility” means a licensed cultivation facility, licensed dispensary, licensed transporter/distributor, or licensed processor.
- (9) “Manufacture and Process”
  - a. Means the manufacturing, processing, compounding or conversion of marijuana into cannabinoid products, cannabinoid concentrates, or

cannabinoid extracts; and

b. Does not mean the drying of marijuana.

(10) “Primary Entrance” means the entrance through which most people enter or exit a building.

(11) “Processor” means an entity licensed by the Commission pursuant to these Rules and that may:

a. Acquire, possess, manufacture and process, prepare, deliver, transport, and supply marijuana to a dispensary or cultivation facility; and

b. Receive compensation for providing services allowed by this section.

(12) “Qualifying medical condition” means one or more of the following:

a. Cancer, glaucoma, positive status for human immunodeficiency virus/acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, Tourette’s syndrome, Crohn’s disease, ulcerative colitis, post-traumatic stress disorder, severe arthritis, fibromyalgia, Alzheimer’s disease, or the treatment of these conditions;

b. A chronic or debilitating disease or medical condition or its treatment that produces one (1) or more of the following: cachexia or wasting syndrome; peripheral neuropathy; intractable pain, which is pain that has not responded to ordinary medications, treatment or surgical measures for more than six (6) months; severe nausea; seizures, including without limitation those characteristic of epilepsy; or severe and persistent muscle spasms, including, without limitation those characteristic of multiple sclerosis; and

c. Any other medical condition or its treatment approved by the Department pursuant to these Rules and the Amendment.

(13) “School” means a facility or building operated by a public school district;

open-enrollment public charter school, as defined in Ark. Code Ann. § 6-23-103; or a private entity including parochial schools providing preschool, elementary, or secondary education but does not include postsecondary institutions of higher education, community colleges, or the residences of students being home schooled under Ark. Code Ann. § 6-15-501 et. seq.

- (14) “Sealed” means expunge, remove, sequester, and treat as confidential the record or records of a felony offense;
- (15) “Transporter” means an entity licensed as a transporter by the Commission.
- (16) “Usable marijuana” means the stalks, seeds, roots, dried leaves, flowers, oils, vapors, waxes, and other portions of the marijuana plant and any mixture or preparation thereof. Usable marijuana does not include the weight of any ingredients other than marijuana that are combined with marijuana and prepared for consumption as food and drink.

#### **SECTION IV. CULTIVATION FACILITY APPLICATION, LICENSING, & RENEWAL**

- 1. License Required
  - a. No person or entity shall operate a medical marijuana cultivation facility unless the person has a license issued by the commission pursuant to these rules.
  - b. Each license for a cultivation facility shall specify:
    - i. The name of the individual who holds the license;
    - ii. The address of the individual who holds the license;
    - iii. The effective dates of the license; and
    - iv. The address of the licensed facility.
- 2. Licenses Available
  - a. The commission shall issue at least four (4), but no more than eight (8), cultivation facility licenses.

- b. It shall be within the commission's discretion to make licenses available.
  - c. When it has been determined that new licenses are available or appropriate, the commission shall notify the public at large by legal notice that it will be accepting applications for a cultivation facility license.
  - d. No individual shall have interest in more than one (1) Arkansas cultivation facility and one (1) Arkansas dispensary.
3. Application Process
- a. An application for a cultivation facility license shall be submitted to the commission on a form and in a manner prescribed by the commission.
  - b. Applications will be accepted for the cultivation facility license beginning ten (10) days after the date of publication of the legal notice by the commission, and no applications will be accepted after ninety (90) days of the publication date.
  - c. Applications that have been received and verified by the commission will be considered based upon the selection processes set out in **Section IV. 9.**
  - d. Information and statements provided in an application shall become conditions of a license if the application is selected, and failure to satisfy the conditions will be cause for revocation or denial of renewal.
4. Minimum Qualifications for Applicant
- a. An individual applicant for a license under this chapter shall be a natural person that:
    - i. Is twenty-one (21) years of age or older;
    - ii. Is a current resident of the state of Arkansas and has been a resident for seven (7) consecutive years prior to the date of application;
    - iii. Has not previously held a license for a licensed facility that has been revoked;
    - iv. Has no ownership in any other cultivation facility in the state of Arkansas;
    - v. Has not been convicted of a felony offense;
    - vi. If possessing a professional license, that the license is in good standing; and
    - vii. Has no outstanding tax delinquencies owed to the State of Arkansas or the federal government.
  - b. If the applicant is applying on behalf of an entity, in addition to (a) of this Section, the individual applicant:
    - i. Shall be legally authorized to submit an application on behalf of the entity;

- ii. Shall serve as the primary point of contact with the Commission;
  - iii. Shall submit sufficient proof that:
    - 1. The entity has no owner, board member, or officer under the age of twenty-one (21);
    - 2. Sixty percent (60%) of the equity ownership interests in the entity are held by individuals who have been residents of the state for at least seven (7) consecutive years prior to the application date;
    - 3. The entity has no owner, board member, or officer that has previously been an owner of a licensed facility that has had its license revoked;
    - 4. The entity has no owner, board member, or officer that has ownership in any other cultivation facility in the state of Arkansas;
    - 5. The entity has no owner, board member, or officer that has been convicted of a felony offense.
    - 6. If an owner, board member, or officer has or had a professional license, that the license is in good standing; and
    - 7. The entity has no owner, board member, or officer that owes delinquent taxes to the State of Arkansas or the federal government.
  - c. Applicants shall provide proof of assets or a surety bond in the amount of \$1,000,000.00, and proof of at least \$500,000.00 in liquid assets.
    - i. If an applicant posts a surety bond, the bond shall be maintained until:
      - 1. An applicant withdraws an application;
      - 2. An applicant's application is denied by the commission; or
      - 3. An applicant, following selection by the commission for a cultivation facility license, pays the licensing fee and posts the performance bond required in Section IV.10.a. and Section IV.10.c.
  - d. Applicants shall provide a complete application with responses for each required item.
5. Documentation and Information for Applicant
- a. An individual applicant shall provide the following required information:
    - i. Legal name;
    - ii. Date of birth;

- iii. Legal residence;
  - iv. Social security number or Tax Identification Number;
  - v. Mailing address or principal residence address if different from the mailing address;
  - vi. Phone number;
  - vii. Email address; and
  - viii. Statement of individual's authority to act on behalf of an entity, if applicable.
- b. The following supporting documents shall be submitted at the time of application:
- i. To establish legal name an applicant must present at least one (1) of the following source documents:
    - 1. Certified copy of a birth certificate or marriage certificate filed with a state office of vital statistics or equivalent agency in the individual's state of birth or marriage;
    - 2. Valid, unexpired U.S. passport or U.S. passport card;
    - 3. Consular report of birth abroad Form FS-240, DS-1350 or FS-545 issued by the U.S. Commission of State;
    - 4. Valid, unexpired permanent resident card (Form I-551) issued by the Commission of Homeland Security (DHS) or the U.S. Citizenship and Immigration Services (USCIS);
    - 5. Unexpired employment authorization document issued by the Commission of Homeland Security, Form I-766 or Form I-688B;
    - 6. Unexpired foreign passport with the following: a valid, unexpired U.S. visa affixed, and an approved I-94 form documenting the applicant's most recent admittance into the United States or a Commission of Homeland Security admittance stamp on the passport;
    - 7. Certificate of naturalization issued by Commission of Homeland Security, Form N-550 or Form N-570;
    - 8. Certificate of citizenship, Form N-560 or Form N-561, issued by Commission of Homeland Security;
    - 9. Court-issued, certified copy of a divorce decree; or
    - 10. Certified copy of a legal change of name order.
  - ii. To establish date of birth an applicant must present at least one (1) of the following source documents:
    - 1. At least one document included in clauses (1) through (10) of subparagraph (i) of this paragraph; and

2. A photocopy of the individual's valid, unexpired driver's license or government issued photo identification card.
- iii. To establish residency in the State of not less than seven (7) years preceding the application, an applicant must present at least two (2) of the following source documents:
  1. Arkansas tax return Form AR1000 for each of the seven years preceding the application without schedules, worksheets, or attachments, and redacted to remove all financial information and all but the last four digits of the individual's social security number;
  2. Evidence of voter registration for the seven years preceding the application;
  3. Ownership, lease, or rental documents for place of primary domicile for the seven (7) years preceding the application;
  4. Billing statements including utility bills for the seven (7) years preceding the application; or
  5. Vehicle registration for the seven (7) years preceding the application.
- iv. To establish proof of no felony convictions or other disqualifying background information, an individual applicant shall provide consent to a background check, including fingerprinting; and
- v. Individuals applying on behalf of an entity must also provide the following proof:
  1. Documentation of the ownership of the entity; and
  2. Documentation demonstrating that sixty percent (60%) of the equity ownership interests in the entity are held by individuals who have been residents of the state of Arkansas for seven (7) years prior to the application. Documentation sufficient to satisfy this requirement shall be the same as required of an individual in subsection (b)(iii);
  3. Documentation proving that each of the entity's owners, board members, and officers are over the age of twenty-one (21). Documentation sufficient to satisfy this requirement shall be the same as required of an individual in subsections (b)(i) and (b)(ii); and
  4. Consents for criminal background checks for each owner, board members, and officers of the entity.
- c. Applicants shall provide proof that the proposed location of the cultivation facility is at least three thousand (3,000) feet from a public



or private school, church, or daycare existing before the date of the cultivation facility application pursuant to the Arkansas Medical Marijuana Amendment of 2016. The distance specified in this section shall be measured from the primary entrance to the cultivation facility to the nearest property line point of the school, church, or daycare facility;

- d. Applicants shall provide proof of authorization to occupy the property for the proposed cultivation facility. To establish proof the applicant shall provide one of the following:
  - i. If the property is owned by the applicant, the applicant shall provide: confirmation of land ownership, identification of any mortgagees and perfected lienholders; and, if applicable, verification of notification to any mortgagees and perfected lien holders that the property is to be used as a medical marijuana cultivation facility, and consent thereto by any mortgagees and perfected lien holders;
  - ii. If the property is not owned, but is currently leased by the applicant, the applicant shall provide a copy of the lease; confirmation of land ownership, identification of any mortgagees and perfected lienholders; a written statement from the property owner or landlord, certifying consent that the applicant, if awarded a license, may operate a medical marijuana cultivation facility on the property, and, if applicable, verification of notification to any mortgagees and perfected lien holders that the property is to be used as a medical marijuana cultivation facility, and consent thereto by any mortgagees and perfected lien holders;
  - iii. If the property is not owned or leased by the applicant, the applicant shall provide: a written statement from the property owner or landlord certifying consent that the applicant has the option to lease or purchase the property, contingent upon the issuance of a cultivation facility license; and if applicable, verification of notification by the property owner to any mortgagees and perfected lienholders that the property is to be used for a medical marijuana cultivation facility, and consent thereto by any mortgagees and perfected lienholders.
- e. If the city, town, or county in which the cultivation facility would be located has enacted zoning restrictions, applicants shall submit a sworn statement certifying that the cultivation facility will operate in compliance with the restrictions.

- f. The information and documents shall be submitted in a method prescribed by the commission in the notice of open application.
- 6. Background Checks
  - a. The following are subject to background checks conducted by the commission or its designee in considering an application for a cultivation facility license:
    - i. The individual applicant;
    - ii. All owners, officers, and board members of an entity seeking to apply for a cultivation license through its designated individual applicant; and
    - iii. Agents of any of the above persons.
  - b. A person subject to background checks as provided in subsection (a) shall be disqualified as an individual applicant, be prohibited from entering a cultivation facility, be prohibited from being an owner, officer or board member of a cultivation facility, and be prohibited from having any responsibility for operating a cultivation facility if the person has been convicted of a felony offense.
  - c. Each person undergoing a background check shall provide written consent and all applicable processing fees to the commission or its designee to conduct the background check.
- 7. Application Fee
  - a. Each application for a cultivation license shall include an application fee of \$15,000.00 by cash or certified funds. Certified checks or cashier's checks shall be made payable to the state of Arkansas, delivered or mailed by certified mail, return receipt requested, to the address specified in the notice of open application.
  - b. In the event an applicant is not successful in his or her application, \$7,500.00 of the initial application fee of shall be refunded to the applicant.
  - c. An application is not complete and will not be considered unless all required information, documentation, and the application fee are timely received by the commission.
- 8. Verification of Application
  - a. No later than ten (10) business days following the receipt of an application, the commission shall verify that the application and supporting documentation is complete, and the information submitted in the application is true and valid, and meets the requirements of **Section IV.4.** and **Section IV.5.**
  - b. Applications that meet the requirements of **Section IV.4.** and **Section IV.5.** shall be placed into the pool of applicants for further review and

selection based on merit, and the commission shall notify the applicant in writing that the application was successfully verified.

- c. Applications that do not meet the requirements of **Section IV.4.** and **Section IV.5.** shall be denied pursuant to **Section IV.12.** and the commission shall notify the applicant in writing.
9. Selection Process and Criteria Based on Merit Selection.
- a. In addition to documentation establishing minimum qualifications, the applicant shall submit responses to the commission's merit criteria in a form and manner prescribed by the commission. Criterion shall be published with the initial notice of open application.
  - b. The commission shall consider the following criteria based on merit to evaluate applications verified pursuant to **Section IV.8.:**
    - i. Ability to operate a business, including but not limited to education, knowledge, and experience with:
      - 1. Regulated industries;
      - 2. Agriculture or horticulture;
      - 3. Commercial manufacturing;
      - 4. Creating and implementing a business plan, including a timeline for opening a business;
      - 5. Creating and implementing a financial plan;
      - 6. Secure inventory tracking and control;
      - 7. The cultivation and production of marijuana;
      - 8. Owning or managing a business that required twenty-four hour security monitoring;
      - 9. Owning and managing a business that has not had its business license revoked; and
      - 10. Any other experience the applicant considers relevant.
    - ii. Plan for operating a medical marijuana cultivation facility in compliance with applicable laws and rules and demonstrating planning sufficient to prove the applicant's:
      - 1. Ability to manufacture approved medical marijuana products, each with a consistent cannabinoid profile and each able to pass the required quality control testing as further described in the rules of the Arkansas Department of Health;
      - 2. Ability to produce sufficient quantities of approved medical marijuana products as necessary to meet the needs of individuals with qualifying medical conditions;

3. Ability to comply with the security requirements as described in the rules of the Arkansas Alcoholic Beverage Control Division;
  4. Ability to comply with rules of the Arkansas Department of Health and the Arkansas Alcoholic Beverage Control Division regarding the inventory and tracking of marijuana products;
  5. Ability to comply with the recordkeeping requirements of the Arkansas Department of Health and the Arkansas Alcoholic Beverage Control Division;
  6. Ability to maintain effective control against diversion of marijuana and marijuana products;
  7. Ability to comply with requirements for signage, packaging, labeling, and chain of custody of products;
  8. Ability to comply with requirements for the transportation and marketing of products.
  9. Ability to comply with all other laws and regarding the operation of a medical marijuana cultivation facility.
- iii. Proof that the applicant is ready, willing, and able to properly carry out the activities of a medical marijuana cultivation facility, including a plan for operating a medical marijuana cultivation facility and a timeline for opening the cultivation facility and beginning production;
- iv. Proof of financial stability and access to financial resources, including but not limited to:
1. Legal sources of finances immediately available to begin operating a cultivation facility;
  2. Possession of, or the right to use, sufficient real property, and equipment to properly carry on the activity described in the operating plan;
  3. A summary of financial statements in businesses previously or currently owned or operated by the applicant;
  4. A financial plan for operating a medical marijuana cultivation facility in Arkansas;
  5. Good credit history;
  6. No history of bankruptcy filings by the applicant or entities owned or operated by the applicant for eight (8) years prior to the date of application.

- c. The commission may consider the following criteria based on merit to evaluate applications verified pursuant to **Section IV.8.**:
  - i. Affiliation with a Medical Doctor, Doctor of Osteopathy, or Doctor of Pharmacy.
  - ii. Proof, if any, that the applicant's proposed cultivation facility will positively impact the economy and diversity of the area in which the facility is to be located.
    - 1. Economic impact shall be assessed using the Arkansas Economic Development Commission's tier-ranking of counties based on the following factors: poverty rate, population growth, per capita personal income, and unemployment rate. Consideration shall be given based on the AEDC's tier ranking of the county of the proposed cultivation facility as it exists on the date of the application.
    - 2. Factors that may be considered in determining an applicant's impact on the diversity of the area include, but are not limited to, ownership by minority groups, ownership by veterans, and ownership by women.
  - iii. Proof, if any, that the applicant's proposed cultivation facility will provide a benefit to the community in which the facility is to be located. Factors that may be considered include, but are not limited to:
    - 1. Any proposed substance abuse plan to be implemented by the cultivation facility.
    - 2. Any proposed compassionate care plan to be implemented by the cultivation facility.
    - 3. Any proposed plan for research, education, and promotion of patient and public safety to be implemented by the cultivation facility.
    - 4. Local ownership percentage, meaning the percentage of ownership held by Arkansas residents.
- d. Each merit criterion will be worth a number of points announced by the commission in the notice of open application period.
- e. A review panel comprised of members of the Medical Marijuana Commission shall evaluate the applications and award points for each merit criterion. The points shall be totaled for each application and the applications ranked from the highest total score to the lowest total score. The commission shall notify in writing each of the applicants of their respective score and their respective ranking among all applicants.

- f. The highest ranking applicants, equal to the amount of available licenses, shall have the first opportunity to submit the required license fee and post the performance bond required under these rules for the available licenses. If any applicant fails to pay the fee and post the bond within the required period of time, then their application shall be denied for the appropriate reason under **Section IV.12.** of these rules. The commission shall then inform the next highest scoring applicant, and they shall have the opportunity to submit the required license fee and post the performance bond required under these rules for the available license.
- g. The commission shall hold unselected applications in reserve to offer a license to the next highest scoring applicant if the highest scoring applicant fails to pay the licensing fee and post the performance bond in accordance with **Section IV.10.** When all available licenses within each application period have been issued, the commission shall remove all unselected applications from its list of reserved applications and notify all applicants; however, the commission shall have the option to maintain the list of reserved applications for 24 months from the issuance date of the initial licenses in any application period.
- h. The commission may initiate the selection process for cultivation facilities upon determining that there are not enough cultivation facilities to supply the dispensaries within the state, or upon revocation of any existing license by the Alcoholic Beverage Control Division.
  - i. If the commission determines that more licenses should be issued within 24 months following the issuance of licenses in the most recent application period, and it has exercised its option to maintain the reserve list from the last application period, the commission shall offer the next highest scoring applicant from the applications held in reserve the opportunity to pay the licensing fee and post the performance bond in accordance with **Section IV.10.**
  - ii. If the commission determines more licenses should be issued, and the commission did not exercise the option to maintain a reserve list or the decision is made after the 24 months following the issuance of licenses in the most recent application period, the commission shall solicit new applications in accordance with these rules.
- i. If the commission must break a tie in scoring among applicants, the following procedure shall be followed:
  - i. Applicants with identical scores shall draw a number between one (1) and a number equal to the number of applicants with the

identical score. Applicants will then repeat the drawing of numbers in the order determined by the first drawing. The tied applicants will be ranked according to the number pulled from the second drawing. The applicant who draws the number (1) will have the highest rank among the tied applicants.

#### 10. Licensing Fee and Issuance of License

- a. Within seven (7) days of receiving written notice of selection from the commission, the selected applicant shall submit to the commission a cultivation facility license fee of \$100,000.00 in cash or certified funds. Any certified or cashier's check shall be made payable to the State of Arkansas.
- b. If the licensing fee is not timely paid, the selected applicant will be disqualified, and the commission shall select the next highest scoring applicant within the group of applications in accordance with **Section IV.9**.
- c. Within seven (7) days of receiving written notice of selection from the commission, the selected applicant shall submit to the commission a performance bond in the amount of \$500,000.00. The bond shall be maintained until the cultivation facility files its first required sales tax report with the Arkansas Department of Finance and Administration for the sale of usable marijuana.
- d. If the performance bond is not timely posted, the selected applicant will be disqualified, and the commission shall notify the next available applicant as determined by the merit selection process in **Section IV.9**.
- e. After the license fees and performance bond are timely tendered in an acceptable form, the applicant shall be awarded a license and a registration number.
- f. Upon issuance of a cultivation facility license, and following inspection required by Alcoholic Beverage Control Division Rules, the cultivation facility licensee may begin operations.
- g. The cultivation facility licensee shall visibly post a copy of its license at the cultivation facility covered under the license.
- h. A license that is initially issued between Jan. 1 and July 1 may have the licensing fee prorated up to 50 percent of the total fee as determined by the commission.

#### 11. Term

- a. A license shall expire on June 30 of each calendar year and is renewable on or before June 30 of each calendar year for the fiscal year beginning July 1, unless the license is:
  - i. Suspended or revoked by the division; or

- ii. Surrendered by the cultivation facility licensee.
- iii. Replaced with the issuance of a temporary license

## 12. Denial of Application for or Renewal of a License

- a. The commission may deny an application for or renewal of a license for any of the following reasons:
  - i. Failure to provide the information required in these rules;
  - ii. Failure to meet the requirements set forth in these rules or the rules of the Arkansas Department of Health or Arkansas Alcoholic Beverage Control Division;
  - iii. Provision of misleading, incorrect, false, or fraudulent information;
  - iv. Failure to pay all applicable fees as required;
  - v. Failure to post a performance bond naming the state as the secured party, as required by **Section IV.10.c.**;
  - vi. Receipt of an application evaluation score lower than the successful applicants for a cultivation facility in the pool period for which the applicant applied;
  - vii. An applicant, owner, board member, or officer has a background history that indicates the applicant does not have a reputable and responsible character or would pose a risk to the health, safety, or welfare of the public or qualifying patients; or
  - viii. Any other ground that serves the purpose of these rules or the rules of the Arkansas Department of Health or Arkansas Alcoholic Beverage Control Division.
- b. If the commission denies an application for or renewal of a license, the commission shall notify the applicant in writing of the commission's decision, including the reason for the denial.

## 13. License Renewal Process and Fee

- a. A license may be renewed if the cultivation facility licensee:
  - i. Submits to the commission a renewal application on a form and in a manner prescribed by the commission at least sixty (60) days prior to the expiration date on the license;
  - ii. Is in good standing with the Arkansas Secretary of State's office
  - iii. Continues to be in good standing with the Arkansas Department of Finance and Administration; and
  - iv. Continues to meet all the requirements set out in these rules or the rules of the Arkansas Department of Health or Arkansas Alcoholic Beverage Control Division.
- b. Before renewing a license, the commission may require further information and documentation and may conduct additional background checks to determine that the licensee continues to meet



the requirements of these rules, the rules of the Arkansas Department of Health, or Arkansas Alcoholic Beverage Control Division.

- c. Within seven (7) days of receiving written notice from the commission that its renewal application has been approved, the cultivation facility licensee shall pay the annual renewal fee of \$100,000.00 in certified funds. Any certified or cashier's check shall be payable to the state of Arkansas.
- d. A cultivation facility licensee whose license is not renewed shall cease all operations immediately upon expiration of the license and return the license to the commission.
- e. Any marijuana or marijuana products remaining at the facility shall be destroyed or transferred pursuant to Arkansas Alcoholic Beverage Control Rules.
- f. Upon the determination that a cultivation facility licensee has not met the requirements for renewal, the commission shall provide written notice by certified mail or personal delivery to the licensee. The notice shall provide an explanation for the denial of the renewal application. The licensee may request a hearing before the Commission pursuant to **Section IV.19.b.** of these Rules.

#### 14. Surrender of License

- a. A cultivation facility may voluntarily surrender a license to the commission at any time.
- b. If a cultivation facility voluntarily surrenders a license, the cultivation facility shall:
  - i. Return the license to the commission;
  - ii. Submit a report to the commission including the reason for surrendering the license; contact information following the close of business; the person or persons responsible for the close of the business; and where business records will be retained; and
  - iii. Any marijuana or marijuana products remaining at the facility shall be destroyed or transferred pursuant to Arkansas Alcoholic Beverage Control Rules.
  - iv. No portion of the licensing fee shall be returned to the cultivation facility licensee if the license is voluntarily surrendered prior to the expiration of the license.

#### 15. Change in Information

- a. The cultivation facility licensee shall notify the commission of any changes in contact information.
- b. The cultivation facility licensee shall notify the commission in writing no less than fourteen (14) days in advance of any change that may affect

the licensee's qualifications for licensure, and submit to the commission supporting documentation to prove the cultivation facility licensee continues to be qualified. In the event of a change for which a cultivation facility licensee does not have prior notice, the licensee shall notify the commission immediately upon learning of the change.

- c. Pursuant to section (b), the licensee shall notify the commission of the following:
  - i. The arrest or conviction for any felony of any individual listed in an application or subsequently identified as an applicant, licensee or individual with a financial interest;
  - ii. Any alterations to the floor plan of the facility, including, but not limited to, any increase or decrease in the total footprint or production capacity of the facility.
  - iii. The filing of bankruptcy by the entity holding the license or by any of the entity's owners;
  - iv. The temporary closure of the business for any reason for longer than fifteen (15 ) days;
  - v. The permanent closure of the business; and
  - vi. Any other change that may affect the licensee's qualification for licensure.
- d. If the commission determines that the change has the potential to disqualify a licensee, the commission shall refer the matter to the Alcoholic Beverage Control Division for adjudication.

#### 16. Transfer of License

- a. Licenses shall only be effective for the individuals identified in the original application.
- b. A licensee may not sell, transfer, or otherwise dispose of his or her license to another individual without approval from the commission.
- c. A licensee may only sell, transfer or otherwise dispose of his or her license to another natural person.
- d. An individual who holds a license through its individual agent shall not make any modification to the individual's ownership, board members, or officers as designated in the initial application without approval from the commission.
- e. A licensee's failure to obtain approval from the commission before engaging in ownership changes described in (b) and (c) above shall result in commission's revocation of that license.
- f. In order to obtain approval to transfer ownership of a license or of an entity that holds a license by its individual agent, principals in ownership, board members, or officers, the licensee shall submit to the

commission an application for license transferal on a form and in a manner prescribed by the commission.

- g. If the commission denies an application for transfer of license, the commission shall provide written notice by certified mail or personal delivery to the licensee. The notice shall provide an explanation for the denial of the application. The licensee may request a hearing before the commission pursuant to **Section IV.19.b.** of this Rule.

#### 17. Transfer of Location

- a. A cultivation facility license shall only be valid at the location for which it was originally issued by the commission.
- b. A licensee shall not re-locate a cultivation facility without prior approval by the commission.
- c. In order to obtain approval to transfer a cultivation facility license to another location, a licensee shall submit the following to the commission:
  - i. An application for license transferal on a form and in a manner prescribed by the commission;
  - ii. Proof that the proposed location of the cultivation facility is at least three thousand (3,000) feet from a public or private school, church, or daycare existing before the date of the cultivation facility transfer application pursuant to the Arkansas Medical Marijuana Amendment of 2016. The distance specified in this section shall be measured from the primary entrance of the cultivation facility to the nearest property line point of the school, church, or daycare facility; and
  - iii. Copies of any changes to the criteria set forth in **Section IV.9.b.ii.** of these Rules if any changes were necessary due to the change of location.
- d. If the commission denies an application for transfer of location, the commission shall provide written notice by certified mail or personal delivery to the licensee. The notice shall provide an explanation for the denial of the application. The licensee may request a hearing before the commission pursuant to **Section IV.19.b.** of these Rules.

#### 18. Issuance of Temporary License

- a. The commission may issue a temporary license to another natural person in conjunction with a cultivation facility when the natural person applicant whose name is on the license of the cultivation facility ceases to be in actual control of the cultivation facility.
- b. A temporary license will be valid for no more than 60 days from the date of issuance.

- c. The issuance of a temporary license by the commission will immediately terminate the license which is to be replaced.
- d. The natural person to whom a temporary license is issued must meet the requirements of **Section IV.4, 5 & 6** of these rules.
- e. A temporary license can only be issued at the request of the natural person to whom a license was issued, that person's heirs, or the entity on whose behalf the individual applicant held the license.
- f. A temporary license cannot be transferred, sold or otherwise disposed of without the approval of the commission.
- g. A temporary license can be renewed in a manner consistent with a license to operate a cultivation facility under **Section IV.13** of these rules.

19. Appellate Procedure following Denial of License Renewal, Transfer of License, or Location.

- a. If the commission denies an application for the renewal of a cultivation facility license, the transfer of a license, or the transfer of the location for a license, the licensee may request a hearing before the Commission by filing a written request no later than fifteen (15) days from receipt of the notice of denial from the commission.
- b. The commission shall conduct a hearing no later than sixty (60) days from the receipt of the request for hearing. The commission shall provide notice of the hearing to all interested parties, conduct the hearing, and issue a decision in accordance with the Arkansas Administrative Procedure Act, §25-15-201 et seq.
- c. The commission's decision may be appealed to the circuit court of the county in which the cultivation facility is situated or the Pulaski County Circuit Court. Appeals shall be governed by the terms of the Arkansas Administrative Procedure Act, §25-15-201 et seq.

20. Hiring of Consultants

- a. The commission may retain the services of a contractor or consultant.
  - i. The selection of any contractor or consultant shall be conducted pursuant to the procurement laws of the State of Arkansas.
  - ii. The recommendations and findings of any contractor or consultant shall not be final and binding unless approved by a majority vote of the commission.

**SECTION V.**  
**DISPENSARY**  
**APPLICATION, LICENSING, & RENEWAL**

**1. License Required**

- a. No person shall operate a medical marijuana dispensary unless the person has a license issued by the commission pursuant to this chapter.
- b. Each license for a dispensary shall specify:
  - i. The name of the individual who holds the license;
  - ii. The address of the individual who holds the license;
  - iii. The effective dates of the license;
  - iv. The address of the licensed facility.

**2. Licenses Available**

- a. The commission shall issue at least twenty (20), but no more than forty (40), dispensary licenses.
- b. Licenses shall be distributed within eight (8) geographic zones, to assure that dispensaries are available throughout the state. A dispensary license shall only be valid in the geographic zone where it was awarded.
- c. It shall be within the commission's discretion to make licenses available.
- d. When it has been determined that new licenses are available or appropriate, the commission shall notify the public at large by legal notice that it will be accepting applications for a dispensary license.
- e. The commission will create application pools for dispensary licenses based on the eight (8) identified geographic zones to ensure that dispensaries are distributed equally through the state. A dispensary license will only be valid for the designated zone and cannot be used in another zone.
- f. No individual shall have interest in more than one (1) Arkansas cultivation facility and one (1) Arkansas dispensary.
- g. In accordance with the Arkansas Medical Marijuana Amendment of 2016, there shall be no more than four (4) dispensaries in any one (1) county.

**3. Application**

- a. An application for a dispensary license shall include both an individual applicant and an applying entity and they shall apply to the commission on a form and in a manner prescribed by the commission.
- b. Applications will be accepted for the dispensary license beginning ten (10) days after the date of publication of the legal notice by the commission, and no applications will be accepted after ninety (90)

days of the publication date.

- c. Information and statements provided in an application shall become conditions of a license if the application is selected, and failure to satisfy the conditions will be cause for revocation or denial of renewal.

#### 4. Minimum Qualifications for Applicant

- a. An applicant for a license under this chapter shall be a natural person that:
  - i. Is twenty-one (21) years of age or older;
  - ii. Is a current resident of the state of Arkansas and has been a resident for seven (7) consecutive years prior to the date of application;
  - iii. Has not previously held a license for a licensed facility that has been revoked;
  - iv. Has no ownership in any other dispensary in the state of Arkansas;
  - v. Has not been convicted of a felony offense;
  - vi. If possessing a professional license, that the license is in good standing; and
  - vii. Has no outstanding tax delinquencies owed to the State of Arkansas or the federal government.
- b. If the applicant is applying on behalf of an entity, in addition to (a) of this Section, the individual applicant:
  - i. Shall be legally authorized to submit an application on behalf of the entity;
  - ii. Shall serve as the primary point of contact with the commission;
  - iii. Shall submit sufficient proof that:
    - 1. The entity has no owner, board member, or officer under the age of twenty-one (21);
    - 2. Sixty percent (60%) of the equity ownership interests in the entity are held by individuals who have been residents of the state for at least seven (7) consecutive years prior to the application date;
    - 3. The entity has no owner, board member, or officer that has previously been an owner of a licensed facility that has had its license revoked;
    - 4. The entity has no owner, board member, or officer that has ownership in any other dispensary in the state of Arkansas;
    - 5. The entity has no owner, board member, or officer that has been convicted of a felony offense; and

6. If an owner, board member, or officer has or had a professional license, that the license is in good standing; and
7. The entity has no owner, board member, or officer that owes delinquent taxes to the State of Arkansas or the federal government.
- c. Applicants shall provide proof of assets or a surety bond in the amount of \$200,000.00 and proof of at least \$100,000.00 in liquid assets.
  - i. If an applicant posts a surety bond, the bond shall be maintained until:
    1. An applicant withdraws an application;
    2. An applicant's application is denied by the commission; or
    3. An applicant, following selection by the commission for a dispensary license, pays the licensing fee and performance bond required in Section V.10.a. and Section V.10.c.
- d. Applicants shall provide a complete application with responses for each required item.
5. Documentation and Information for Applicant
  - a. An individual applicant shall provide the following required information:
    - i. Legal name;
    - ii. Date of birth;
    - iii. Legal residence;
    - iv. Social security number;
    - v. Mailing address or principal residence address if different from the mailing address;
    - vi. Phone number;
    - vii. Email address; and
    - viii. Statement of individual's authority to act on behalf of an entity, if applicable.
  - b. The following supporting documents shall be submitted at the time of application:
    - i. To establish legal name an applicant must present at least one (1) of the following source documents:
      1. Certified copy of a birth certificate or marriage certificate filed with a state office of vital statistics or equivalent agency in the individual's state of birth or marriage;
      2. Valid, unexpired U.S. passport or U.S. passport card;

3. Consular report of birth abroad Form FS-240, DS-1350 or FS-545 issued by the U.S. Commission of State;
  4. Valid, unexpired permanent resident card (Form I-551) issued by the Commission of Homeland Security (DHS) or the U.S. Citizenship and Immigration Services (USCIS);
  5. Unexpired employment authorization document issued by the Commission of Homeland Security, Form I-766 or Form I-688B;
  6. Unexpired foreign passport with the following: a valid, unexpired U.S. visa affixed, and an approved I-94 form documenting the applicant's most recent admittance into the United States or a Commission of Homeland Security admittance stamp on the passport;
  7. Certificate of naturalization issued by Commission of Homeland Security, Form N-550 or Form N-570;
  8. Certificate of citizenship, Form N-560 or Form N-561, issued by Commission of Homeland Security;
  9. Court-issued, certified copy of a divorce decree; or
  10. Certified copy of a legal change of name order;
- ii. To establish date of birth an applicant must present at least one (1) of the following source documents:
    1. At least one document included in clauses (1) through (10) of subparagraph (i) of this paragraph; and
    2. A photocopy of the individual's valid, unexpired driver's license or government issued photo identification card.
  - iii. To establish residency in the State of not less than seven (7) years preceding the application, an applicant must present at least one (1) of the following source documents:
    1. Arkansas tax return Form AR1000 for each of the seven years preceding the application without schedules, worksheets, or attachments, and redacted to remove all financial information and all but the last four digits of the individual's social security number;
    2. Evidence of voter registration for the seven years preceding the application;
    3. Ownership, lease, or rental documents for place of primary domicile for the seven (7) years preceding the application;



4. Billing statements including utility bills for the seven (7) years preceding the application; or
  5. Vehicle registration for the seven (7) years preceding the application.
- iv. To establish proof of no felony convictions or other disqualifying background information, an individual applicant shall provide consent to a background check, including fingerprinting; and
  - v. Individuals applying on behalf of an entity must also provide the following proof:
    1. Documentation of the ownership of the entity; and
    2. Documentation demonstrating that sixty percent (60%) of the equity ownership interests in the entity are held by individuals who have been residents of the state of Arkansas for seven (7) years prior to the application. Documentation sufficient to satisfy this requirement shall be the same as required of an individual in subsection (b)(iii);
    3. Board members, and officers are over the age of twenty-one (21). Documentation sufficient to satisfy this requirement shall be the same as required of an individual in subsections (b) and (c); and
    4. Consents for criminal background checks for each owner, board members, and officers of the entity.
  - c. Applicants shall provide proof that the proposed location of the dispensary is at least one thousand five hundred (1,500) feet from a public or private school, church, daycare, or facility for individuals with developmental disabilities existing before the date of the dispensary application pursuant to the Arkansas Medical Marijuana Amendment of 2016. The distance specified in this section shall be measured from the primary entrance of the dispensary to the nearest property line point of the school, church, daycare facility, or facility for individuals with developmental disabilities; and
  - d. Applicants shall provide proof of authorization to occupy the property for the proposed dispensary. To establish proof the applicant shall provide one of the following:
    - i. If the property is owned by the applicant, the applicant shall provide: confirmation of land ownership, identification of any mortgagees and perfected lienholders; and, if applicable, verification of notification to any mortgagees and perfected lien

- holders that the property is to be used as a medical marijuana dispensary, and consent thereto by any mortgagees and perfected lien holders;
- ii. If the property is not owned, but is currently leased by the applicant, the applicant shall provide a copy of the lease; confirmation of land ownership, identification of any mortgagees and perfected lienholders; a written statement from the property owner or landlord, certifying consent that the applicant, if awarded a license, may operate a medical marijuana dispensary on the property, and, if applicable, verification of notification to any mortgagees and perfected lien holders that the property is to be used as a medical marijuana dispensary, and consent thereto by any mortgagees and perfected lien holders;
  - iii. If the property is not owned or leased by the applicant, the applicant shall provide: a written statement from the property owner or landlord certifying consent that the applicant has the option to lease or purchase the property, contingent upon the issuance of a dispensary license; and if applicable, verification of notification by the property owner to any mortgagees and perfected lienholders that the property is to be used for a medical marijuana dispensary, and consent thereto by any mortgagees and perfected lienholders.
- e. If the city, town, or county in which the dispensary would be located has enacted zoning restrictions, applicants shall submit a sworn statement certifying that the dispensary will operate in compliance with the restrictions.
  - f. The information and documents shall be submitted in a method prescribed by the commission in the notice of open application.
6. Background Checks
- a. The following are subject to background checks conducted by the commission or its designee in considering an application for a dispensary license:
    - i. The individual applicant;
    - ii. All owners, officers, and board members of an entity seeking to apply for a dispensary license through its designated individual applicant; and
    - iii. Agents of any of the above persons.

- b. Each person undergoing a background check shall provide written consent and all applicable processing fees to the commission or its designee to conduct the background check.
- 7. Application Fee
  - a. Each application for a dispensary license shall include an application fee of \$7,500.00 in cash or certified funds. Any certified check or cashier's check shall be made payable to state of Arkansas, and delivered or mailed by certified mail, return receipt requested, to the address specified in the notice of open application.
  - b. In the event an applicant is not successful in his or her application, \$3,750.00 of the initial application fee shall be refunded to the applicant.
  - c. An application is not complete and will not be considered unless the application fee is received with the application by the deadline.
- 8. Verification of Application
  - a. After receipt of an application, the commission shall verify that the application and supporting documentation is complete, and the information submitted in the application is true and valid.
  - b. Applications that meet the requirements of **Section V.4. and V.5** shall be placed into the pool of applicants for further review and selection based on merit. The commission shall notify the applicant in writing that the application was successfully verified.
  - c. Applications that do not meet the requirements of **Section V.4. and Section V.5** shall be denied pursuant to **Section V.12**, and the commission shall notify the applicant in writing.
- 9. Selection Process and Criteria Based on Merit Selection
  - a. In addition to documentation establishing minimum qualifications, the applicant shall submit responses to the commission's merit criteria in a form and manner prescribed by the commission. Criterion shall be published with the initial notice of application.
  - b. The commission shall consider the following criteria based on merit to evaluate applications verified pursuant to **Section V.8**:
    - i. Ability to operate a business, including, but not limited to education, knowledge, and experience with:
      - 1. Regulated industries;
      - 2. Agriculture or horticulture;
      - 3. Commercial manufacturing;
      - 4. Creating and implementing a business plan, including a timeline for opening a business;

5. Creating and implementing a financial plan;
  6. Secure inventory tracking and control;
  7. The cultivation and production of marijuana;
  8. Owning or managing a business that required twenty-four hour security monitoring;
  9. Owning and managing a business that has not had its business license revoked; and
  10. Any other experience the applicant considers relevant.
- ii. Plan for operating a dispensary in compliance with applicable laws and rules and demonstrating planning sufficient to prove the applicant's:
1. Ability to manufacture approved medical marijuana products, each with a consistent cannabinoid profile and each able to pass the required quality control testing as further described in the rules of the Arkansas Department of Health;
  2. Ability to produce sufficient quantities of approved medical marijuana products as necessary to meet the needs of individuals with qualifying medical conditions;
  3. Ability to comply with the security requirements as described in the rules of the Arkansas Alcoholic Beverage Control Division.
  4. Ability to comply with rules of the Arkansas Department of Health and the Arkansas Alcoholic Beverage Control Division regarding the inventory and tracking of marijuana products;
  5. Ability to comply with the recordkeeping requirements of Arkansas Department of Health and the Arkansas Alcoholic Beverage Control Division;
  6. Ability to maintain effective control against diversion of marijuana and marijuana products;
  7. Ability to comply with requirements for signage, packaging, labeling, and chain of custody of products; and
  8. Ability to comply with all other laws and rules regarding the operation of a medical marijuana dispensary.
- iii. Proof that the applicant is ready, willing, and able to properly carry out the activities of a medical marijuana dispensary, including a plan for operating a medical marijuana dispensary and a timeline for opening the dispensary;

- iv. Proof of financial stability and access to financial resources, including but not limited to:
  - 1. Legal sources of finances immediately available to begin operating a dispensary;
  - 2. Possession of, or the right to use, sufficient real property, and equipment to properly carry on the activity described in the operating plan;
  - 3. A summary of financial statements in businesses previously or currently owned or operated by the applicant;
  - 4. A financial plan for operating a medical marijuana dispensary in Arkansas;
  - 5. Good credit history;
  - 6. No history of bankruptcy filings by the applicant or entities owned or operated by the applicant for eight (8) years prior to the date of application.
- c. The commission may consider the following criteria based on merit to evaluate applications verified pursuant to **Section V.8**:
  - i. Affiliation with a Medical Doctor, Doctor of Osteopathy, or Doctor of Pharmacy.
  - ii. Proof, if any, that the applicant's proposed dispensary will positively impact the economy and diversity of the area in which the dispensary is to be located.
    - 1. Economic impact shall be assessed using the Arkansas Economic Development Commission's tier-ranking of counties based on the following factors: poverty rate, population growth, per capita personal income, and unemployment rate. Consideration shall be given based on the AEDC's tier ranking of the county of the proposed dispensary as it exists on the date of the application.
    - 2. Factors that may be considered in determining an applicant's impact on the diversity of the area include, but are not limited to, ownership by minority groups, ownership by veterans, and ownership by women.
  - iii. Proof, if any, that the applicant's proposed dispensary will provide a benefit to the community in which the facility is to be located. Factors that may be considered include, but are not limited to:

1. Any proposed substance abuse plan to be implemented by the dispensary.
  2. Any proposed compassionate care plan to be implemented by the dispensary.
  3. Any proposed plan for research, education, and promotion of patient and public safety to be implemented by the dispensary.
  4. Local ownership percentage, meaning the percentage of ownership held by Arkansas residents.
- d. Each merit criterion will be worth a number of points announced by the commission in the notice of open application period.
  - e. A review panel comprised of members of the Medical Marijuana Commission shall evaluate the applications and award points for each merit criterion. The points shall be totaled for each application and the applications ranked from the highest total score to the lowest total score within each geographic zone. The commission shall notify in writing each of the applicants of their respective score and their respective ranking among all applicants within the applicable geographic zone.
  - f. The highest ranking applicants in each zone, equal to the amount of available licenses in each zone, shall have the first opportunity to submit the required license fee and post the performance bond required under these rules for the available licenses. If any applicant fails to pay the fee and post the bond within the required period of time, then their application shall be denied for the appropriate reason under **Section V.12.** of these rules. The commission shall then inform the next highest scoring applicant within the applicable zone, and they shall have the opportunity to submit the required license fee and post the performance bond required under these rules for the available license.
  - g. The commission shall hold unselected applications in reserve to offer a license to the next highest scoring applicant within a zone if the highest scoring applicant within that zone fails to pay the licensing fee and post the performance bond in accordance with **Section V.10.** Unselected applications shall remain in reserve for 24 months from the issuance date of the initial licenses in any application period.
  - h. The commission may initiate the selection process for dispensary licenses upon determining that there are not enough dispensaries to supply qualified patients within the state, or upon revocation of any existing license by the Alcoholic Beverage Control Division.

- i. If the commission determines that more licenses should be issued within 24 months following the issuance of licenses in the most recent application period, the commission shall offer the opportunity to pay the licensing fee and post the performance bond in accordance with **Section V.10** to the next highest scoring applicant from the applications held in reserve for the zone where the commission has determined a need for the license.
  - ii. If the commission determines that more licenses should be issued after the 24 months following the issuance of licenses in the most recent application period, the commission shall solicit new applications in accordance with these rules.
- i. If the commission must break a tie in scoring among applicants, the following procedure shall be followed:
  - i. Applicants with identical scores shall draw a number between one (1) and a number equal to the number of applicants with the identical score. Applicants will then repeat the drawing of numbers in the order determined by the first drawing. The tied applicants will be ranked according to the number pulled from the second drawing. The applicant who draws the number (1) will have the highest rank among the tied applicants.

#### 10. Licensing Fee and Issuance of License

- a. Within seven (7) days of receiving written notice of selection from the commission, the selected applicant for a dispensary license shall submit to the commission a dispensary license fee of \$15,000.00 in cash or certified funds. Any certified or cashier's check shall be made payable to the State of Arkansas.
- b. If the licensing fee is not timely paid, the selected applicant will be disqualified, and the commission shall select the next highest scoring applicant within that particular zone.
- c. Within seven (7) days of receiving written notice of selection from the commission, the selected applicant shall submit to the commission a performance bond in the amount of \$100,000.00. The bond shall be maintained until the dispensary files its first application for renewal of the license.
- d. If the performance bond is not timely posted, the selected applicant will be disqualified, and the commission shall select the next highest scoring applicant within that particular zone.
- e. A license that is initially issued between Jan. 1 and July 1 may have the licensing fee prorated up to 50 percent of the total fee as determined by the commission.

- f. Upon issuance of a dispensary license, and following inspection required by Alcoholic Beverage Control Division Rules , the dispensary licensee may begin operations.
- g. The dispensary licensee shall visibly post a copy of its license at the dispensary covered under the license.

#### 11. Term

- a. A license shall expire on June 30 of each calendar year and is renewable on or before June 30 of each calendar year for the fiscal year beginning July 1, unless the license is:
  - i. Suspended or revoked by the Department of Finance and Administration – Alcoholic Beverage Control Division;
  - ii. Surrendered by the dispensary licensee; or
  - iii. Replaced by a temporary license.

#### 12. Denial of Application for or Renewal of a License

- a. The commission may deny an application for or renewal of a license for any of the following reasons:
  - i. Failure to provide the information required in these rules;
  - ii. Failure to meet the requirements set forth in these rules or the rules of the Arkansas Department of Health or Arkansas Alcoholic Beverage Control Division;
  - iii. Provision of misleading, incorrect, false, or fraudulent information;
  - iv. Failure to pay all applicable fees as required;
  - v. Failure to post performance bond, if required, naming the state as a secured party;
  - vi. An applicant has a background history that indicates the applicant does not have a reputable and responsible character or would pose a risk to the health, safety, or welfare of the public or qualifying patients; or
  - vii. Any other ground that serves the purpose of these rules or the rules of the Arkansas Department of Health or Arkansas Alcoholic Beverage Control Division.
- b. If the commission denies an application for or renewal of a license, the commission shall notify the applicant in writing of the commission's decision, including the reason for the denial.

#### 13. License Renewal Process and Fee

- a. A license may be renewed if the dispensary licensee:
  - i. Submits to the commission a renewal application on a form and in a manner prescribed by the commission at least sixty (60) days prior to the expiration date on the license;



- ii. Is in good standing with the Arkansas Secretary of State's office;
  - iii. Continues to be in good standing with the Arkansas Department of Finance and Administration; and
  - iv. Continues to meet all the requirements set out in these rules or the rules of the Arkansas Department of Health or Arkansas Alcoholic Beverage Control Division.
- b. Before renewing a license, the commission may require further information and documentation and may conduct additional background checks to determine that the licensee continues to meet the requirements set out in these rules or the rules of the Arkansas Department of Health or Arkansas Alcoholic Beverage Control Division.
- c. After receiving written notice from the commission that its renewal application has been approved, the dispensary licensee shall pay the annual renewal fee of \$22,500.00 in certified funds. Any certified or cashier's check shall be payable to the State of Arkansas.
- d. A dispensary licensee whose license is not renewed shall cease all operations immediately upon expiration of the license, return the license to the commission; and
- e. Any marijuana or marijuana products remaining at the facility shall be destroyed or transferred pursuant to Arkansas Alcoholic Beverage Control Rules.

#### 14.Surrender of License

- a. A dispensary may voluntarily surrender a license to the commission at any time.
- b. If a dispensary voluntarily surrenders a license, the dispensary shall:
  - i. Return the license to the commission;
  - ii. Submit a report to the commission including the reason for surrendering the license; contact information following the close of business; the person or persons responsible for the close of the business; and where business records will be retained; and
  - iii. Tender all marijuana and marijuana products for destruction or for sale to another facility in accordance with the Arkansas Department of Finance and Administration – Alcoholic Beverage Control Division. No portion of the licensing fee shall be returned to the dispensary licensee if the license is voluntarily surrendered prior to the expiration of the license.

#### 15.Change in Information

- a. The dispensary licensee shall notify the commission of any changes in contact information.

- b. The dispensary licensee shall notify the commission in writing no less than fourteen (14) days in advance of any change that may affect the licensee's qualifications for licensure, and submit to the commission supporting documentation to prove the dispensary licensee continues to be qualified. In the event of a change for which a dispensary licensee does not have prior notice, the licensee shall notify the commission immediately upon learning of the change.
- c. Pursuant to section (b), the licensee shall notify the commission of the following:
  - i. The arrest or conviction for any felony of any individual listed in an application or subsequently identified as an applicant, licensee or individual with a financial interest;
  - ii. Any alterations to the floor plan of the facility, including, but not limited to, any increase or decrease in the total footprint or production capacity of the facility.
  - iii. The filing of bankruptcy by the entity holding the license or by any of the entity's owners;
  - iv. The temporary closure of the business for any reason for longer than fifteen (15 ) days;
  - v. The permanent closure of the business;
  - vi. Any other change that may affect the licensee's qualification for licensure.
- d. If the Commission determines that the change has the potential to disqualify a licensee, the Commission shall refer the matter to the Alcoholic Beverage Control Division for adjudication.

#### 16. License Restrictions

- a. The dispensary license shall only be applicable for use in the geographic zone for which it is issued. A dispensary being operated outside of its designated area will result in the dispensary's license being revoked.

#### 17. Transfer of License

- a. Licenses shall only be effective for the individuals identified in the original application.
- b. A licensee may not sell, transfer, or otherwise dispose of his or her license to another individual without approval from the commission.
- c. A licensee may only sell, transfer or otherwise dispose of her license to a natural person.
- d. An entity that holds a license through its individual agent shall not make any modification to the entity's ownership, board members, or officers

as designated in the initial application without approval from the commission.

- e. A licensee's failure to obtain approval from the commission before engaging in ownership changes described in (b) and (c) above shall result in the commission's revocation of that license.
- f. In order to obtain approval to transfer ownership of a license or of an entity that holds a license by its individual agent, principals in ownership, board members, or officers, the licensee shall submit to the commission an application for license transferal on a form and in a manner prescribed by the commission.
- g. If the commission denies an application for transfer of license, the commission shall provide written notice by certified mail or personal delivery to the licensee. The notice shall provide an explanation for the denial of the application. The licensee may request a hearing before the Commission pursuant to **Section V.20.b.** of this Rule.

#### 18. Transfer of Location

- a. A Dispensary license shall only be valid at the location for which it was originally issued by the commission.
- b. A licensee shall not re-locate a dispensary without prior approval by the commission.
- c. In order to obtain approval to transfer a dispensary license to another location, a licensee shall submit the following to the commission:
  - i. An application for license transferal on a form and in a manner prescribed by the commission;
  - ii. Proof that the proposed location of the dispensary is at least one-thousand five-hundred (1,500) feet from a public or private school, church, or daycare existing before the date of the dispensary application for transfer pursuant to the Arkansas Medical Marijuana Amendment of 2016. The distance specified in this section shall be measured by the distance between the primary entrance of the cultivation facility to the nearest property line point of the school, church, or daycare facility; and
  - iii. Copies of any changes to the criteria set forth in **Section V.9.b.ii.** of these Rules if any changes were necessary due to the change of location..
- d. If the Commission denies an application for transfer of location, the commission shall provide written notice by certified mail or personal delivery to the licensee. The notice shall provide an explanation for the denial of the application. The licensee may request a hearing before the commission pursuant to **Section V.20.b.** of these Rules.

## 19. Issuance of Temporary License

- a. The commission may issue a temporary license to another natural person in conjunction with a dispensary when the natural person whose name is on the license of the dispensary ceases to be in actual control of the dispensary.
- b. In issuing a temporary license, the commission will determine the term of the temporary license, but at no time will a temporary license remain valid beyond the original term of the license it replaced.
- c. The issuance of a temporary license by the commission will immediately terminate the license which is to be replaced.
- d. The natural person to whom a temporary license is issued must meet the requirements of **Section V.4, 5 & 6** of these rules.
- e. A temporary license can only be issued at the request of the natural person to whom a license was issued, that person's heir, or the entity on whose behalf the individual applicant held the license.
- f. A temporary license cannot be transferred, sold or otherwise disposed of without the approval of the commission.
- g. A temporary license can be renewed in a manner consistent with a license to operate a dispensary under **Section V.13** of these rules.

## 20. Appellate Procedure following Denial of License Renewal, Transfer of License, or Location.

- a. If the commission denies an application for the renewal of a dispensary license, the transfer of a license, or the transfer of the location for a license, the licensee may request a hearing before the commission by filing a written request no later than fifteen (15) days from receipt of the notice of denial from the commission.
- b. The commission shall conduct a hearing no later than sixty (60) days from the receipt of the request for hearing. The commission shall provide notice of the hearing to all interested parties, conduct the hearing, and issue a decision in accordance with the Arkansas Administrative Procedure Act, §25-15-201 et seq.
- c. The commission's decision may be appealed to the circuit court of the county in which the dispensary is situated or the Pulaski County Circuit Court. Appeals shall be governed by the term of the Arkansas Administrative Procedure Act, §25-15-201 et seq.

## 21. Hiring of Consultants

- a. The commission may retain the services of a contractor or consultant.
  - i. The selection of any contractor or consultant shall be conducted pursuant to the procurement laws of the State of Arkansas.

- ii. The recommendations and findings of any contractor or consultant shall not be final and binding unless approved by a majority vote of the commission.

**SECTION VI.  
PROCESSOR  
APPLICATION, LICENSING, & RENEWAL**

**1. License Required**

- a. No person or entity shall operate as a processor unless licensed by the Commission pursuant to these rules.
- b. Each license for a processor shall specify:
  - i. The name and address of the entity that holds the license;
  - ii. The effective dates of the license; and
  - iii. The address of the licensed processor, if different from that in subsection i.
- c. A processor licensed under this section shall not grow or dispense marijuana.
- d. The processor licensee shall visibly post a copy of its license at the processor facility covered under the license.
- e. A processor license shall expire one (1) year after the date of issuance.

**2. Application**

- a. An application for a processor license shall be submitted to the Commission on a form and in a manner prescribed by the Commission.
- b. Information and statements provided in an application shall become conditions of a license if the application is selected, and failure to satisfy the conditions will be cause for revocation or denial of renewal.
- c. An applicant shall be required to submit, without limitation:
  - i. The required fee;
  - ii. A performance bond in the amount of \$100,000.00 that names the state as the secured party. The bond shall be maintained until the processor files its first application for renewal of the license.
  - iii. Documentation of the entity's organization and ownership/management, including evidence that the applicant is an entity incorporated in the State of Arkansas;
  - iv. Sufficient evidence that each of the entity's owners, board members, and officers:
    - 1. Is over the age of twenty-one (21);
    - 2. Has not previously been an owner of a dispensary,

- cultivation facility, transporter, or processor that has had a license revoked; and
3. Owes no delinquent taxes to the State of Arkansas or the federal government.
- v. Consents for criminal background checks for each owner, board member, and officer of the entity, along with the required processing fees;
- vi. Plan for operating a medical marijuana processor in compliance with applicable laws and rules and demonstrating planning sufficient to prove the applicant's ability to comply with Division's rules, including, without limitation:
1. Security requirements;
  2. Recordkeeping requirements;
  3. Transporting products;
  4. Secure inventory tracking and control;
  5. Sanitation and hygiene;
  6. Implementation of appropriate security measures to deter and prevent the theft of marijuana and unauthorized entrance into areas containing marijuana and;
  7. Inspections and investigation by Alcoholic Beverage Control Division;
  8. Manufacturing and processing;
  9. Personnel requirements, including employee training; and
  10. Ability to maintain effective control against diversion of marijuana and marijuana products;
- vii. Proof of financial stability and access to financial resources, including but not limited to:
1. Legal sources of finances immediately available to begin operating a processor;
  2. Financial projections for the next five (5) years; and
  3. No history of bankruptcy filings by the applicant or its owners, officers, or board of directors for eight (8) years prior to the date of application.
- d. The application shall be signed and sworn before a notary as being true and correct.
- e. The individual signing the application on behalf of the applicant must:
- i. Be an owner, officer, or agent of the entity;
  - ii. Provide evidence that the individual is legally authorized to sign

- the application on the applicant's behalf;
- iii. Serve as the primary point of contact with the Commission; and
- iv. Provide a contact phone number and email address.
- f. A person subject to background checks as provided in these rules or any rules promulgated by the Division or the Department shall be prohibited from being an owner, officer or board member of a processor facility, be prohibited from entering a processor facility, and be prohibited from having any responsibility for operating a processor if the person has been convicted of an excluded felony offense.
- g. A processor may begin operations after being issued a license and following inspection as required by division rules.

### 3. Renewal

- a. The Commission shall issue a renewal license within ten (10) days of the date the Commission receives a complete renewal application, including the payment of a renewal fee.
- b. A renewal application for a processor license shall be submitted to the Commission on a form and in a manner prescribed by the Commission at least thirty (30) days prior to the expiration date on the license and shall require, without limitation:
  - i. Proof that the licensee is in good standing with the Arkansas Secretary of State; and
  - ii. Proof that the licensee is in good standing with the Arkansas Department of Finance and Administration.
- c. Before renewing a license, the Commission may require further information and documentation and may conduct additional background checks to determine that the licensee continues to meet the requirements set out in these rules or the rules of the Arkansas Department of Health or Arkansas Alcoholic Beverage Control Division.
- d. The renewal application shall be signed and sworn before a notary as being true and correct.
- e. A processor whose license is not renewed shall cease all operations immediately upon expiration of the license, return the license to the Commission, and any marijuana or marijuana products remaining in the processor's possession shall be destroyed or transferred pursuant to Arkansas Alcoholic Beverage Control requirements.

### 4. Denial of Application for or Renewal of a License

- a. The Commission may deny an application for or renewal of a license for any of the following reasons:
  - i. Failure to provide the information or meet the requirements described in the Amendment, these rules, or the rules of the

Arkansas Department of Health or Arkansas Alcoholic Beverage Control Division;

- ii. An owner, board member, or officer has been an owner of a dispensary, cultivation facility, transporter, distributor, or processor that has had a license revoked;
- iii. Provision of misleading, incorrect, false, or fraudulent information;
- iv. Failure to pay all applicable fees as required;
- v. The applicant has an owner, board member, or officer with a background history that indicates the person does not have a reputable and responsible character or would pose a risk to the health, safety, or welfare of the public or qualifying patients; or
- vi. Any other ground that serves the purpose of these rules or the rules of the Arkansas Department of Health or Arkansas Alcoholic Beverage Control Division.

b. If the Commission denies an application for or renewal of a license, the Commission shall notify the applicant in writing of the Commission's decision, including the reason for the denial.

c. A person aggrieved by a decision made pursuant to this section may appeal in accordance with the procedures described in this rule.

d.

#### 5. Change in Information

a. The processor shall notify the Commission of any changes in contact information, including a change of address.

b. The processor licensee shall notify the Commission in writing no less than fourteen (14) days in advance of any change in the information provided in its original application for licensure, along with supporting documentation to prove the processor continues to be qualified. In the event of a change for which a processor licensee does not have prior notice, the licensee shall notify the Commission immediately upon learning of the change.

c. The licensee shall notify the Commission of the following:

- i. The arrest or conviction for any felony of any owner, board member, or officer;
- ii. Any of the licensee's owners, board members, or officers owes delinquent taxes to the State of Arkansas or the federal government.
- iii. The temporary closure of the business for any reason for longer than fifteen (15) days;



- iv. The permanent closure of the business;
    - v. The filing of bankruptcy by the entity or by any of the entity's owners; or
    - vi. Any other change that may affect the licensee's qualification for licensure.
  - d. If the Commission determines that the change has the potential to disqualify a licensee, the Commission shall refer the matter to the Alcoholic Beverage Control Division for adjudication.
6. Surrender of License
- a. A processor may voluntarily surrender a license to the Commission at any time.
  - b. If a processor licensee voluntarily surrenders a license, the processor shall:
    - i. Return the license to the Commission;
    - ii. Submit a report to the Commission including the reason for surrendering the license; contact information following the close of business; the person or persons responsible for the close of the business; and where business records will be retained; and
    - iii. Tender all marijuana to another facility in accordance with Division requirements. No portion of the licensing fee shall be returned to the processor licensee if the license is voluntarily surrendered prior to the expiration of the license.

## 7. FEES

Processor License Fee - \$5,000 .

Processor Renewal Fee - \$5,000 .

## 8. APPEALS

- a. If the Commission denies an application for the issuance or renewal of a processor license, the licensee may request a hearing before the Commission by filing a written request no later than fifteen (15) days from receipt of the notice of denial from the Commission.
- b. The Commission shall provide notice of the hearing to all interested parties, conduct the hearing, and issue a decision in accordance with the Arkansas Administrative Procedure Act, §§ 25-15-201 et seq.
- c. The Commission's decision may be appealed to the circuit court of the county in which the processor is situated or the Pulaski County Circuit Court. Appeals shall be governed by the terms of the Arkansas Administrative Procedure Act, §§ 25-15-201 et seq.

## **SECTION VII. Rule-Making**

### **1. Authority**

- a. The Arkansas Medical Marijuana Commission (“MMC”) has been authorized by §§ 8 and 14 of the Arkansas Medical Marijuana Amendment of 2016 to promulgate rules.
- b. In rule-making, the MMC follows the procedural requirements of the Arkansas Administrative Procedure Act, specifically Ark. Code Ann. §§ 25-15-203, 25-15-204, and 25-15-218; Ark. Code Ann. § 10-3-309; and any Executive Order of the Governor applicable at the time that rule-making is initiated. The purpose of this rule is to inform the public how to initiate rule-making and how to comment on a proposed rule. This rule does not provide a comprehensive description of the entire rule-making process.

### **2. Initiating Rule-Making**

The process of adopting a new rule or amending or repealing an existing rule (hereinafter referred to “rule-making”) may be initiated:

- a. At the request of the governing body;
- b. By agency staff, who may request permission of the governing board to initiate rule-making; or
- c. By third persons outside the agency, who may petition for the issuance, amendment, or repeal of any rule in accordance with Ark. Code Ann. § 25-15-204. The petition must contain:
  - i. The name, address, telephone number, and facsimile number of the petitioner and the petitioner’s attorney, if represented by counsel;
  - ii. The specific rule or action requested;
  - iii. The reasons for the rule or action requested;
  - iv. Facts showing that the petitioner is regulated by the agency or has a substantial interest in the rule or action requested; and
  - v. The date of the request.

### 3. Public Comment

- a. If the agency proceeds with the rule-making process, it will provide the public with a reasonable opportunity to comment on a proposed rule.
- b. The public comment period will last at least thirty (30) days.
- c. The agency will begin the public comment period by publishing notice of the proposed rule-making.
  - i. The notice will include the terms or substance of the proposed rule, or a description of the subjects and issues involved.
  - ii. The notice will include a description of the time, location, and manner in which interested parties may present their views.
  - iii. The notice will be published in compliance with Ark. Code Ann. § 25-15-204.
- d. If the agency chooses to or is required to hold a hearing at which the public may appear and comment on the proposed rule, such hearing will comply with the requirements of Ark. Code Ann. § 25-15-213.
- e. The agency shall accept and consider public comments as required by Ark. Code Ann. §25-15-204.
- f. The agency shall track and respond to public comments as necessary to comply with Ark. Code Ann. § 25-15-204(a)(2) and the rules of the Administrative Rules and Regulations Subcommittee of Legislative Council (or Joint Budget.)

### 4. The Decision to Adopt a Rule

- a. The agency will not finalize language of the rule or decide whether to adopt a rule until the period for public comment has expired.
- b. Prior to adoption, the agency will consider the factors described in Ark. Code Ann. § 25-15-204.
- c. The agency may use its own experience, specialized knowledge, and judgment in the adoption of a rule.

### 5. Legislative Approval, Final Filings, and Effective Date

- a. After the necessary legislative approvals are obtained, the agency will file the final rule with the Secretary of State.
- b. The final rule will be effective ten (10) days after filing with the Secretary of State unless a later date is specified in the rule itself or by law.

## 6. Public Inspection and Records

- a. After the expiration of the thirty (30) day public comment period and before the effective date of the rule, the agency shall take appropriate measures to make the final rule known to the persons who may be affected by the rule, pursuant to the specifications in Ark. Code Ann. § 25-15-204.
- b. The agency's rules shall be available for public inspection.
- c. The agency shall maintain copies of all filings and documentation associated with rule-making as necessary to comply with the Arkansas General Record Retention Schedule.

## 7. Need for Emergency Rule

An agency may enact an emergency rule if it finds that an imminent peril to the public health, safety, or welfare, or that compliance with a federal law or regulations, requires the adoption of a rule on less than thirty (30) days' notice. The agency shall state in writing its reasons for that finding.

- a. Filings and effective date of emergency rule
  - i. The agency will follow the process required by Ark. Code Ann. § 25-15-204 and any applicable Executive Order of the Governor to enact an emergency rule.
  - ii. After receiving gubernatorial approval and legislative approval, an emergency rule may become effective immediately upon filing with the Secretary of State or at a stated time less than ten (10) days after filing if the agency finds that such effective date is necessary due to imminent peril to the public health, safety, or welfare.
  - iii. The agency will take appropriate measures to notify those who may be affected by the Emergency Rule.

## **Section VIII. Declaratory Orders**

### 1. Purpose and Use of Declaratory Orders

A declaratory order is a means of resolving a controversy or answering

questions or doubts concerning the applicability of statutory provisions, rules, or orders over which the agency has authority. A petition for declaratory order may be used only to resolve questions or doubts as to how the statutes, rules, or orders may apply to the petitioner's particular circumstances. A declaratory order is not the appropriate means for determining the conduct of another person or for obtaining a policy statement of general applicability from an agency. A petition or declaratory order must describe the potential impact of statutes, rules, or orders upon the petitioner's interests.

## 2. The Petition

The process to obtain a declaratory order is begun by filing with the MMC a petition that provides the following information:

- a. The name, address, telephone number, and facsimile number of the petitioner;
- b. The name, address, telephone number, and facsimile number of the attorney of the petitioner;
- c. The statutory provision(s), agency rule(s), or agency order(s) on which the declaratory order is sought;
- d. A description of how the statutes, rules, or orders may substantially affect the petitioner and the petitioner's particular set of circumstances, and the question or issue on which petitioner seeks a declaratory order;
- e. The signature of the petitioner or petitioner's attorney;
- f. The date; and
- g. Request for a hearing, if desired.

## 3. Agency Disposition

- a. The agency may hold a hearing to consider a petition for declaratory order. If a hearing is held, it shall be conducted in accordance with Ark. Code Ann. § 25-15- 208 and § 25-15-213, and the agency's rules for adjudicatory hearings.
- b. The agency may rely on the statements of fact set out in the petition without taking any position with regard to the validity of the facts. Within ninety (90) days of the filing of the petition, the agency will render a final order denying the petition or issuing a declaratory order.

## **SECTION IX.**

### **Adjudicative Hearings**

#### **1. Scope Of This Chapter**

This rule applies in all administrative adjudications conducted by the MMC. This rule describes the process by which the agency formulates orders.

#### **2. Presiding Officer**

The MMC shall preside at the hearing or may designate one or more members of the MMC or one or more examiners, referees, or hearing officers to preside at a hearing.

#### **3. Appearances**

- a. Any party appearing in any agency proceeding has the right, at his or her own expense, to be represented by counsel. Alternatively, the respondent may appear on his or her own behalf.
- b. Any attorney representing a party to an adjudicatory proceeding must file notice of appearance as soon as possible.
- c. Service on counsel of record is the equivalent of service on the party represented.
- d. On written motion served on the party represented and all other parties of record, the presiding officer may grant counsel of record leave to withdraw for good cause shown.

#### **4. Consolidation**

If there are separate matters that involve similar issues of law or fact, or identical parties, the matters may be consolidated if it appears that consolidation would promote the just, speedy, and inexpensive resolution of the proceedings, and would not unduly prejudice the rights of a party.

#### **5. Notice To Interested Parties**

If it appears that the determination of the rights of parties in a proceeding will necessarily involve a determination of the substantial interests of

persons who are not parties, the presiding officer may enter an order requiring that an absent person be notified of the proceeding and be given an opportunity to be joined as a party of record.

## 6. Service Of Papers

Unless the presiding officer otherwise orders, every pleading and every other paper filed for the proceeding, except applications for witness subpoenas and the subpoenas, shall be served on each party or the party's representative at the last address of record.

## 7. Initiation & Notice of Hearing

- a. An administrative adjudication is initiated when the agency issues a notice of hearing.
- b. The notice of hearing will be sent to the respondent by U.S. Mail, return receipt requested, delivery restricted to the named recipient or his agent. Notice shall be sufficient when it is so mailed to the respondent's latest address on file with the agency.
- c. Notice will be mailed at least twenty days before the scheduled hearing unless otherwise agreed by the parties.
- d. The notice will include:
  - i. Statement of the time, place, and nature of the hearing;
  - ii. A statement of the legal authority and jurisdiction under which the hearing is to be held; and
  - iii. A short and plain statement of the matters of fact and law asserted.

## 8. Motions

All requests for relief will be by motion. Motions must be in writing or made on the record during a hearing. A motion must fully state the action requested and the grounds relied upon. The original written motion will be filed with the agency. When time allows, the other parties may, within seven (7) days of the service of the written motion, file a response in opposition. The presiding officer may conduct such proceedings and enter such orders as are deemed necessary to address issues raised by the motion. However, a presiding officer, other than the MMC, will not enter a dispositive order unless expressly authorized in writing to do so.

## 9. Answer

A respondent may file an answer to the notice of hearing.

## 10. Information Provided Upon Request

- a. Upon written request, the agency will provide the information designated in Ark. Code Ann. § 25-15-208(a)(3).
- b. Such requests should be received by the agency at least 10 days before the scheduled hearing.

## 11. Continuances

- a. The hearing officer may grant a continuance of hearing for good cause shown. Requests for continuances will be made in writing. The request must state the grounds to be considered and be made as soon as practicable and, except in cases of emergencies, no later than five (5) days prior to the date noticed for the hearing. In determining whether to grant a continuance, the hearing officer may consider:
  - i. Prior continuances;
  - ii. The interests of all parties;
  - iii. The likelihood of informal settlements;
  - iv. The existence of an emergency;
  - v. Any objection;
  - vi. Any applicable time requirement;
  - viii. The existence of a conflict of the schedules of counsel, parties, or witnesses;
  - ix. The time limits of the request; and Other relevant factors.
- b. The hearing officer may require documentation of any grounds for continuance.

## 12. Hearing Procedures

- a. The presiding officer presides at the hearing and may rule on motions, require briefs, and issue such orders as will ensure the orderly conduct of the proceedings; provided, however, any presiding officer other than the MMC shall not enter a dispositive order or proposed decision unless expressly authorized in writing to do so.



- b. All objections must be made in a timely manner and stated on the record.
- c. Parties have the right to participate or to be represented by counsel in all hearings or pre-hearing conferences related to their case.
- d. Subject to terms and conditions prescribed by the Administrative Procedure Act, parties have the right to introduce evidence on issues of material fact, cross-examine witnesses as necessary for a full and true disclosure of the facts, present evidence in rebuttal, and, upon request by the agency, may submit briefs and engage in oral argument.
- e. The presiding officer is charged with maintaining the decorum of the hearing and may refuse to admit, or may expel, anyone whose conduct is disorderly.

### 13. Order of Proceedings

The presiding officer will conduct the hearing in the following manner:

- a. The presiding officer will give an opening statement, briefly describing the nature of the proceedings.
- b. The parties will be given the opportunity to present opening statements.
- c. The parties will be allowed to present their cases in the sequence determined by the presiding officer.
- d. Each witness must be sworn or affirmed by the presiding officer and be subject to examination and cross-examination as well as questioning by the MMC. The presiding officer may limit questioning in a manner consistent with the law.
- e. When all parties and witnesses have been heard, parties will be given the opportunity to present final arguments.

### 14. Evidence

- a. The presiding officer shall rule on the admissibility of evidence and may, when appropriate, take official notice of facts in accordance with all applicable requirements of law.
- b. Stipulation of facts is encouraged. The agency may make a decision based on stipulated facts.
- c. Evidence in the proceeding must be confined to the issues set forth in the hearing notice, unless the parties waive their right to such notice or

the presiding officer determines that good cause justifies expansion of the issues. If the presiding officer decides to admit evidence outside the scope of the notice, over the objection of a party who did not have actual notice of those issues, that party, upon timely request, may receive a continuance sufficient to prepare for the additional issue and to permit amendment of pleadings.

- d. A party seeking admission of an exhibit must provide thirteen copies of each exhibit at the hearing. The presiding officer must provide the opposing parties with an opportunity to examine the exhibit prior to the ruling on its admissibility. All exhibits admitted into evidence must be appropriately marked and be made part of the record.
- e. Any party may object to specific evidence or may request limits on the scope of the examination or cross-examination. A brief statement of the grounds upon which it is based shall accompany such an objection. The objection, the ruling on the objection, and the reasons for the ruling will be noted in the record. The presiding officer may rule on the objection at the time it is made or may reserve the ruling until the written decision.
- f. Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record. The party making the offer of proof for excluded oral testimony will briefly summarize the testimony or, with permission of the presiding officer, present the testimony. If the excluded evidence consists of a document or exhibit, it shall be marked as part of an offer of proof and inserted in the record.
- g. Irrelevant, immaterial, and unduly repetitive evidence will be excluded. Any other oral or documentary evidence, not privileged, may be received if it is of a type commonly relied upon by reasonably prudent men and women in the conduct of their affairs.

The finder of fact may base its findings of fact upon reasonable inferences derived from other evidence received.

## 15. Default

If a party fails to appear or participate in an administrative adjudication after proper service of notice, the agency may proceed with the hearing and render a decision in the absence of the party.

## 16. Recording The Proceedings

The agency will record the testimony heard at a hearing. Upon the filing of a petition for judicial review, the agency will provide a verbatim transcript of testimony taken before the agency.

## 17. Final Order

The agency will serve on the respondent a written order that reflects the action taken by the agency. The order will include a recitation of facts found based on testimony and other evidence presented and reasonable inferences derived from the evidence pertinent to the issues of the case. It will also state conclusions of law and directives or other disposition entered against or in favor of the respondent.

The order will be served personally or by mail on the respondent. If counsel represents respondent, service of the order on respondent's counsel shall be deemed service on the respondent.

# *State of Arkansas*

## *Department of Finance and Administration*



### *Medical Marijuana Commission*

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#### *Rules Governing the Licensure of Medical Marijuana Transporters*

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##### *Medical Marijuana Commissioners*

*James Miller, Chairman  
J.P. Mobley  
Kevin Case  
Reginal Thomas, Sr.  
Tyler Ketner*

*~ 2022 ~*

# MEDICAL MARIJUANA COMMISSION: RULES AND REGULATIONS GOVERNING THE LICENSURE OF MEDICAL MARIJUANA TRANSPORTERS

## I. AUTHORITY OF THE COMMISSION

These Rules and Regulations Governing the Licensure of Medical Marijuana Transporters in Arkansas are duly adopted and promulgated by the Medical Marijuana Commission pursuant to Amendment No. 98 of the Constitution of the State of Arkansas of 1874, The Medical Marijuana Amendment of 2016.

## II. SCOPE AND PURPOSE

These rules govern the application procedures for the licensure, application, and renewal of licenses for medical marijuana transporters in Arkansas.

## III. DEFINITIONS

1. “Amendment” means the Arkansas Medical Marijuana Act of 2016.
2. “Applicant” means the entity applying for licensure under these rules.
3. “Approved Laboratory” means a laboratory has been approved by the Department specifically for the testing of usable marijuana.
4. “Commission” means the Medical Marijuana Commission.
5. “Department” means the Arkansas Department of Health.
6. “Division” means the Alcoholic Beverage Control Division.
7. “Excluded felony offense” means:
  - (A)(i)(a) A felony offense as determined by the jurisdiction where the felony offense occurred.
    - (b) The Medical Marijuana Commission, the Department of Health, or the Alcoholic Beverage Control Division shall determine whether an offense is a felony offense based upon a review of the relevant court records concerning the conviction for the offense.
  - (ii) An offense that has been sealed by a court or for which a pardon has been granted is not considered an excluded felony offense; or
  - (B) A violation of a state or federal controlled-substance law that was classified as a felony in the jurisdiction where the person was convicted, but not including:

(i) An offense for which the sentence, including any term of probation, incarceration, or supervised release, was completed ten (10) or more years earlier; or

(ii) An offense that has been sealed by a court or for which a pardon has been granted.

8. “Licensed facility” means a licensed cultivation facility, licensed dispensary, licensed transporter, or licensed processor.

9. “Marijuana” means marijuana in any form described in the Amendment or the rules promulgated by the Division, Department of Health, or the Commission.

10. “Transport” - means to move medical marijuana between licensed facilities or between a licensed facility and approved laboratory.

11. “Transporter” or “distributor” means an entity licensed by the Commission pursuant to these rules and that may:

A. Acquire, possess, deliver, transfer, transport, or distribute marijuana to a dispensary, cultivation facility, or processor; and

B. Receive compensation for providing services allowed by this section.

12. “Transportation vehicle” means a vehicle used by a licensed transporter to transport marijuana.

#### IV. TRANSPORTER APPLICATION, LICENSING, & RENEWAL

##### 1. License Required

A. No person or entity shall operate as a transporter unless licensed by the Commission pursuant to these rules.

B. Each license for a transporter shall specify:

(1) The name and address of the entity that holds the license;

(2) The effective dates of the license; and

(3) The address of the licensed transporter, if different from that in subsection (1).

C. A transporter licensed under this section shall not grow, manufacture, process, prepare, supply, or dispense marijuana.

D. The transporter licensee shall visibly post a copy of its license at the transporter facility covered under the license.

E. A transporter license shall expire one (1) year after the date of issuance.

## 2. Application

A. An application for a transporter license shall be submitted to the Commission on a form and in a manner prescribed by the Commission.

B. Information and statements provided in an application shall become conditions of a license if the application is selected, and failure to satisfy the conditions will be cause for revocation or denial of renewal.

C. An applicant shall be required to submit, without limitation:

(1) The required fee;

(2) A performance bond in the amount of \$100,000.00 that names the state as the secured party.;

(3) Documentation of the entity's organization and ownership/management, including evidence that the applicant is an entity incorporated in the State of Arkansas;

(4) Sufficient proof that each of the entity's owners, board members, and officers:

(a) Is over the age of twenty-one (21);

(b) Has not previously been an owner of a dispensary, cultivation facility, transporter, or processor that has had a license revoked;  
and

(c) Owes no delinquent taxes to the State of Arkansas or the federal government.

(5) Consents for criminal background checks for each owner, board member, and officer of the entity, along with the required processing fees;

(6) Plan for operating a medical marijuana transporter in compliance with applicable laws and regulations and demonstrating planning sufficient to prove the applicant's:

(a) Ability to transport marijuana to approved labs in accordance with chain of custody requirements and the rules of the Arkansas Department of Health;

(b) Ability to comply with Division's rules regarding:

- i. Security requirements;
- ii. Recordkeeping requirements;
- iii. Transporting products;
- iv. Inventory reports;
- v. Advertising restrictions;
- vi. Implementation of appropriate security measures to deter and prevent unauthorized entrance into areas containing marijuana and the theft of marijuana;
- vii. Inspections and investigation by Alcoholic Beverage Control Division;
- viii. Requirements for transportation vehicles; and
- ix. Personnel requirements.

(c) Ability to maintain effective control against diversion of marijuana and marijuana products;

(7) Proof of financial stability and access to financial resources, including but not limited to:

- (a) Legal sources of finances immediately available to begin operating a transporter;
- (b) Financial projections for the next five (5) years; and
- (c) No history of bankruptcy filings by the applicant or its owners, officers, or board of directors for eight (8) years prior to the date of application.

D. The application shall be signed and sworn before a notary as being true and correct.

E. The individual signing the application on behalf of the applicant must:

- (1) Be an owner, officer, or agent of the entity;
- (2) Provide evidence that the individual is legally authorized to sign the application on the applicant's behalf;
- (3) Serve as the primary point of contact with the Commission; and



(4) Provide a contact phone number and email address.

F. A person subject to background checks as provided in these rules or any rules promulgated by the Division or the Department shall be prohibited from being an owner, officer or board member of a transportation facility, be prohibited from entering a transportation facility, and be prohibited from having any responsibility for operating a transportation vehicle if the person has been convicted of an excluded felony offense.

G. Upon issuance of a transporter license, the transporter licensee may begin operations.

### 3. Renewal

A. The Commission shall issue a renewal license within ten (10) days of the date the Commission receives a complete renewal application, including the payment of a renewal fee.

B. A renewal application for a transporter license shall be submitted to the Commission on a form and in a manner prescribed by the Commission at least thirty (30) days prior to the expiration date on the license and shall require, without limitation:

(1) Proof that the licensee is in good standing with the Arkansas Secretary of State; and

(2) Proof that the licensee is in good standing with the Arkansas Department of Finance and Administration.

C. Before renewing a license, the Commission may require further information and documentation and may conduct additional background checks to determine that the licensee continues to meet the requirements set out in these rules or the rules of the Arkansas Department of Health or Arkansas Alcoholic Beverage Control Division.

D. The renewal application shall be signed and sworn before a notary as being true and correct.

E. A transporter licensee whose license is not renewed shall cease all operations immediately upon expiration of the license, return the license to the Commission, and any marijuana or marijuana products remaining in the transporter's possession shall be transferred pursuant to Arkansas Alcoholic Beverage Control requirements.

### 4. Denial of Application for or Renewal of a License

A. The Commission may deny an application for or renewal of a license for any of the following reasons:

- (1) Failure to provide the information or meet the requirements described in the Amendment, these rules, or the rules of the Arkansas Department of Health or Arkansas Alcoholic Beverage Control Division;
- (2) An owner, board member, or officer has been an owner of a dispensary, cultivation facility, transporter, distributor, or processor that has had a license revoked;
- (3) Provision of misleading, incorrect, false, or fraudulent information;
- (4) Failure to pay all applicable fees as required;
- (5) The applicant has an owner, board member, or officer with a background history that indicates the person does not have a reputable and responsible character or would pose a risk to the health, safety, or welfare of the public or qualifying patients; or
- (6) Any other ground that serves the purpose of these rules or the rules of the Arkansas Department of Health or Arkansas Alcoholic Beverage Control Division.

B. If the Commission denies an application for or renewal of a license, the Commission shall notify the applicant in writing of the Commission's decision, including the reason for the denial.

C. A person aggrieved by a decision made pursuant to this section may appeal in accordance with the procedures described in this rule.

## 5. Change in Information

A. The transporter licensee shall notify the Commission of any changes in contact information, including a change of address.

B. The transporter licensee shall notify the Commission in writing no less than fourteen (14) days in advance of any change in the information provided in its original application for licensure, along with supporting documentation to prove the transporter licensee continues to be qualified. In the event of a change for which a transporter licensee does not have prior notice, the licensee shall notify the Commission immediately upon learning of the change.

C. The licensee shall notify the Commission of the following:

- (1) The arrest or conviction for any felony of any owner, board member, or officer;

- (2) Any of the licensee's owners, board members, or officers owes delinquent taxes to the State of Arkansas or the federal government;
- (3) The temporary closure of the business for any reason for longer than fifteen (15) days;
- (4) The permanent closure of the business;
- (5) The filing of bankruptcy by the entity or by any of the entity's owners; or
- (6) Any other change that may affect the licensee's qualification for licensure.

D. If the Commission determines that the change has the potential to disqualify a licensee, the Commission shall refer the matter to the Alcoholic Beverage Control Division for adjudication.

#### 6. Surrender of License

A. A transporter licensee may voluntarily surrender a license to the Commission at any time.

B. If a transporter licensee voluntarily surrenders a license, the transporter shall:

- (1) Return the license to the Commission;
- (2) Submit a report to the Commission including the reason for surrendering the license; contact information following the close of business; the person or persons responsible for the close of the business; and where business records will be retained; and
- (3) Tender all marijuana to another facility in accordance with Division requirements.

C. No portion of the licensing fee shall be returned to the transporter licensee if the license is voluntarily surrendered prior to the expiration of the license.

#### V. FEES

Transporter License Fee - \$5,000.

Transporter Renewal Fee - \$5,000.

#### VI. APPEALS

1. If the Commission denies an application for the renewal of a transporter license, the licensee may request a hearing before the Commission by filing a written request no later than fifteen (15) days from receipt of the notice of denial from the Commission.
2. The Commission shall provide notice of the hearing to all interested parties, conduct the hearing, and issue a decision in accordance with the Arkansas Administrative Procedure Act, §§ 25-15-201 et seq.
3. The Commission's decision may be appealed to the circuit court of the county in which the transporter is situated or the Pulaski County Circuit Court. Appeals shall be governed by the terms of the Arkansas Administrative Procedure Act, §§ 25-15-201 et seq.

#### VII. SEVERABILITY

If any provision of these rules or the application thereof to any person or circumstance is held invalid for any reason the invalidity shall not affect the other provisions or any other application of these rules that can be given effect without the invalid provisions or application. Therefore, all provisions of these rules are declared to be severable.

# *State of Arkansas*

## *Department of Finance and Administration*



## *Alcoholic Beverage Control Division*

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### *Rules Governing the Oversight of Medical Marijuana Transporters*

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#### *Alcoholic Beverage Control Board*

*Freddie Black, Chairman*

*Pam DePriest*

*Jamie Anderson*

*Steve Smith*

*Alex Blass*

*Doralee Chandler, Director*

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# **ALCOHOLIC BEVERAGE CONTROL’S RULES GOVERNING THE OVERSIGHT OF MEDICAL MARIJUANA TRANSPORTATION BY LICENSED TRANSPORTERS AND DISTRIBUTORS**

## **SECTION I. AUTHORITY OF THE BOARD**

These Transporter/Distributor Operational Rules are duly adopted and promulgated by Arkansas Alcoholic Beverage Control Division pursuant to Amendment No. 98 of the Constitution of the State of Arkansas of 1874, The Medical Marijuana Amendment of 2016.

## **SECTION II. SCOPE PURPOSE, AND SEVERABILITY**

These rules govern the oversight of medical marijuana transportation and distribution in Arkansas. These rules govern the requirements for record keeping, security, and personnel of transporters and distributors. These rules govern the requirements for transporters and distributors to store and transport medical marijuana. These rules govern the procedures for inspecting and investigating transporters and distributors. These rules govern the procedures for licensing transporter and distributor agents. These rules govern the procedures for suspending, revoking, and penalizing transporter and distributor licenses for violations of the Amendment or rules.

If any provision of these rules or the application thereof to any person or circumstance is held invalid for any reason the invalidity shall not affect the other provisions or any other application of these rules that can be given effect without the invalid provisions or application. Therefore, all provisions of these rules are declared to be severable.

## **SECTION III. DEFINITIONS**

- 3.1 ***“Amendment”*** means the Arkansas Medical Marijuana Amendment of 2016.
- 3.2 ***“Approved Laboratory”*** means a laboratory has been approved by the Department specifically for the testing of usable marijuana.
- 3.3 ***“Authorized Personnel”*** means any employee employed by a transporter or distributor and granted permission by the facility to enter into restricted areas.
- 3.4 ***“Commission”*** means the Medical Marijuana Commission.
- 3.5 ***“Contractor”*** means any person or business under contract to complete repairs or improvements to the licensed facility.

- 3.6 ***“Department”*** means the Arkansas Department of Health.
- 3.7 ***“Director”*** means the Director of the Alcoholic Beverage Control Administration Division.
- 3.8 ***“Division”*** means the Alcoholic Beverage Control Administration Division.
- 3.9 ***“Enforcement”*** means the Alcoholic Beverage Control Enforcement Division.
- 3.10 ***“Excluded felony offense”*** means:
- (A)(i)(a) A felony offense as determined by the jurisdiction where the felony offense occurred.
- (b) The Medical Marijuana Commission, the Department of Health, or the Alcoholic Beverage Control Division shall determine whether an offense is a felony offense based upon a review of the relevant court records concerning the conviction for the offense.
- (ii) An offense that has been sealed by a court or for which a pardon has been granted is not considered an excluded felony offense; or
- (B) A violation of a state or federal controlled-substance law that was classified as a felony in the jurisdiction where the person was convicted, but not including:
- (i) An offense for which the sentence, including any term of probation, incarceration, or supervised release, was completed ten (10) or more years earlier; or
- (ii) An offense that has been sealed by a court or for which a pardon has been granted.
- 3.11 ***“Inventory Tracking System”*** means the required seed to sale tracking system that tracks medical marijuana from either seed or immature plant state until the usable marijuana is sold to a qualified patient or designated caregiver or is destroyed.
- 3.12 ***“Licensed facility”*** means a licensed cultivation facility, licensed dispensary, licensed transporter/distributor, or licensed processor.
- 3.13 ***“Marijuana” or “medical marijuana”*** means marijuana in any form described in the Amendment or the rules promulgated by the Division, Department of Health, or the Commission.
- 3.14 ***“Shipping Container”*** means a sealable, tamper-evident container used for the transport of medical marijuana between licensed facilities and an approved laboratory.

- (3.15) **“Transport”** - means to move medical marijuana between licensed facilities or between a licensed facility and approved laboratory.
- 3.16 **“Transporter”** or **“transporter/distributor”** means an entity licensed by the Commission pursuant to these rules and that may:
- (A) Acquire, possess, deliver, transfer, transport, or distribute marijuana to a dispensary, cultivation facility, or processor; and
  - (B) Receive compensation for providing services allowed by this section.
- 3.17 **“Transporter/distributor agent”** or **“agent”** means an individual who has a current Registry Identification Card issued by the Division and who is an employee of a transporter/distributor
- 3.18 **“Transportation vehicle”** means a vehicle used by a licensed transporter/distributor to transport marijuana.
- 3.19 **“Unique Identification Number” (“UIN”)** means a unique number generated by the Inventory Tracking System and assigned to all usable marijuana for the purpose of tracking the marijuana from its seed form to ultimate sale to a qualified patient/designated caregiver or destruction.

#### **SECTION IV. RECORDKEEPING REQUIREMENTS**

- 4.1 ***Maintained Records*** - Records required to be kept for current year and three (3) proceeding calendar years.
- A General Business Records. Transporters/distributors shall keep all books and records necessary to fully account for each business transaction conducted under its license;
  - B A copy of the manifest for each transport of marijuana conducted under the transporter’s/distributor’s license;
  - C Personnel records, as described in this rule;
  - D Record of all pesticides and chemical applications to the transporter/distributor facility or transportation vehicle; and
  - E Visitor logs, as described in this rule.
- 4.2 ***Surveillance Records*** -All surveillance recordings shall be maintained for a minimum of 90 days.

## **SECTION V. PERSONNEL REQUIREMENTS**

### **5.1 *Registry Identification Card Required***

- A Any employee, supervisor or agent employed by a transporter/distributor must have a current Registry Identification Card issued by the Division pursuant to these rules.

### **5.2 *Hiring Procedure***

- A A transporter/distributor shall provide a prospective agent a completed Notice of Intent to Hire form for submission to the Division.
- B The prospective agent may not perform any duties on behalf of the transporter/distributor until the individual's Registry Identification Card has been issued by the Division.

### **5.3 *Separation of Employment***

- A A transporter/distributor shall notify the Division when any agent ceases to be employed by the transporter/distributor.
- B Notice of Separation of Employment shall be on a form provided by the Division, and it shall be submitted within seven (7) days of the agent's separation of employment.

### **5.4 *Personnel Records***

- A A transporter/distributor shall keep a record of all agents employed by the transporter/distributor, including, but not limited to:
  - i Name of Agent;
  - ii Detailed Job Description;
  - iii Records of all training received or acquired by the agent;
  - iv Date(s) of Employment;
  - v Record of days worked and time off; and
  - vi Any disciplinary action taken against an agent.
- (B) A transporter/distributor shall maintain personnel records for at least three (3) years after an agent ceases to work for the transporter/distributor.

## **SECTION VI. OVERSIGHT AND INSPECTION REQUIREMENTS**

6.1 ***Inspection and Investigation*** – Transportation vehicles and transporter/distributor facilities shall be subject to reasonable inspection by the Division.

A The Director of the Alcoholic Beverage Control Administration, or the Director of Alcoholic Beverage Control Enforcement, or an enforcement agent, may:

- i Inspect, without the need for a search warrant, the licensed premises of a transporter's/distributor's facility or transportation vehicle, including any marijuana and marijuana products on the premises, equipment used in the transportation, distribution or storage of marijuana, the transporter's/distributor's records required by these rules and computers, at any time;
- ii Issue a written report or notice of his or her findings;
- iii Exercise law enforcement powers, if authorized, and
- iv Enlist the assistance of any law enforcement officer not directly employed by Alcoholic Beverage Control Enforcement toward the performance of these enforcement duties.

B A transporter/distributor and any agent shall cooperate with the Director of Alcoholic Beverage Control Administration, the Director of Alcoholic Beverage Control Enforcement, and enforcement agent, an employee of the Board, or assisting law enforcement officer, acting in an official capacity to enforce the laws related to marijuana, including but not limited to:

- i Permitting entry upon and inspection of the licensed premises (including all limited access areas) and transportation vehicles; and
- ii Providing access to records required by these rules and computers, when requested by the Director of Alcoholic Beverage Control Administration, Director of Alcoholic Beverage Control Enforcement, or an enforcement agent, or an assisting law enforcement officer.

6.2 ***Inspection required prior to operation.***

All transporters/distributors shall notify the Division of their intent to commence operations.

A. The Division shall conduct a thorough inspection of the premises for the following, as applicable:

- i. Verify possession and accuracy of detailed plans and elevation drawings required in these rules;
  - ii. Verify connection and accessibility to the Inventory Tracking System;
  - iii. Verification of an operational alarm and video surveillance systems;
  - iv. Verification of secure locks throughout the transporter/distributor facility, transportation vehicle, and on the secured container for shipping;v.  
Verification of controls to limited access areas;
  - vi. Verification of compliance with perimeter restrictions;
  - vii. Any personnel records as required by these rules;
  - viii. Any other records required by these rules.
- B. Transporter/distributors may not commence operations until the Division has issued an authorization letter and said letter has been served upon the licensee by Enforcement.

6.3 ***Annual Inspections Required.*** The Division shall conduct or request Enforcement to conduct, at minimum, one (1) inspection every twelve (12) months, of all transportation vehicles and transporter/distributor facilities. The annual inspection shall include, as applicable:

- A. Verifying possession and accuracy of detailed plans and elevation drawings required in these rules;
- B. Verify connection and accessibility to the Inventory Tracking System;
- C. Verification of an operational alarm and video surveillance systems;
- D. Verification of secure locks throughout the transporter/distributor facility, transportation vehicle, and on the secured container for shipping;
- E. Verification of controls to limited access areas;
- F. Verification of compliance with perimeter restrictions;
- G. Any existing personnel records as required by these rules; and
- H. Any existing records required by these rules.

## **VII. CONSTRUCTION SPECIFICATIONS AND SECURITY REQUIREMENTS**

### **7.1 *Duty to Operate a Secure Premises***

- A A transporter/distributor shall implement appropriate security measures to deter and prevent the theft and diversion of marijuana.
- B A transporter/distributor shall implement appropriate security measures to deter and prevent the unauthorized entrance into areas containing marijuana at the transporter/distributor facility
- C A transporter/distributor is responsible for the security of all marijuana on the licensed premises, in transportation vehicles, and all marijuana after a transporter/distributor takes possession of the marijuana from a licensed cultivator, dispensary, processor or laboratory.

### **7.2 *Transport Security***

- A Shipping Requirements
  - i Shipping Container Required. A transporter/distributor shall only transport medical marijuana that is packaged for transport inside a shipping container (as defined in this rule) tagged with a UIN.
  - ii Secured Container Required. All marijuana in transport shall be shielded from public view and secured in the following manner:
    - a In a locked, safe and secure storage compartment that is part of the transportation vehicle; or
    - b In a locked storage container that has a separate key or combination pad.
  - iii Routes and Additional Security Requirements for Transporting Marijuana
    - a A transportation vehicle shall travel directly from the originating licensed facility or approved laboratory to the receiving licensed facility or approved laboratory and shall not make any unnecessary stops in between, except to other licensed facilities or approved laboratories receiving inventory.
    - b A transporter/distributor shall notify the division immediately if a transportation vehicle is involved in an accident or experiences any type of failure causing the vehicle to be stopped at a location other

than a licensed facility or approved laboratory for more than two (2) hours.

B Transportation vehicles shall be:

- i Insured at or above the legal requirements in Arkansas;
- ii Capable of securing marijuana during transport in accordance with this rule;
- iii Equipped with an alarm system; and
- iv Free of any markings that would indicate the vehicle is being used to transport marijuana.
- v Staffed with a minimum of two (2) employees when a vehicle contains medical marijuana. At least one (1) employee shall remain with the vehicle any time it contains medical marijuana.

C Individuals transporting marijuana shall:

- i Have a valid Transporter/Distributor Agent Registry Identification Card issued by the Division;
- ii Have a valid Arkansas Driver's License; and
- iii Have possession of both the registry identification card and driver's license while operating or riding in a transportation vehicle.

7.3 ***Storage Facility Requirements***

If a transporter is required to store marijuana at the licensed facility due to an inability to complete delivery within the designated allowable times, the following requirements shall apply:

A Storage Requirements

- i. All marijuana shall be stored only on the transporter's licensed premises.
- ii. All marijuana shall be stored in one of the following types of secured areas:
  - a A safe or steel cabinet:
    - 1 Which safe or steel cabinet shall have the following specification or the equivalent: thirty (30) man-minutes against surreptitious entry, ten (10) main-minutes against



forced entry, twenty (20) man-hours against lock manipulation, and twenty (20) man-hours against radiological techniques

- 2 Which safe or steel cabinet, if it weighs less than seven hundred fifty (750) pounds, is bolted or cemented to the floor or wall in such a way that it cannot be readily removed; and
- 3 Which safe or steel cabinet, if necessary, depending upon the quantities and type of controlled substances stored, is equipped with an alarm system as described in these rules.

b. A vault:

1. The walls, floors, and ceilings of which vault are constructed of at least eight (8) inches of reinforced concrete or other substantial masonry, reinforced vertically and horizontally with one-half (1/2) inch steel rods tied six (6) inches on center, or the structural equivalent to such reinforced walls, floors, and ceilings;
2. The door and frame unit of which vault shall conform to the following specification or the equivalent: thirty (30) man-minutes against surreptitious entry, ten (10) man-minutes against forced entry, twenty (20) man-hours against lock manipulation, and twenty (20) man-hours against radiological techniques;
3. Which vault, if operations require it to remain open for frequent access, is equipped with a “day-gate” which is self-closing and self-locking, or the equivalent, for use during the hours of operation in which the vault door is open;
4. The walls or perimeter of which vault are equipped with an alarm system as described in these rules;
5. The door of which vault is equipped with contact switches; and
6. Which vault has one of the following: Complete electrical lacing of the walls, floor and ceilings; sensitive ultrasonic equipment within the vault; a sensitive sound accumulator

system; or other such device designed to detect illegal entry.

B. Construction of Premises

i. Enclosed and Secure Facility

- a. Transporter/distributor facilities shall be enclosed on all sides by permanent walls, except where vehicles may be stored.

ii. On site storage shall be:

- a. Secure against unauthorized entry;
- b. Have a foundation, slab, or equivalent base to which the floor is securely attached;
- c. Provides complete visual screening of stored marijuana;
- d. Commercial grade, nonresidential door locks shall be installed on every external door, and gate, if applicable.
  - 1. All external locks shall be equipped with biometric access controls;
  - 2. Only authorized personnel shall have access to locked and secured areas;
  - 3. Facilities shall maintain detailed records of authorized personnel with access to locked and secured areas;
  - 4. Records shall be made available to the Division upon request.

iii. All transporters/distributors shall maintain detailed plans and elevation drawings of the facility. The plan shall identify the following:

- a. All entrances and exits to the facility;
- b. All windows, skylights, and retractable mechanisms built into the roof;
- c. All storage areas;

- d. The location of all required security cameras;
  - e. The location of all alarm inputs, detectors, and sirens;
  - f. All video and alarm system surveillance areas;
  - g. All areas shall be labeled according to their purpose.
- iv. Perimeter Requirements
- All transporter/distributor facilities shall maintain the following:
- a. Adequate lighting to facilitate surveillance; and
  - b. Foliage and landscaping that does not allow for a person or persons to conceal themselves from sight.
- v. Floor plans and elevation drawings shall be kept current and on the premises of the transporter/distributor facility. Plans and elevation drawings shall be made available to the Division or Enforcement upon request.
- vi. Transporter/distributor facilities shall have adequate lighting in all areas where medical marijuana is stored; and
- vii. All facilities shall be constructed to meet the standards of an applicable state and local electrical, fire, plumbing, and building specification codes.

C. Alarm System

- i. A transporter/distributor facility shall be equipped with an alarm system.
- ii. Upon attempted unauthorized entry, the alarm system shall transmit a signal directly to a central protection company or a law enforcement agency that has a legal duty to respond. A designated agent of the transporter shall also receive notification of any such signal.
- iii. Alarm systems shall provide coverage for all points of ingress and egress to the facility, including without limitation doorways, windows, loading bays, skylights, and retractable roof mechanisms.
- iv. Alarm systems shall provide coverage of any room with an exterior wall, any room containing a safe, and any room used to store marijuana.

- v. Alarm systems shall be equipped with a “panic device” that upon activation will both sound any audible alarm components and notify law enforcement.
- vi. Alarm systems shall have “duress” and “hold up” features to enable an agent to activate a silent alarm notifying law enforcement of an emergency.
- vii. Alarms system must be equipped with failure notification systems to notify the transporter and law enforcement of any failure in the alarm system.
- viii. Alarm systems shall have the ability to remain operational during a power outage.

D. Video Surveillance System

- i. A transporter’s/distributor’s facility shall be equipped with video surveillance systems consisting of the following:
  - a. Digital video cameras;
  - b. 24 hour per day, 7 day per week recording capabilities;
  - c. The ability to remain operational during a power outage;
  - d. Digital archiving capabilities;
  - e. On-site and off-site monitoring capabilities; and
  - f. All facilities must maintain at least one on-site display monitor connected to the surveillance system at all times. The monitor shall have a screen size of at least 12 inches.
- ii. All transporter/distributor facilities shall maintain camera coverage of the following areas:
  - a. All points of ingress and egress to the facility, including without limitation doorways, windows, loading bays, skylights, and retractable roof mechanisms;
  - b. Any room with an exterior wall, except restrooms, any room containing a safe, and any room or area used to store marijuana; and

- c. All parking areas and any alley areas immediately adjacent to the building.
- iii. All recording devices shall display a date and time stamp on all recorded video.
- iv. All recording devices shall have the capability to produce a still image from the video recording, and each facility shall maintain on-site a video printer capable of immediately producing a clear still image from any video camera image.
- v. Access to on-site surveillance system controls and monitoring shall be limited to authorized personnel. Transporters shall identify employees with access to surveillance system controls and monitoring upon request by the Division.
- vi. All surveillance recordings shall be maintained for a minimum of 90 days.

## **SECTION VIII. OPERATIONAL REQUIREMENTS**

### **8.1 *Hours of Operation***

- A. A transporter/distributor may transport medical marijuana to and licensed facility or approved laboratory between the hours of 7:00 a.m. and 9:00 p.m.
- B. If the transporter/distributor has in its possession medical marijuana outside of the approved hours for transportation, the transporter/distributor must immediately return to its facility and store the medical marijuana consistent with these rules.

### **8.2 *Inventory Manifest Required***

- A. Prior to the transport of any marijuana, the originating licensee shall provide the transporter/distributor with a copy of the manifest generated from the Inventory Tracking System. The manifest shall include the following information:
  - i. The following information for the licensed facility originating the transport:
    - a. License Number; and
    - b. Name and contact information for licensee
  - ii. The following information for the licensed facility or approved laboratory receiving the medical marijuana:

- a. License Number if the destination is a licensed facility or business name if the destination is an approved laboratory;
  - b. Address of the destination;
  - c. Name and contact information of the licensee, or contract information for the approved laboratory.
- iii. Quantities by weight or unit of each type of medical marijuana or medical marijuana product contained in transport, along with the UINs for every item;
- iv. The date of transport and approximate time of departure;
- v. Arrival date and estimated time of arrival;
- vi. Identify of the agents accompanying the transport;
- viii. Delivery vehicle make, model, and license plate number.
- B. A separate manifest shall be prepared for each licensed facility or approved laboratory.
- C. An inventory manifest shall not be altered after departing the originating premises.
- D. A transporter/distributor or transporter/distributor agent shall not accept for transport any marijuana that is not accompanied by a manifest and described therein that meets the requirements in these rules.
- E. There shall be no passenger or operator in the transporter/distributor vehicle, while medical marijuana is present in the vehicle that does not maintain with them a Registry Identification Card.

## 8.2 ***Transporter/distributor restrictions***

A transporter/distributor licensed under this section shall not:

- A. Grow or prepare marijuana,
- B. Manufacture or process marijuana,
- C. Supply or dispense marijuana to a qualified patient or designated caregiver;
- D. Purchase marijuana for resale to other licensed facilities.

### 8.3 ***Limited Access to Transporter/Distributor Facility***

- A. Only the following individuals shall be allowed to access transporter's/distributor's facility:
- i. Individuals in possession of a current registry identification card issued by the Division;
  - ii. Individuals authorized by law and these rules to be on the premises;
  - iii. Contractors
    1. If it is necessary for a contractor to enter a transporter/distributor facility to conduct repairs, maintenance or other specific duties on the property, the contractor shall be escorted to their work site and may be left unattended while completing a job. If left unattended, transporter's/distributor's personnel shall ensure the contractor and area under repair are under video surveillance for the duration of the contractor's time spent on the premises.
    2. If it is necessary for a contractor to enter a transporter/distributor facility's limited access area the contractor shall be escorted to their work site and must remain in the company of a transporter's/distributor's agent while the work is being completed. The contractor may be left unattended, in the limited access area, if there is no marijuana being stored in the area while the contractor is present. If left unattended, transporter's/distributor's agent shall ensure the contractor and area under repair are under video surveillance for the duration of the contractor's time spent on the premises.
  - iv. All contractors shall be issued a contractor identification tag. The tag shall bear the individual's name and be worn by the contractor for the duration of the individual's time on the premises.
  - v. If a contractor is required on the premises for more than two (2) consecutive days, the transporter/distributor shall notify the division of the contractor's identity and purpose for being on the premises.

### 8.4 ***Limited Access Areas***

- A. Transporter's/distributor's facility shall have limited access to areas where marijuana is stored to authorized personnel.
- i. Signage

- a. Limited Access areas shall be clearly marked.
- ii. Controlled Access
  - a. Limited Access areas shall be locked and accessible only by authorized personnel, individuals authorized by law, and members of the Division or Enforcement.
  - b. Transporter/dispensaries shall keep current rosters of personnel authorized to enter limited access areas.
  - c. Contractors may access limited access areas subject to the provisions of 8.3. Visitors,

#### 8.5 ***Inventory Tracking System***

- A. All transporters/distributors shall utilize the Inventory Tracking System implemented by the State of Arkansas to medical marijuana stored at the licensed facility.
- B. Transporters/distributors shall acquire and maintain all software, hardware, and communications infrastructures to ensure connectivity to the Inventory Tracking System

#### 8.6 ***Transporter/distributor Tracking Requirements***

- A. Transporters/distributors shall ensure the following events are logged into the Inventory Tracking System:
  - i. The storage of medical marijuana at their facility; and
  - ii. Transport of medical marijuana back to the originating facility for disposal if such medical marijuana has become unusable or has been directed by Order of the Division to be returned to the originating licensed facility.
- B. Each transaction described in subsection 8.6(A) must be recorded by a licensee immediately upon occurrence. Any licensee who fails to record a transaction listed in 8.6(A) may be subject to disciplinary action.

### **SECTION IX. INVESTIGATIONS**

#### 9.1 ***Investigations***

- A Director of the Alcoholic Beverage Control Administration, or the Director of Alcoholic Beverage Control Enforcement, or an enforcement agent, may:



- i Without the need for a search warrant, inspect at any time a transportation vehicle(s), the licensed premises (including limited access areas) of a transporter/distributor, any marijuana on the premises or in transportation vehicles, the licensee's records, and the licensee's computers;
  - ii Issue a written report or notice of violation regarding any findings;
  - iii Exercise law enforcement powers, if authorized, and take any other action the Director of Alcoholic Beverage Control Administration or Director of Alcoholic Beverage Control Enforcement determines is necessary; and
  - iv Enlist the assistance of any law enforcement officer not directly employed by Alcoholic Beverage Control Enforcement toward performance of these enforcement duties.
- B A transporter/distributor and transporter/distributor agent shall cooperate with the Director of Alcoholic Beverage Control Administration, the Director of Alcoholic Beverage Control Enforcement, an enforcement agent, an employee of the Division, or assisting law enforcement officer, acting in an official capacity to enforce the laws contained herein related to marijuana, including without limitation:
  - i Permitting entry upon, access to, and inspection of the licensed premises (including limited access areas) or transportation vehicle; and
  - ii Providing access to the licensee's records and computers.

9.2 ***Closure of Business.*** The Director may issue an order providing for the manner and condition under which marijuana may be transferred to another licensed facility under the following circumstances:

- (A) Revocation or suspension of a license;
- (B) Surrender of a license; or
- (C) Expiration of a license.

## **SECTION X. ADVERTISING**

10.1 ***Directed toward the public*** - Transporters/distributors shall not advertise through any public medium or means designed to market its services to the public.

10.2 ***Directed toward facilities and laboratories*** - Transporters/distributors may market their services directly to licensed facilities and approved labs by any means directed solely to the licensed facilities and approved labs and not to the public.

## **SECTION XI. REGISTRATION OF TRANSPORTER/DISTRIBUTOR AGENTS**

### **11.1 *Registration Required***

- A Every individual employed by or working for or volunteering for a transporter/distributor shall register with the Division and obtain a registry identification card prior to the commencement of any activity on the transporter's/distributor's behalf.
- B If an individual is employed by multiple licensed facilities, the individual shall obtain a separate registry identification card for each place of employment.

### **11.2 *Application***

- A The following items must be submitted to the Division to apply for a Transporter/Distributor Agent Registry Identification Card:
  - i An application form from the Division to include the following information:
    - a Legal name of applicant;
    - b Date of birth;
    - c Address of applicant;
    - d Current employment information, including intended position with transporter/distributor; and
    - e Criminal history information.
  - ii A completed "Notice of Intent to Hire" form from the transporter/distributor specifying the intended job duties of the applicant.
  - iii A signed, notarized "Authority to Release Information" form provided by the Division or obtained through a harvester approved by Arkansas State Police.
  - iv. An in-state criminal background check through the Arkansas State Police.
  - v. The applicant shall also furnish fingerprints to the Arkansas State Police for transmission to the United States Federal Bureau of Investigation for investigation of the applicant's criminal history, if any.
    - (a) Fingerprints may be taken by a harvester approved by Arkansas State Police.

- vi. The following signed forms to be provided by the Division:
  - (a) “Agency Privacy Requirements for Noncriminal Justice Applicants” form; and
  - (b) “Noncriminal Justice Applicant's Privacy Rights” form.
- vii. An applicant shall not have to submit the information in subsections (iv), (v), and (vi):
  - (a) If the applicant holds an existing registry identification card for another licensed facility; or
  - (b) If the applicant has completed the required background checks for the purpose of obtaining a registry identification card in the 2 years prior to the application, and the applicant has never had a registration card suspended or revoked.

#### 11.3 ***Registry Identification Card***

- A. An agent of a transporter/distributor shall maintain possession of their Transporter/Distributor Agent Registry Identification Card during any activity within the scope of employment or service of a transporter/distributor.
- B. The registry identification card shall identify the following information:
  - i. Name of the cardholder;
  - ii. Date of birth;
  - iii. Name of the transporter/distributor;
  - iv. Date of issuance;
  - v. Date of expiration; and
  - vi. Registry identification number assigned by the Division.

#### 11.4 ***Fees***

- A. Initial Registry Identification Card - \$50.00.
- B. Renewal of Registry Identification Card -\$50.00
- C. Renewal late fee - \$25.00
- D. Replacement of Registry Identification Card -\$25.00

### 11.5 *Issuance*

- A. The total fee for a registry identification card issued by the Division shall be \$50.00.
- B. The total fee shall be collected as follows:
  - i. One half of the fee shall be remitted along with the application; and
  - ii. One half of the fee shall be remitted upon notification by the Division that the application has been approved.
- C. The Division shall issue the registry identification card within ten (10) days of receipt of the entire fee.

### 11.6 *Replacement*

- A. The Division shall issue a replacement registry identification card to a transporter/distributor agent if the card has not expired.
- B. In order to receive a replacement registry identification card, a person must present the following to the Division:
  - i. A valid government-issued photo identification;
  - ii. A completed “Request for Replacement Registry Identification Card” form to be provided by the Division; and
  - iii. A replacement fee of \$25.00.

### 11.7 *Expiration and Renewal*

- A. A registry identification card shall expire one (1) year after the date of issuance unless renewed as described in this rule.
- B. A registry identification card shall expire upon notification to the Division by a transporter/distributor that the person is no longer employed by transporter/distributor.
- C. Agents shall submit a renewal application, on a form to be provided by the Division, and the required fee in order to renew their cards.
- D. The division shall renew registry identification cards within ten (10) days of receipt of the items described in subsection (C).

- E. Renewals received after the date of expiration shall be subject to a renewal late fee of \$25.00, in addition to the renewal fee. If a card is not renewed within one (1) month of expiration, the card shall be considered expired.

#### 11.8 ***Separation of Employment.***

A transporter/distributor shall notify the Division of any employment separation of a transporter/distributor agent by filing a Notice of Separation of Employment with the Division within seven (7) days following a transportation agent's last day of work for the transporter/distributor.

#### 11.9 ***Persons Disqualified***

- A. The Division shall not issue a registry identification card to the following individuals:
  - i. Any person under twenty-one (21) years of age;
  - ii. Any person who has been convicted of an excluded felony offense;
  - iii. Any person who has had a registry identification card revoked by the Division within five (5) years of application; or
  - iv. Any person who has not paid the required fees.
- B. The Division shall not issue a registry identification card to any person who fails to provide the information required by this rule.
- C. If the Division denies an application for a registry identification card, the Division shall notify the applicant in writing of the reasons for the denial. The transporter/distributor will be notified of the denial.
- D. The applicant may appeal the denial by requesting a hearing, which shall be held in accordance with the procedures described in this rule.

### **SECTION XII. DISCIPLINARY ACTION, HEARINGS, AND APPEALS**

#### 12.1 ***Grounds for Suspension or Revocation of a Registry Identification Card.***

- A. If the Division finds that a transporter/distributor agent has knowingly violated any provision of the Amendment or the rules promulgated by the Commission, Department, or Division, the Division may:

- i. Suspend or revoke the transporter/distributor agent's Transporter/Distributor Agent Registry Identification Card; and
  - ii. Penalize the transporter/distributor agent in an amount not to exceed one thousand dollars (\$1,000) per violation.
- B. If the Division finds that a transporter/distributor has knowingly aided or facilitated a violation of any provision of the Amendment or the rules promulgated by the Commission, Department, or Division, the Division may:
  - i. Suspend or revoke the transporter's/distributor's license; and
  - ii. Penalize the transporter/distributor in an amount not to exceed five thousand dollars (\$5,000) per violation
- C. If the Division finds that a transporter/distributor has violated any provision of the Amendment or the rules promulgated by the Commission, Department, or Division, the Division may:
  - i. Suspend or revoke the transporter's/distributor's license; and
  - ii. Penalize the transporter/distributor in an amount not to exceed five thousand dollars (\$5,000) per violation.
- D. Grounds for Suspension, Revocation or Placing a Monetary Fine against a transporter/distributor or transporter/distributor agent.
  - i. False material statements made by a licensee to the Arkansas Medical Marijuana Commission during the application process;
  - ii. Failure to pay taxes owed to the State of Arkansas or to any political subdivision of the State of Arkansas;
  - iii. Failure to prevent diversion or theft of medical marijuana;
  - iv. Allowing any individual or agent who has not obtained or had suspended or revoked a registry identification card from the Division to work on a licensed premise or perform any duty on behalf of the transporter/distributor;
  - v. Failure to allow entry to the licensed premises to Alcoholic Beverage Control Administration Director, Alcoholic Beverage Control Enforcement Director, enforcement agents or duly authorized police officers in the course and scope of their employment;

- vi. Failure to maintain operational alarm systems and video surveillance systems;
- vii. Failure to maintain or keep any record required by these rules or Arkansas law;
- viii. Failure to properly package or secure medical marijuana on the licensed premises or during transport;
- ix. Operation of by transporter/distributor when a license has been suspended;
- x. Failure to comply with any rule promulgated by the Department, the Commission; or the Division;
- xi. Failure to comply with any law of the State of Arkansas or any local regulation regarding medical marijuana;
- xii. Transporting marijuana in any form to any person or entity without a transporter/distributor license issued by the Arkansas Medical Marijuana Commission;
- xiii. Giving marijuana to any person or entity that is not being lawfully transported consistent with the rules contained herein;
- xiv. Transporting marijuana to or from any dispensary or cultivation facility that has a license under suspension, revocation, or that has not been renewed;
- xv. Failure to utilize the Inventory Tracking System for reporting and controlling inventory;
- xvi. Growing or preparing marijuana; manufacturing or processing marijuana; suppling or dispensing marijuana to a qualified patient or designated caregiver; storing marijuana for more than twenty-four hours without written approval from the Division; or purchasing marijuana for resale to other licensed facilities.
- xvii. Knowingly aiding or facilitating a violation of the Amendment, rules promulgated by the Commission, Department or Division, or any other law of the State of Arkansas.

## 12.2 *Notice of Violation*

- A. The Director of Alcoholic Beverage Control Administration may issue a notice of violation if an inspection report or other credible information shows a transporter/distributor or its agent is in violation of:
  - i. The Amendment;
  - ii. Any rule promulgated by the Division, the Commission, or the Department;
  - iii. Any Order of the Division, the Commission, or the Department;
  - iv. Any law relating to marijuana; or
  - v. Any law relating to taxation.
- B. A notice of violation regarding a transporter/distributor shall be delivered to the transporter/distributor at its licensed premises.
- C. A notice of violation regarding a transporter/distributor agent shall be delivered to the agent at the transporter's/distributor's licensed premises. A copy of the notice shall be provided to the transporter/distributor licensee at its licensed premises.
- D. The notice of violation shall describe the alleged violation(s) and cite the applicable Constitutional Amendment provision, statute, rule, order, or other law.
- E. A notice of violation may be the basis of a proceeding to fine, suspend, revoke, or otherwise penalize a marijuana establishment's license.
- F. The notice of violation may include the Director's proposed fine, as well as any proposed penalty to be imposed.
- G. A transporter/distributor or transporter/distributor agent that receives a notice of violation shall respond to the notice in writing and may within ten (10) days after receiving the notice, either:
  - (i) Consent to the proposed penalty set forth in the notice of violation and waive the right to a hearing, or
  - (ii) Request a hearing before the Director or an authorized hearing agent.
- H. If the transporter/distributor or transporter/distributor agent consents to the penalty and waives the right to a hearing, the licensee or agent shall fulfill the terms set forth in the notice of violation.



- I. If a hearing is requested, a hearing shall be scheduled and the transporter or transporter agent shall receive a notice of hearing in compliance with these rules.
- J. If the licensee or agent fails to respond to the notice of violation, the Director may enter an order in accordance with the notice of violation.

#### 12.3 ***Emergency Suspension***

- A. If the Director finds, pursuant to ACA § 25-15-211(c), that the public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in his order, summary suspension of a license or registry identification card may be ordered pending proceedings for revocation or other action, which proceedings shall be promptly instituted and determined.
- B. If the Director makes the determination set out in (A) of this provision Section XII (2) shall not apply.

#### 12.4 ***Notice of Hearing***

- A. If a hearing is required by these rules, a notice of hearing shall be sent to the respondent transporter/distributor or transporter/distributor agent via regular mail or by service of an Enforcement Agent to the address on file with the division.
- B. The notice of hearing shall include:
  - i. A statement of the time, place and nature of the hearing;
  - ii. A statement of the legal authority and jurisdiction under which the hearing is to be held;
  - iii. A short and plain statement of the matters of fact and law asserted; and
  - iv. A statement advising the licensee or agent that the license or registry identification card may be suspended or revoked.

#### 12.5 ***Conduct of Hearing by Director or Hearing Officer.***

- A. The Director or designated hearing officer shall conduct hearings.
- B. The Director or hearing officer shall be authorized to:
  - i. Examine or cause to be examined under oath any person;
  - ii. Examine or cause to be examined books and records of any transporter/distributor or transporter/distributor agent;

- iii. To hear testimony, to take proof material for the Director's information and for the purposes of the hearing;
- iv. Administer or cause to be administered oaths; and
- v. Issue subpoenas to require the appearance of witnesses and the production of books and records, which subpoenas shall be effective in any part of this state.
  - a. Any Circuit Court may by order duly entered require the attendance of witnesses or the production of relevant books and records subpoenaed by the Director, and the Court may compel obedience to its orders by proceedings for contempt.
  - b. Any licensee or agent involved in a hearing before the Director shall be entitled, on request, to a subpoena for the compulsory attendance of witnesses.

#### 12.6 ***Order of Director***

If the Director denies, suspends, or revokes a transporter license or registry identification card, or if the Director imposes a monetary fine against any transporter/distributor or transporter/distributor agent, the Director shall prepare an order so stating.

- A. The Order shall be signed by the Director or designated hearing officer.
- B. The Order shall include findings of fact and conclusions of law, separately stated.
- C. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings.
- D. The order shall be mailed by regular and certified mail to a transporter/distributor or transporter/distributor agent to the address provided by the licensee or the agent.
- E. The order shall be final and binding on all parties until such order has been appealed as provided in these rules and the Alcoholic Beverage Control Board issues a decision.

#### 12.7 ***Appeal of Director's Order***

- A. A transporter/distributor or transporter/distributor agent aggrieved by an order of the Director may appeal from such Order to the Alcoholic Beverage Control Board by filing a notice of appeal with the Board.

- B. The notice of appeal must be mailed or delivered to the offices of the Alcoholic Beverage Control Division within fifteen (15) days after the order to be appealed from is received by the recipient.
- C. At least ten (10) days before the time set for the hearing, the Division shall notify the licensee or agent via regular first-class mail of the time and place where said appeal shall be heard by the Board or by a hearing officer designated as provided in these rules.
- D. Said hearing shall be held within sixty (60) days after the date of the filing of the notice of appeal unless the person appealing shall consent to a later hearing date.
- E. Said hearing shall be held within at least sixty (60) days after the filing of the notice of appeal unless the person appealing requests or consents to a later hearing.
  - i. Hearings shall not be continued in excess 6 months without consent from the Board.

12.8 ***Conduct of Hearing by Board.*** In the conduct of any hearing held by the Board or the Board's designated hearing officer, the Board or such hearing officer shall be authorized to:

- A. Examine or cause to be examined under oath any person;
- B. Examine or cause to be examined books and records of any transporter/distributor or transporter/distributor agent;
- C. Hear testimony;
- D. Administer or cause to be administered oaths; and
- E. Issue subpoenas to require the appearance of witnesses and the production of books and records, which subpoenas shall be effective in any part of this state.
  - i. Any Circuit Court may by order duly entered require the attendance of witnesses or the production of relevant books and records subpoenaed by the Director, and the Court may compel obedience to its orders by proceedings for contempt.
  - ii. Any licensee or agent involved in a hearing before the Board shall be entitled, on request, to a subpoena for the compulsory attendance of

12.9 ***Order by Board.*** Within five (5) days after a hearing is concluded by the Board, the Board shall issue its decision in the form of a written Order.

- A. The Order shall include findings of facts and conclusions of law, separately stated.
- B. Findings of fact, if set forth in statutory language shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings.
- C. A copy of the Order shall be mailed by certified mail to the transporter/distributor or transporter/distributor agent.
- D. The Order shall be final and binding on the transporter/distributor or transporter/distributor agent unless appealed as provided for in these rules.

#### 12.10 ***Appeal from Board to Courts***

- A. Any transporter/distributor or transporter/distributor agent aggrieved by a Board order may appeal to Circuit Court in accordance with Ark. Code Ann. § 25-15-212.
- B. An appeal from the judgment of the Circuit Court may be taken to the Arkansas Court of Appeals or the Supreme Court of Arkansas in the manner provided for the appeal of civil matters from the Circuit Court.

#### 12.11 ***Transcript of Board Hearings***

- A. Pursuant to the provisions of the Arkansas Administrative Procedure Act, the Division shall prepare a certified copy of the agency record for filing in any appeal filed under the Arkansas Administrative Procedure Act.
- B. If the Division prevails in the appeal, it will recover \$1.50 per page for each page of the transcript of the Alcoholic Beverage Control Board proceedings filed with the Circuit Court.
- C. If anyone requests that the Division provide a copy of the agency transcript, the Division shall be entitled to recover forty cents (\$.40) per page for each copy of the transcript.
- D. Any copies of the Division's files, records, or transcripts shall be paid for at the rates noted above.
- E. All monies received by the Division pursuant to the above provisions shall be deposited to the General Revenues of the State of Arkansas.

#### 12.12 ***Admissibility of Evidence in Hearings***

The Director, the Board and any Hearing Officer shall not be bound by the legal rules of evidence in conducting any hearing and in making any decision, and may take into

consideration any testimony, papers or documents which may be deemed relevant to the issues involved.

**12.13 *Designation of Hearing Officer***

Pursuant to the power granted to the Division, in part by ACA § 25-15-213 and pursuant to other powers granted to the Director and the Board, the Director or the Board may designate any member of the Division to conduct any hearing authorized by this Article or by any Medical Marijuana law of the State of Arkansas.

**12.14 *Right to Counsel and to Cross-Examine Witnesses***

Any respondent transporter/distributor or transporter/distributor agent or any other person compelled to appear at any hearing provided by these rules or by any Arkansas Medical Marijuana law of the State of Arkansas shall have the right to be accompanied and advised by counsel and to cross-examine witnesses.

**12.15 *Surrender***

After a transporter/distributor license or Transporter/Distributor Agent Registry Identification Card has been suspended or revoked by Order of the Director, the Alcoholic Beverage Control Board, or any final court order, the Director shall give notice to any authorized agent of Enforcement and said agent shall immediately take possession of the transporter/distributor license or Transporter/Distributor Agent Registry Identification Card and return it to the Director.