

**ALCOHOLIC BEVERAGE CONTROL BOARD
ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION**

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Alcoholic Beverage Control Board (Board), pursuant to Section 14 of the Legalization of Marijuana for Medical Treatment Initiative of 1999, effective July 27, 2010 (D.C. Law 18-210; D.C. Official Code § 7-1671.13 (2018 Repl.)); and Mayor’s Order 2020-099, dated September 30, 2020; hereby gives notice of the adoption on an emergency basis an amendment to Subtitle C (Medical Marijuana) of Title 22 of the District of Columbia Municipal Regulations (DCMR).

On July 28, 2020, the Council of the District of Columbia (Council) passed legislation which transitioned the District’s Medical Marijuana Program (Program) from the District of Columbia Department of Health (DC Health) to the Board. *See* Medical Marijuana Program Administration Amendment Act of 2020, effective December 3, 2020 (D.C. Law 23-149; D.C. Official Code §§ 7-1671.01, *et seq.*); *see also* the Medical Marijuana Program Administration Emergency Amendment Act of 2020, effective July 27, 2020 (D.C. Act 23-404; D.C. Official Code §§ 7-1761.01, *et seq.*).

On October 1, 2020, the Board acquired jurisdiction over the Program. Since that time, the Board has taken deliberate steps to ensure a seamless transition of the Program from DC Health. The Board has also heard from members of the industry regarding areas where improvement is needed. Specifically, the Board held a Public Roundtable on September 6, 2020, where it received testimony from industry stakeholders. Additionally, the Board adopted several emergency rulemakings to ensure qualifying patients were able to receive their medical marijuana during the COVID-19 pandemic without delay. Those emergency rulemakings include:

1. Medical Marijuana Delivery Notice of Third Emergency Rulemaking – 68 DCR 000158 (January 1, 2021) (expires on April 8, 2021)
2. Nonresident Notice of Emergency Rulemaking – 67 DCR 1459 (December 11, 2020) (expires on March 4, 2021)
3. Temporary Registration Card Notice of Emergency Rulemaking (expired on January 29, 2021).

This emergency action is being taken to ensure that the District’s Program continues to operate optimally for qualifying patients and caregivers who depend on the Program for their medical needs. In light of the ongoing COVID-19 pandemic and the need to take immediate action for the continued administration of the District’s Program, emergency action is necessary. Thus, the Board finds that this emergency action is necessary for the promotion of the health, safety, and welfare of District residents.

The emergency and proposed rulemaking amends subtitle C of Title 22 of the District of Columbia Municipal Regulations in its entirety, including the following:

1. Clarifying the civil fines range and process;
2. Revising the appeals process to clarify that appeals of the Board’s decisions are sent to the District of Columbia Court of Appeals rather than to the Office of Administrative Hearings;
3. Allowing qualifying patients to administer or have medical marijuana administered at locations other their residence, including the residence of another if permitted, or at a school with a policy for administering medication on the premises;
4. Repealing the requirement for a mandatory training program for recommending authorized practitioners;

5. Establishing the process for conducting show cause, fact finding, and safekeeping hearings;
6. Revising the composition of the Advisory Committee;
7. Updating the selection review process and selection criteria;
8. Allowing applicants for employment, including managers, at a cultivation center, dispensary, or testing laboratory to obtain a temporary registration card during the COVID-19 pandemic;
9. Allowing dispensaries to offer educational classes and demonstrations;
10. Permitting the delivery and curbside pickup of medical marijuana and allowing dispensaries to have up to five (5) delivery vehicles;
11. Eliminating from the regulations the maximum number of marijuana plants that a cultivation center can grow at one time; and
12. Updating the minimum age and entry requirements.

The rulemaking also makes administrative amendments to the Medical Marijuana Program Regulations, including replacing the references to the D.C. Department of Health with the Board and/or ABRA, where appropriate, and revising and adding new terms and definitions.

This emergency rulemaking was adopted by the Board on March 3, 2021, and became effective immediately on that date. The emergency rules will expire one hundred twenty (120) days from the date of adoption, or on July 9, 2021, unless superseded. A public hearing on the emergency and proposed rulemaking has been scheduled for Wednesday, April 28, at 1:30 p.m.

The Board also gives notice of its intent to adopt the proposed rules, in final, in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*, and upon completion of the thirty (30)-day review period, excluding Saturdays, Sundays, legal holidays, and days of Council recess. *See* D.C. Official Code § 7-1671.13(b). These proposed rules will be deemed approved at the conclusion of the thirty (30)-day review period unless the Council does not approve or disapproves the proposed rulemaking in part. *See id.*

Subtitle C, MEDICAL MARIJUANA, of Title 22, HEALTH, of the District of Columbia Municipal Regulations, is amended as follows:

Chapter 1, DEPARTMENT OF HEALTH GENERAL PROVISIONS, is amended in its entirety to read as follows:

CHAPTER 1 GENERAL PROVISIONS

100 APPLICABILITY

100.1 This chapter shall apply to applicants for and holders of a qualifying patient or caregiver registration to possess, use, administer, or dispense medical marijuana in the District of Columbia, and to recommending physicians who provide written recommendations for the use of medical marijuana under the Act.

100.2 No person shall possess, use, administer, or dispense marijuana in any form for the purpose of a medical use unless the person is registered with the Alcoholic Beverage Control Board under the Act.

100.3 The Board or an ABRA investigator may impose fines under the Civil Infractions Act for

any infraction under this subtitle, not to exceed two thousand dollars (\$2,000.00) per first offense violation. Civil fines imposed by the Board or an ABRA investigator shall be consistent with 16 DCMR §§ 3200-3201 and 3661-3674.

100.4 The Director may, at his or her discretion, obtain assistance to discharge his or her responsibilities under this subtitle through entering into Memoranda of Understanding with other District government agencies or by contracting with non-government entities.

Chapter 2, CONDITIONS OF REGISTRATION, is amended as follows:

Section of 200, GENERAL PROVISIONS, is amended to read as follows:

200 GENERAL PROVISIONS

200.1 A registration identification card shall not be transferable to another person.

200.2 A registration identification card issued under this chapter is the property of the District of Columbia and shall be surrendered upon demand of the Board.

200.3 As part of the registration process, applicants shall sign a written statement certifying that the applicant assumes any and all risk or liability that may result under District of Columbia and federal laws from the possession, use, administration, or dispensing of medical marijuana. The applicant shall further acknowledge that he or she understands that the medical marijuana laws and enforcement thereof of the District of Columbia and the Federal government are subject to change at any time.

200.4 The applications for a patient or caregiver registration shall specifically recite verbatim, each of the following notices:

(a) **Limitation of Liability** -- The District of Columbia shall not be liable to the registrant, its employees, agents, business invitees, licensees, customers, clients, family members or guests for any damage, injury, accident, loss, compensation or claim, based on, arising out of or resulting from registrant's participation in the District of Columbia's medical marijuana program, including but not limited to the following: arrest and seizure of persons and/or property, prosecution pursuant to federal laws by federal prosecutors, interruption in registrant's ability to operate its medical marijuana cultivation center and/or dispensary; any fire, robbery, theft, mysterious disappearance or any other casualty; the actions of any other registrants or persons within the cultivation center and/or dispensary. This Limitation of Liability provision shall survive expiration or the earlier termination of this registration if such registration is granted; and

(b) **Federal Prosecution** -- The United States Congress has determined that marijuana is a controlled substance and has placed marijuana in Schedule I of the Controlled Substance Act. Growing, distributing, and possessing marijuana in any capacity, other than as a part of a federally authorized research program, is a violation of federal laws. The District of Columbia's law authorizing the District's medical marijuana program will not excuse any registrant from any violation of the federal laws governing marijuana or authorize any registrant to violate federal

laws.

- 200.5 As part of the registration process, every applicant for either a patient or caregiver registration shall sign a written statement attesting to the following:
- (a) The applicant acknowledges receipt and advisement of the notices set forth in § 200.4;
 - (b) The applicant agrees to and accepts the limitation of liability against the District, as set forth in § 200.4;
 - (c) The applicant assumes any and all risk or liability that may result under District of Columbia or federal laws arising from the possession, use, cultivation, administration, or dispensing of medical marijuana;
 - (d) The applicant understands that the medical marijuana laws and enforcement thereof of the District of Columbia and the Federal government are subject to change at any time; and
 - (e) The applicant chooses to sign this attestation willingly and without reservation and is fully aware of its meaning and effect.
- 200.6 Execution of the attestation set forth in § 200.5 shall be a required element of each application for a patient or caregiver registration.
- 200.7 Within fourteen (14) calendar days of any change in the qualifying patient's name, address, caregiver, or recommending physician, a qualifying patient who has been issued a registration identification card shall:
- (a) Submit a completed patient change of information form to the Board, and include as applicable:
 - (1) Designation of a new caregiver; or
 - (2) A recommendation form from the new recommending physician;
 - (b) Surrender his or her current registration identification card to the Board;
 - (c) Immediately notify his or her caregiver of the change;
 - (d) Pay the required fee to receive a new registration identification card; and
 - (e) Be issued a new registration card that reflects the change.
- 200.8 Within fourteen (14) calendar days of receiving notice of a qualifying patient's change of name, address, or recommending physician the patient's registered caregiver shall:
- (a) Submit a written request for a new registration identification card to the Board on a form provided by the Board;
 - (b) Surrender his or her registration identification card;
 - (c) Pay the required fee to receive a new registration identification card; and

- (d) Be issued a new registration identification card that reflects the change.
- 200.9 Within fourteen (14) calendar days of the recommending physician declaring that a qualifying patient no longer suffers from a qualifying medical condition or treatment, the qualifying patient shall:
- (a) Surrender his or her registration card to the Board; and
 - (b) Notify his or her registered caregiver of the change.
- 200.10 Within fourteen (14) calendar days of receiving notice that a qualifying patient has changed his or her caregiver, or that the patient no longer suffers from a qualifying medical condition or treatment, the Board shall send written notice via U.S. Postal Service certified mail to the caregiver's address on file with the Board. The caregiver's protections under the Act shall expire ten (10) days after delivery of the notice or the caregiver's failure to claim the notice.
- 200.11 Within fourteen (14) calendar days after receiving notice that a qualifying patient has designated a different individual to serve as his or her caregiver or that the qualifying patient no longer suffers from a qualifying medical condition or treatment, the caregiver shall surrender his or her registration card to the Board.
- 200.12 In the event that a qualifying patient or a caregiver experiences the theft, loss, or destruction of his or her registration card, he or she shall:
- (a) Within twenty-four (24) hours after discovery, provide verbal notification to the Board or his or her designee;
 - (b) Submit the required written notification reporting forms to the Board within seventy-two (72) hours after the initial discovery;
 - (c) Pay the required fee; and
 - (d) Be issued a new registration identification card.
- 200.13 Within fourteen (14) calendar days after any change in a caregiver's name or address, he or she shall:
- (a) Notify the Board in writing of the change; and
 - (b) Pay the required fee, and be issued a new registration identification card, if applicable.

Chapter 3, USE OF MEDICAL MARIJUANA, is amended as follows:

Section 300, USE BY QUALIFYING PATIENT, TRANSPORTATION BY CAREGIVER, AND LIMITATIONS ON MEDICAL MARIJUANA, is amended to read as follows:

300 USE BY QUALIFYING PATIENT, TRANSPORTATION BY CAREGIVER, AND LIMITATIONS ON MEDICAL MARIJUANA

- 300.1 A qualifying patient shall only possess and administer medical marijuana, or use

paraphernalia, for treatment of a qualifying medical condition or the side effects of a qualifying medical treatment after:

- (a) Obtaining a signed, written recommendation from a physician in accordance with this chapter; and
- (b) Registering with the Board.

300.2 A qualifying patient or caregiver shall only possess, administer, or dispense medical marijuana, or possess or use paraphernalia, obtained from a dispensary registered with the Board. For purposes of D.C. Official Code § 7-1671.06(c), a qualifying patient or caregiver shall automatically be deemed to be registered to receive marijuana at any dispensary that is licensed by the Board.

300.3 A qualifying patient or caregiver shall only transport medical marijuana in a container or sealed package bearing the label received from the dispensary.

300.4 A qualifying patient or caregiver shall not administer or use medical marijuana at a dispensary, cultivation center, or testing laboratory.

300.5 Medical marijuana shall not be administered by or to a qualifying patient anywhere other than:

- (a) The qualifying patient's residence, if permitted;
- (b) If permitted, the residence of an individual who has given the qualifying patient permission to have medical marijuana administered to or to administer medical marijuana at their residence;
- (c) At a medical treatment facility when receiving medical care for a qualifying medical condition, if permitted by the medical facility; or
- (d) A school where the qualifying patient is enrolled provided the school has a policy in place for allowing the administration of medication at school and medical marijuana is administered in a non-smokable form.

300.6 Notwithstanding § 300.5, a qualifying patient shall not use medical marijuana at a time or in a location within his or her residence or another individual's residence, if permitted, when such use would result, or is likely to result, in exposure to the medical marijuana or the medical marijuana smoke that may adversely affect the health, safety, or welfare of a minor.

300.7 A qualifying patient who is a minor shall only possess and administer medical marijuana if the parent or legal guardian of the minor has signed a written statement affirming that the parent or legal guardian:

- (a) Understands the qualifying medical condition or qualifying medical treatment of the minor;
- (b) Understands the potential benefits and potential adverse effects of the use of medical marijuana in general, and specifically, in the case of the minor;

- (c) Consents to the use of medical marijuana for the treatment of the minor's qualifying medical condition or treatment of the side effects of the minor's qualifying medical treatment; and
 - (d) Consents to, or designates another adult to, serve as the caregiver for the qualifying patient and the caregiver controls the acquisition, possession, dosage, and frequency of use of medical marijuana by the qualifying patient.
- 300.9 The maximum amount of medical marijuana any qualifying patient or caregiver may possess at any time is:
- (a) Four (4) ounces of dried medical marijuana; or
 - (b) The equivalent of four (4) ounces of dried medical marijuana when sold in any other form.
- 300.10 Nothing in the Act or this subtitle shall be construed as permitting a qualifying patient to:
- (a) Undertake any task under the influence of medical marijuana when doing so would constitute negligence or professional malpractice; or
 - (b) Operate, navigate, or be in actual physical control of any motor vehicle, aircraft, or motorboat while under the influence of medical marijuana.
- 300.11 A dispensary shall have the right to refuse service to a qualifying patient or caregiver who:
- (a) Engages in abusive, intimidating, threatening, or disruptive conduct while on the premises of a dispensary;
 - (b) Presents a registration identification card that appears to have been tampered with or altered; or
 - (c) For other good cause shown.
- 300.12 A dispensary shall have the right to seek a barring notice from MPD to keep a qualifying patient or caregiver who has engaged in abusive, intimidating, threatening, or disruptive conduct from unlawfully entering the registered premises as prohibited by D.C. Code § 22-3302.
- 300.13 No qualifying patient or caregiver shall use butane or other explosive gases to extract or separate resin from marijuana, or tetrahydrocannabinol from marijuana, or in any other manner.

Chapter 4, DISPOSAL OF MEDICAL MARIJUANA, is amended as follows:

CHAPTER 4 DISPOSAL OF MEDICAL MARIJUANA

400 DISPOSAL OF MEDICAL MARIJUANA BY QUALIFYING PATIENTS AND CAREGIVERS

- 400.1 A qualifying patient or caregiver who is no longer registered with the Board shall not transfer, share, give, or deliver any unused medical marijuana in his or her possession to

another qualifying patient or caregiver for medical use or destruction whether or not the person is registered with the District's Program.

400.2 A qualifying patient or caregiver shall not dispose of medical marijuana in any manner other than permitted under this chapter.

Chapter 5, QUALIFYING PATIENTS, is amended as follows:

Section 500, QUALIFICATION FOR PATIENT REGISTRATION, is amended as follows:

Subsection 500.1(a) is amended to read as follows:

- (a) Be a bona fide resident of the District of Columbia at the time the application is filed with the Board and remain a bona fide resident during treatment with medical marijuana;

Section 501, RESIDENCY, is amended as follows:

Subsection 501.2(b)(10) is amended to read as follows:

- (10) Any other reasonable form of verification deemed by the Board or the Director to demonstrate proof of current residency.

Section 502, QUALIFYING PATIENTS APPLICATION, is amended by:

1. Striking the phrase "the Department" and replacing with the phrase "the Board" wherever it appears.
2. Repealing subsections 502.1(f) and 502.2(g).

Section 503, NONRESIDENT QUALIFYING PATIENTS, is amended as follows:

Subsections 503.1, 503.2, 503.4, and 503.5 are amended to read as follows:

503.1 Before dispensing medical marijuana to a nonresident qualifying patient, a registered dispensary shall:

- (a) Verify the nonresident qualifying patient's identity through comparison of his/her unexpired government-issued identification card and his/her valid, unexpired nonresident card or state-issued or U.S. territory-issued document; and
- (b) Confirm through the real-time electronic records system that the nonresident qualifying patient has not reached the allowable medical marijuana ounce limit for the thirty (30) day period.

503.2 A registered dispensary shall not dispense medical marijuana to a nonresident qualifying patient who is unable to present his/her unexpired government-issued identification card and his/her valid, unexpired nonresident card or state-issued or U.S. territory-issued document.

503.4 A registered dispensary shall not dispense medical marijuana to a nonresident qualifying patient if the Board has determined that there is a shortage of medical marijuana, or the real-time electronic records system is inactive.

503.5 The dispensary shall retain a copy of the nonresident card or state-issued or U.S. territory-issued document, and a copy of the government-issued identification card.

Chapter 6, CAREGIVERS, is amended as follows:

Section 601, CAREGIVER QUALIFICATIONS, is amended as follows:

Subsection 601.1(b) is amended to read as follows:

- (b) Be registered with the Board as the qualifying patient’s caregiver;

Section 602, CAREGIVER APPLICATION, is amended as follows:

Subsection 602.1(a) is amended by striking the phrase “the Department” and inserting the phrase “the Board” wherever it appears.

Subsection 602.1(e) is amended to read as follows:

- (e) Authorization of the Board to conduct a criminal background check, which may include consent to be fingerprinted in accordance with applicable District and federal laws and regulations; and

Section 603, MARIJUANA OBTAINED FROM DESIGNATED DISPENSARY, is amended to read as follows:

603 MARIJUANA OBTAINED FROM DESIGNATED DISPENSARY

603.1 A caregiver shall only obtain medical marijuana for the qualifying patient from a dispensary registered by the Board and shall not:

- (a) Grow or cultivate medical marijuana for the qualifying patient;
- (b) Purchase medical marijuana through street vendors; or
- (c) Obtain medical marijuana from other registered qualifying patients and caregivers.

603.2 If the qualifying patient makes a change to the information set forth on his or her registration card, both the qualifying patient and the caregiver must surrender their registration identification cards to the Board and obtain new registration identification cards reflecting the change.

Chapter 7, REGISTRATION CARDS, is amended as follows:

Section 700, ISSUANCE OF REGISTRATION CARDS, is amended to read as follows:

700 ISSUANCE OF REGISTRATION CARDS

- 700.1 Upon receipt and approval of a valid and complete application, the Board shall issue a registration identification card to a qualifying patient or caregiver in accordance with the Act and this subtitle.
- 700.2 A registration identification card issued pursuant to this chapter shall expire one (1) year after the date of issuance and may be renewed in accordance with the renewal provisions under this chapter.

Section 701, CONTENTS OF REGISTRATION CARDS, is amended as follows:

Subsection 701.1(e) is repealed.

Subsection 701.1(g) is amended to read as follows:

- (g) A Board internal authentication identifier.

Subsection 701.2(e) is repealed.

Subsection 701.2(g) is amended to read as follows:

- (g) A Board internal authentication identifier.

Section 702, RENEWAL OF REGISTRATION CARDS, is amended to read as follows:

702 RENEWAL OF REGISTRATION CARDS

- 702.1 Not later than sixty (60) days prior to the expiration of a registration identification card, the qualifying patient or caregiver may apply for renewal of his or her registration identification card as follows:
 - (a) Submit a completed renewal application to the Board on the required forms and include:
 - (1) One (1) clear photocopy of a U.S., state or District government-issued photo ID, such as a driver's license, as proof of identity;
 - (2) Proof of District residency by meeting the requirements set forth in § 501.2, if applicable;
 - (3) A signed and dated written physician's recommendation for the use of medical marijuana meeting the requirements of this chapter, that is dated not more than ninety (90) days prior to the application date;
 - (b) Pay the required application fee.
- 702.2 To renew a registration identification card for a minor, the parent or legal guardian of the minor shall submit a completed application to the Board on the required forms, which shall include:

- (a) One (1) clear photocopy of U.S., state or District government-issued photo ID issued to the parent or legal guardian, such as a driver’s license, as proof of identity;
- (b) Proof of the minor and parent or legal guardian’s District residency by meeting the requirements set forth in § 501.2;
- (c) A signed and dated written physician’s recommendation for the use of medical marijuana meeting the requirements of this chapter, that is dated not more than ninety (90) days prior to the date the application is filed with the Board;
- (d) Designation of the individual who will serve as the minor’s caregiver;
- (e) The signed, written statement of the minor’s parent or legal guardian affirming that he or she:
 - (1) Understands the qualifying medical condition or qualifying medical treatment of the minor;
 - (2) Understands the potential benefits and potential adverse effects of the use of medical marijuana, in general, and specifically, in the case of the minor;
 - (3) Consents to the use of medical marijuana for the treatment of the minor’s qualifying medical condition or treatment of the side effects of the minor’s qualifying medical treatment; and
 - (4) Consents to, or has designated another adult to, serve as the caregiver for the qualifying patient and that the caregiver will control the acquisition, possession, dosage, and frequency of use of medical marijuana by the qualifying patient; and
- (g) Payment for the required application fee;

702.3 The minor’s designated caregiver shall also renew his or her registration with the Board and obtain a new caregiver registration identification card.

Chapter 8, RECOMMENDING AUTHORIZED PRACTITIONERS, is amended as follows:

Section 800, QUALIFICATIONS TO BE A RECOMMENDING AUTHORIZED PRACTITIONER, is amended as follows:

Subsection 800.2(a) is repealed.

Section 801, FORM OF RECOMMENDATION, is amended by striking the phrase “the Department” and inserting the phrase “the Board” wherever it appears and repealing § 801.1(d).

Section 802, RECORDS MAINTAINED BY AUTHORIZED PRACTITIONERS AND DEPARTMENT, is renamed to read as follows:

802 RECORDS MAINTAINED BY AUTHORIZED PRACTITIONERS AND BOARD

Section 802, RECORDS MAINTAINED BY AUTHORIZED PRACTITIONERS AND DEPARTMENT, is further amended as follows:

Subsection 802.2 is amended to read as follows:

802.2 The Board shall maintain a confidential record, which shall not be subject to requests under the Freedom of Information Act, of each recommending authorized practitioner for the purpose of monitoring compliance with the Act.

Section 804, NOTIFICATION OF END OF QUALIFYING MEDICAL OR DENTAL CONDITION OR TREATMENT, is amended as follows:

Subsection 804.1 is amended to read as follows:

804.1 An authorized practitioner shall notify the Board in writing within fourteen (14) calendar days after advising a qualifying patient that he or she no longer suffers from a qualifying medical or dental condition or treatment.

Section 805, TRAINING PROGRAM FOR RECOMMENDING AUTHORIZED PRACTITIONERS, is repealed.

Section 806, BOARD AUDITS AND REVIEW OF RECOMMENDATIONS, is amended to reads as follows:

806 BOARD AUDITS AND REVIEW OF RECOMMENDATIONS

806.1 The Board shall timely notify the Board of Medicine whenever a physician, naturopathic physician, or physician assistant provides more than two hundred fifty (250) recommendations in any twelve (12)-month period to patients for the use of medical marijuana.

806.2 The Board shall timely notify the Board of Nursing whenever an advance practice registered nurse provides more than two hundred fifty (250) recommendations in any twelve (12)-month period to patients for the use of medical marijuana.

806.3 The Board shall timely notify the Board of Dentistry whenever a dentist provides more than two hundred fifty (250) recommendations in any twelve (12)-month period to patients for the use of medical marijuana.

806.4 The Boards of Medicine, Nursing, and Dentistry shall audit and review the recommendations submitted by the authorized practitioners under its purview who provide more than two hundred fifty (250) recommendations in a twelve (12)-month period.

Chapter 9, DENIAL OF APPLICATIONS, is amended as follows:

Section 900, DENIAL OF APPLICATIONS FOR PATIENT AND CAREGIVER REGISTRATIONS, is amended to read as follows:

- 900.1 The Board may deny an application or renewal application for a qualifying patient or caregiver registration identification card only if:
- (a) The application is incomplete and the applicant fails to provide the missing information or documents within the time period allotted by the Board;
 - (b) The Board determines after further inquiry or investigation that the information provided was false, misleading, forged, or altered; or
 - (c) The Board determines that the caregiver has a disqualifying conviction.
- 900.2 Denial by the Board of an application or renewal application for a qualifying patient or caregiver registration identification card shall be deemed a final order in this matter.
- 900.3 An applicant or renewal applicant for a qualifying patient or caregiver that has had his or her application denied by the Board may seek review of the Board's decision by the District of Columbia Court of Appeals in accordance with the District of Columbia Administrative Procedure Amendment Act of 1975, effective October 8, 1975 (D.C. Law 1-19; D.C. Official Code §§ 2-501 - 2-511), as amended.

Chapter 10, ENFORCEMENT ACTIONS, is amended as follows:

Section 1000, COMPLAINTS AGAINST PATIENTS, CAREGIVERS OR RECOMMENDING AUTHORIZED PHYSICIANS, is amended to read as follows:

- 1000.1 The Board shall receive, at any time during the registration period, complaints from any person alleging a violation or misconduct by a patient, caregiver, or recommending authorized practitioner. Complaints shall be in writing and set forth enough information to allow ABRA's Enforcement Division to investigate the matter, which shall include at a minimum:
- (a) The facts or circumstances that form the basis of the complaint, including the date(s), time(s), and location(s) of the incident(s);
 - (b) Clear identification of the patient, caregiver, or recommending authorized practitioner who is the subject of the complaint;
 - (c) The name(s), and contact information (if known) of any witnesses to the incident;
 - (d) Any supporting documentation or photos; and
 - (e) The contact information for the complainant.
- 1000.2 In addition to written complaints identifying the complainant, any person may make an anonymous complaint in writing to the Board or orally to any ABRA Enforcement Division investigator. Anonymous complaints shall be investigated to the best of the Board's ability, but may result in no action being taken if the anonymous complainant fails to provide the Board or the investigator with adequate information.

- 1000.3 Nothing in this chapter shall preclude the Board from unilaterally initiating an investigation if it finds that there exists a reasonable basis to believe that there is a violation of the regulations or the Act.
- 1000.4 Upon receiving a complaint, the Board may, in its discretion, request that the qualifying patient or caregiver complained of answer the complaint within ten (10) days of receipt of the complaint. The Board shall attach a copy of the complaint to the request or shall describe the acts alleged in the complaint. The qualifying patient or caregiver may respond either personally or through a legal representative.
- 1000.5 Complaints against recommending authorized practitioners shall be forwarded to the relevant licensing board for disposition.
- 1000.6 If the Board receives a written response from a qualifying patient or caregiver, it may, in its discretion, send a copy of the response to the complainant and request a written reply within a time period determined by the Board.
- 1000.7 At any point during the course of the investigation or inquiry into the complaint, the Board may determine that there is not and will not be sufficient evidence to warrant further proceedings. In such event, the Board shall dismiss the complaint.
- 1000.8 If the Board determines, after the investigation, that there is otherwise reason to believe that the acts alleged occurred and constitute a violation of the regulations or the Act, the Board may fine the registration holder pursuant to the Civil Infractions Act, or initiate an action to suspend or revoke the registration.
- 1000.9 All written complaints as set forth under § 1000.1 which identify the complainant by name and address, shall be acknowledged in writing by the Board within thirty (30) days of receipt of the complaint. At the conclusion of the matter, the Board shall advise the complainant of the action that the Board has taken on the matter.
- 1000.10 The Board shall maintain records documenting complaints received and the action taken in response to the complaint.

Section 1001, NOTICE OF POTENTIAL JEOPARDY, is repealed.

Section 1002, REVOCATION, SUSPENSION, OR FINES – GENERAL PROVISIONS, is amended to read as follows:

1002 REVOCATION, SUSPENSION, OR FINES – GENERAL PROVISIONS

- 1002.1 The Board may fine, suspend, or revoke the registration of any registration holder during the registration period if the registration holder violates any of the provisions of the Act or this subtitle, including but not limited to, purchasing medical marijuana from any source other than a licensed dispensary, selling or transferring medical marijuana to another person, or using medical marijuana in a location other than the patient's residence another individual's residence, if permitted, or a school where the qualifying patient is enrolled provided the school has a policy in place for allowing the administration of medication at school and medical marijuana is administered in a non-smokable form, or a

medical facility where the patient is permitted to use marijuana.

- 1002.2 The Board may impose civil fines under the Civil Infractions Act for any infraction under this subtitle, not to exceed two thousand dollars (\$2,000.00) per first offense violation. Civil fines imposed by the Board or an ABRA investigator shall be consistent with sections 16 DCMR §§ 3200-3201 and 3664-3674.
- 1002.3 Except in the case of a summary suspension or revocation action, the Board shall not revoke or suspend a registration until the holder of the registration has been given an opportunity to be heard in his or her defense.
- 1002.4 If a registration is revoked or suspended, no part of the registration fee shall be returned.
- 1002.5 Prior to seeking action to revoke a registration for a patient, the Board may, require the patient to designate a Board-approved caregiver to ensure compliance with the terms and conditions imposed by the Board.
- 1002.6 If the Board revokes a registration for a patient, no registration shall be issued to the same person whose registration is so revoked for one (1) year following the revocation.
- 1002.7 If the Board revokes a registration for a caregiver, no registration shall be issued to the same person whose registration is so revoked for five (5) years following the revocation.

Section 1003, NOTICE OF CONTEMPLATED ACTION AND HEARING, is amended to read as follows:

1003 NOTICE OF CONTEMPLATED ACTION AND HEARING

- 1003.1 Violation of any provision of the Act or this subtitle may result in a notice of intent to suspend or revoke the qualifying patient's or caregiver's registration identification card, and all lawful privileges under the Act.
- 1003.2 Except in the case of a summary suspension or revocation, the Board shall give a registrant written notice and an opportunity to have a hearing before the Board prior to taking any final action which would:
- (a) Suspend registration; or
 - (b) Revoke registration.
- 1003.3 A notice of intent to suspend or revoke shall contain the following:
- (a) A statement of the proposed action;
 - (b) A statement setting forth the reasons for the proposed action, including a specification of any specific violation complained of;
 - (c) Reference to any particular section of the Act or rules allegedly violated;
 - (d) A date of both a show cause status and show cause hearing as well as the contact

information for the assigned Office of Attorney General attorney; and

- (e) A statement that the Board may proceed *ex parte* in the event that the registrant does not appear for the show cause hearing.

1003.4 A notice, order, decision, or pleading required by this chapter to be served upon a party shall be served upon the party or upon the representative designated by the party or by law to receive service of papers. If a party has appeared through counsel, service may be made upon the counsel of record.

1003.5 Service on a registrant shall be directed to the last known address of the registrant on file with the Board or the registrant's resident agent or attorney, and shall be completed by one (1) of the following methods:

- (a) Personal delivery;
- (b) Leaving it at the party's usual place of residence with a person of suitable discretion sixteen (16) years of age or older residing there; or
- (c) Certified mail, return receipt requested.

1003.6 Proof of service, stating the name and address of the person on who service is made and the manner and date of service, may be shown by one (1) of the following methods:

- (a) Written acknowledgement by the party or other person served in accordance with § 1003.5 or by the party's counsel;
- (b) The certificate of the serving party or that party's counsel; or
- (c) A return receipt if service is made by certified mail.

1003.7 If service is by personal delivery, it shall be deemed to have been served at the time when delivery is made to the party or other person served in accordance with § 1003.5.

1003.8 If service is by certified mail, it shall be deemed to have been made on the date shown on the return receipt showing delivery of the notice to the party or refusal of the party to accept delivery.

1003.9 If the party is no longer at the last known address as shown by the records of the Board, and no forwarding address is available, service shall be deemed to have been made on the date the return receipt bearing that notification is received by the Board.

1003.10 Unless otherwise authorized by the Board, any notice from or to the Board shall be made by personal delivery or sent by certified mail, return receipt requested.

1003.11 The decision rendered by the Board shall be the final order in this matter. A party may seek review of the Board's decision with the District of Columbia Court of Appeals in accordance with the District of Columbia Administrative Procedure Amendment Act of 1975, effective October 8, 1975 (D.C. Law 1-19; D.C. Official Code §§ 2-501 - 2-511), as amended.

Section 1004, NOTICE OF SUMMARY SUSPENSION ACTION AND HEARING, is amended to

read as follows:

1004 NOTICE OF SUMMARY SUSPENSION OR REVOCATION ACTION AND HEARING

- 1004.1 Violation of the Act or this subtitle may result in the summary suspension or revocation of a qualifying patient or caregiver’s registration.
- 1004.2 If the Board determines, after investigation, that the conduct of a qualifying patient or caregiver presents an imminent danger to the health and safety of the public, the Board may summarily suspend, revoke or restrict, without a hearing, the registration of the qualifying patient or caregiver.
- 1004.3 A notice of summary suspension or revocation shall contain the following:
- (a) A statement that the qualifying patient or caregiver must return any unused medical marijuana in his or her possession to the District of Columbia Metropolitan Police Department within twenty-four (24) hours of receiving the summary suspension notice;
 - (b) A statement that the qualifying patient or caregiver must surrender his or her registration identification card to the Board within twenty-four (24) hours of receiving the summary suspension notice;
 - (c) A statement setting forth the reasons for the summary action, including a specification of any specific violation complained of;
 - (d) Reference to any particular section of the Act or rules allegedly violated;
 - (e) A statement that the registrant may request an immediate hearing before the Board for the purpose of determining whether the suspension shall continue. The registrant shall file the request with the Board within three (3) business days after service of a notice of a summary suspension, revocation or restriction of the registration, unless otherwise agreed by the parties to be held at a later date; and
 - (f) The Board shall issue a decision within three (3) business days after the hearing. A person aggrieved by a final summary action may file an appeal with the District of Columbia Administrative Procedure Amendment Act of 1975, effective October 8, 1975 (D.C. Law 1-19; D.C. Official Code §§ 2-501 - 2-511), as amended.
- 1004.4 A notice, order, decision, or pleading required by this chapter to be served upon a party shall be served upon the party or upon the representative designated by the party or by law to receive service of papers. If a party has appeared through counsel, service may be made upon the counsel of record.
- 1004.5 Service on a registrant shall be directed to the last known address of the registrant on file with the Board or the registrant’s resident agent or attorney, and shall be completed by one (1) of the following methods:
- (a) Personal delivery;

- (b) Leaving it at the party's usual place of residence with a person of suitable discretion sixteen (16) years of age or older residing there; or
 - (c) Certified mail, return receipt requested.
- 1004.6 Proof of service, stating the name and address of the person on who service is made and the manner and date of service, may be shown by one (1) of the following methods:
 - (a) Written acknowledgement by the party or other person served in accordance with § 1004.5 or by the party's counsel; or
 - (b) The certificate of the serving party or that party's counsel; or
 - (c) A return receipt if service is made by certified mail.
- 1004.7 If service is by personal delivery, it shall be deemed to have been served at the time when delivery is made to the party or other person served in accordance with § 1004.5.
- 1004.8 If service is by certified mail, it shall be deemed to have been made on the date shown on the return receipt showing delivery of the notice to the party or refusal of the party to accept delivery.
- 1004.9 If the party is no longer at the last known address as shown by the records of the Board, and no forwarding address is available, service shall be deemed to have been made on the date the return receipt bearing that notification is received by the Board.
- 1004.10 A registrant whose registration has been summarily suspended may request an immediate hearing before the Board for the purpose of determining whether the suspension shall continue. The registrant shall file the request with the Board within three (3) business days after service of a notice of a summary suspension, revocation or restriction of the registration unless otherwise agreed by the parties to be held at a later date.
- 1004.11 Unless otherwise authorized by the Board, any notice from or to the Board shall be made by personal delivery or sent by certified mail, return receipt requested.
- 1004.12 A request for a hearing under this chapter shall include the following:
 - (a) A statement of the facts relevant to the review of the action;
 - (b) A statement of the arguments that the respondent considers relevant to the review of the action; and
 - (c) Any other evidence considered relevant.
- 1004.13 If the registrant fails to request a hearing within the time and in the manner specified in the notice, the summary suspension shall continue until after a finding by the Board that the imminent danger no longer exists, or until after a decision on a notice of intent to revoke or suspend the registration becomes final under § 1003.13 or 1003.16.
- 1004.14 If a hearing is timely requested, the proceedings shall thereafter be conducted pursuant to chapter 17 of Title 23 of the DCMR.

1004.15 The decision rendered by the Board shall be the Final Order in this matter. A party may seek review of the Board's decision with the District of Columbia Administrative Procedure Amendment Act of 1975, effective October 8, 1975 (D.C. Law 1-19; D.C. Official Code §§ 2-501 - 2-511), as amended.

Chapter 11, CONFIDENTIALITY OF RECORDS, is amended as follows:

Section 1100, MEDICAL MARIJUANA PROGRAM RECORDS, is amended to read as follows:

1100 MEDICAL MARIJUANA PROGRAM RECORDS

1100.1 Applications and supporting information submitted by qualifying patients and caregivers shall be confidential and subject to the protections of the federal Health Insurance Portability and Accountability Act (HIPAA) of 1996, as amended, and other applicable privacy laws and privileges.

1100.2 The Board shall maintain a confidential list of the persons to whom the Board has issued registration identification cards.

1100.3 Individual names and other personally identifying information on the list:

- (a) Shall be confidential and not be considered a public record; and
- (b) Shall not be subject to disclosure, except to authorized employees of ABRA as necessary to perform official duties of ABRA.

1100.4 The Board shall verify to law enforcement personnel whether a registry identification card is valid by confirming the information that is printed on the registration identification card.

1100.5 The Board may notify law enforcement personnel about falsified or fraudulent information submitted to the Board.

Chapter 12, INVESTIGATIONS AND INSPECTIONS, is amended as follows:

Section 1200, ANNOUNCED AND UNANNOUNCED INVESTIGATIONS AND INSPECTIONS, is amended to read as follows:

1200 ANNOUNCED AND UNANNOUNCED INVESTIGATIONS AND INSPECTIONS

1200.1 The Board or an ABRA investigator may conduct announced and unannounced investigations and inspections of cultivation centers, dispensaries and testing laboratories, as related to the Board's purview, mission and function, for the purpose of determining the suitability of any facility or location with respect to sanitation and health, and to determine compliance with the Act and these regulations by any registered cultivation center, dispensary or testing laboratory.

1200.2 During an inspection or investigation of a dispensary, the Board or an ABRA investigator

may review the dispensary's confidential records, including its dispensing records and information which contains the names and addresses of qualifying patients, caregivers, and recommending physicians, as necessary and appropriate to the Board's purview and authority, to determine compliance with the Act and these regulations.

- 1200.3 During an inspection or investigation of a cultivation center, the Board or an ABRA investigator may review the cultivation center's confidential records, as necessary and appropriate to the Board's purview and authority, to determine compliance with the Act and these regulations.
- 1200.4 All qualifying patients and caregivers shall provide the Board or an ABRA investigator with immediate access to any material and information necessary for determining compliance with the Act and these regulations.
- 1200.5 Failure by a qualifying patient or caregiver to provide the Board or an ABRA investigator with immediate access to any requested material or information to determine compliance with the Act or these regulations, may result in sanctions against the qualifying patient or caregiver up to and including revocation of registration.
- 1200.6 Failure by a dispensary, cultivation center or testing laboratory to provide the Board or an ABRA investigator with immediate access to any requested material or information as part of an inspection or investigation under the Act or these regulations, may result in the imposition of a civil fine or the suspension or revocation of license.

Chapter 13, FEES, is amended as follows:

Section, 1300, REGISTRATION, RENEWAL, AND REPLACEMENT FEES, is amended as follows:

Subsection 1300.3 is amended by amending the lead-in language to read as follows:

- 1300.3 A qualifying patient or caregiver whose income is equal to or less than two hundred percent (200%) of the federal poverty level may apply for registration at a rate that is twenty-five percent (25%) of the published standard registration fee by submitting proof, to the satisfaction of the Board or the Director, of the following:

Subsection 1300.4(g) is amended to read as follows:

- (g) Any other item(s) of proof deemed by the Board, the Director or the Director's agent reasonably calculated to demonstrate a person's current income.

Chapter 14, MEDICAL MARIJUANA ADVISORY COMMITTEE, is amended as follows:

Section 1400, COMPOSITION OF ADVISORY COMMITTEE, is amended as follows:

Subsections 1400.1 and 1400.2 are amended to read as follows:

- 1400.1 The Advisory Committee (Committee) shall consist of seven (7) members, which shall be

appointed as follows: The Director of the Department of Behavioral Health, the Director of the Department of Health, and the City Administrator shall each appoint one member, who shall be either himself or herself or a subordinate designee; the Director of ABRA shall appoint four (4) members, one of which shall be the Director himself or herself or a subordinate designee, and the other three (3) of which shall be residents of the District that possess either medical or scientific expertise that the Director of ABRA deems would be useful to the Committee.

1400.2 The Director of ABRA or his or her subordinate designee, shall act as the chair of the Committee.

Section 1401, DUTIES AND RESPONSIBILITIES OF THE ADVISORY COMMITTEE, is amended as follows:

Subsection 1401.1 is amended to read as follows:

- 1401.1 The Advisory Committee shall convene as needed to:
- (a) Accept and review petitions for the approval of additional qualifying medical conditions and qualifying medical treatments, and to recommend in favor or against approval to the Board;
 - (b) Monitor best practices in other states, monitor scientific research on the use of medical marijuana, monitor the effectiveness of the District's medical marijuana program, and make recommendations to the Mayor, the Council, the Board, and when asked to consult with other agencies; and
 - (c) Issue recommendations to the Board of the quantities of marijuana, not to exceed four ounces (4 oz.) per month, that are necessary to constitute an adequate supply for qualifying patients and designated caregivers.

Section 1402, PETITIONS REQUIREMENTS, is amended as follows:

Subsections 1402.1 is amended to read as follows:

1402.1 The Committee may accept and review petitions at any time from any individual or association of individuals requesting the addition of a new qualifying medical condition or qualifying medical treatment for the purpose of participating in the Program and all lawful privileges under the act.

Subsections 1402.2 is amended as follows:

The lead in language is amended to read as follows:

1402.2 Except as otherwise provided, a petitioner filing a petition shall file the originals and seven (7) copies with the Director pursuant to the filing instructions set forth in the Notice, by either personal delivery, express or first class mail, or electronic communication and in a manner to ensure receipt of delivery. In order for a petition to be processed and forwarded to the Committee the following information shall be included in the petition:

The lead in language for paragraph (a) amended to read as follows:

- (a) All documents, except exhibits, shall be submitted on a form provided by ABRA. The petitioner shall include in the petition documents a narrative address to the advisory board, which includes:

Subsection 1402.2(c) is amended to read as follows:

- (c) If the petitioner is submitting their requests as a potential qualifying patient applicant, the petitioner shall include a signed, written statement from the patient's District of Columbia licensed physician, which includes the following information:
 - (1) The name, address, telephone number and DC license number of the physician;
 - (2) The petitioner's name, address, and debilitating medical condition;
 - (3) The medical justification for practitioner's statement that petitioner would benefit from the medical use of marijuana;
 - (4) The length of time the petitioner has been under the care of the practitioner providing the medical provider certification for patient eligibility;
 - (5) The practitioner's notarized and dated signature;
 - (d) The petitioner's signature and date; and
 - (e) A signed consent for release of medical information to the Committee, if applicable.

Subsection 1402.3 is amended by striking the phrase "the Department" and inserting the phrase "ABRA" wherever it appears.

Section 1403, MEDICAL MARIJUANA ADVISORY COMMITTEE HEARING ON PETITIONS, is amended as follows:

Subsection 1403.1 is amended to read as follows:

1403.1 The Committee shall convene by public hearing as needed to accept and review petitions requesting the inclusion of additional qualifying medical conditions and qualifying medical treatments for the purpose of participating in the medical marijuana program and all lawful privileges under the act.

Subsections 1403.11 through 1403.13 are amended to read as follows:

1403.11 The Committee shall keep minutes of all its public hearings. The minutes shall include at a minimum the date, time and place of the public hearing, the names of Committee

members in attendance and those absent, the substance of the petition considered and a record of any decisions and votes taken that show how each member voted. Any person, other than the Committee, desiring a copy of the minutes shall order a copy from ABRA and pay all applicable copy fees.

1403.12 Upon final determination, the Committee shall provide a recommendation to the Board, for either the approval or denial of the petitioner's request. The recommendation shall include a medical justification for the recommendation based upon the individual or collective expertise of the Committee membership. The medical justification shall delineate between the findings of fact made by the Committee and scientific conclusions of credible medical evidence.

1403.13 The Board shall notify the petitioner by certified mail within sixty (60) days of the Board's determination. A denial by the Board regarding the inclusion of a medical condition or medical treatment to the existing list of qualifying medical conditions and qualifying medical treatments under the act shall not represent a permanent denial by the Board. Any individual or association of individuals may upon good cause re-petition the Committee during the next open period for receipt of petitions, subject to the requirement that the repetition shall present new supporting findings of fact, or scientific conclusions of credible medical evidence not previously examined by the Committee. The Committee shall not accept any petition that does not on its face clearly show that this requirement has been met.

Chapter 50, REGISTRATION, LICENSING, AND ENFORCEMENT OF CULTIVATION CENTERS, DISPENSARIES, AND TESTING LABORATORIES, is amended as follows:

Section 5000, MEASURING DISTANCES, is amended by striking the phrase "the Department" and inserting the phrase "the Board" wherever it appears.

Section 5001, COMPUTATION OF TIME, is amended as follows:

Subsection 5001.1 is amended to read as follows:

5001.1 In computing any period of time specified in this title, the day of the act, event, or default shall not be counted, and the last day of the period shall be counted unless it is a Saturday, Sunday, legal holiday, or day on which ABRA is officially closed, in which event the time period shall continue until the next day that is not a Saturday, Sunday, legal holiday, or day on which ABRA is not closed.

Section 5002, PERMISSIBLE ACTIVITIES AND LIMITATIONS ON CULTIVATION CENTERS, DISPENSARIES, AND TESTING LABORATORIES, is amended as follows:

Subsection 5002.1 is amended by striking the phrase "qualified patient" and inserting the phrase "qualifying patient" wherever it appears and striking the phrase "and cigarette rolling papers" wherever it appears.

Subsection 5002.2(b) is amended to read as follows:

(b) Manufacture, purchase, possess, and distribute paraphernalia to registered

dispensaries.

Subsection 5002.3(b) is amended to read as follows:

- (b) Collect samples of medical marijuana and medical marijuana products from a cultivation center or dispensary and transport the samples from the cultivation center or dispensary to the testing laboratory for the purpose of testing the samples.

Section 5003, LOCATIONS AND OWNERSHIP, is amended to read as follows:

5003 LOCATIONS AND OWNERSHIP

- 5003.1 An application for a dispensary, cultivation center, or testing laboratory registration shall identify the proposed location of the dispensary, cultivation center, or testing laboratory by street mailing address, including suite or unit number if applicable. No post office box numbers shall be permitted. An applicant shall not be permitted to alter, change, or substitute the proposed location of the dispensary, cultivation center, or testing laboratory after the application has been submitted.
- 5003.2 A registration for a dispensary, cultivation center, or testing laboratory shall be issued for the specific location identified on the application, and is valid only for the owner, premises, and name designated on the registration and the location for which it is issued.
- 5003.3 An application for a dispensary, cultivation center, or testing laboratory registration shall clearly identify the individual applicant, partnership or limited liability company applicant, or corporate applicant as required under this subtitle. An applicant shall not be permitted to change the proposed ownership or controlling interest of the entity after the application has been submitted.
- 5003.4 A registration for a dispensary, cultivation center, or testing laboratory and the authorization to apply for the registration upon approval by the Board, shall be issued for the specific individual applicant, partnership or limited liability company applicant, or corporate applicant as identified in the application.
- 5003.5 A dispensary, cultivation center, or testing laboratory registration shall not be leased, or subcontracted, in whole or in part.

CHAPTER 51, REGISTRATION AND PERMIT CATEGORIES, is amended as follows:

Section 5100, REGISTRATION PERIODS, is amended by striking the phrase “the Department” and inserting the phrase “the Board” wherever it appears.

Section 5101, RENEWAL PERIODS, is amended as follows:

Subsections 5101.2 through 5102.4 are amended to read as follows:

- 5101.2 A registration set forth in § 5101.1 that is active and in good standing as of the date of adoption of this rulemaking shall remain in full force and effect until December 31, 2021, unless suspended or revoked by the Board for cause.
- 5101.3 In addition to the initial application or a transfer to new location application, the Board shall provide all Advisory Neighborhood Commissions (ANCs) located in the affected ward thirty (30) days for public comment once every three (3) years on an applicant for a dispensary, cultivation center, or testing laboratory's renewal, beginning with the third renewal.
- 5101.4 The notice to the ANCs set forth in § 5101.3 of this chapter on a third-year renewal application shall be provided to the ANCs not later than thirty (30) days before a registration is renewed. The Board shall renew the registration or inform the applicant in writing of its intent not to renew the registration within sixty (60) days following the conclusion of the ANC thirty (30) day comment period.

Section 5102, EXTENSION OF EXPIRATION DATES OF PROTESTED REGISTRATION, is amended as follows:

Subsections 5102.1 and 5102.2 are amended to read as follows:

- 5102.1 Unless a registration is otherwise summarily suspended under this subtitle, the registration of a cultivation center, dispensary, or testing laboratory that has received written notice of the Board's intent not to renew the registration shall continue in effect until such time as the Board has taken final action on the registration.
- 5102.2 In the case of applications for the renewal of a registration or for transfer to a new owner, the registration shall continue in effect until the Board has taken final action on the registration.

Section 5103, REGISTRATION AND PERMIT FEES, is amended as follows:

Subsection 5103.1 is amended to read as follows:

- 5103.1 All application, registration, and permit fees shall be paid by credit card, certified check, money order, business check, attorney's check, or personal check payable to the D.C. Treasurer. Applicants shall pay the fees specified by the Board at the time an application is filed. All fees are nonrefundable.

Subsection 5103.2 is amended to read as follows:

- 5103.2 The Board may impose a late fee upon an applicant that fails to timely renew their registration, or permit in the amount of fifty dollars (\$50) for each business day after the due date of payment. The total amount of the late fee to be paid shall not exceed the annual cost of the registration. The Board may suspend a previously

approved registration until the renewal fee is paid. A cultivation center, or dispensary or testing laboratory that has not timely renewed its registration shall not be permitted to sell, transport or test medical marijuana with an expired registration.

Subsections 5103.3, 5103.5, 5103.6, 5103.7, 5103.9, and 5103.21 are amended by striking the phrase “the Department” and inserting the phrase “the Board” wherever it appears.

Section 5105, MEDICAL MARIJUANA CERTIFICATION PROVIDER PERMIT, is amended by striking the phrase “the Department” and inserting the phrase “the Board” wherever it appears.

Section 5105, MEDICAL MARIJUANA CERTIFICATION PROVIDER PERMIT, is further amended as follows:

Subsection 5105.1 is amended to read as follows:

5105.1 A person or entity wishing to become a medical marijuana certification provider shall obtain a medical marijuana certification provider permit which shall allow the holder to provide a medical marijuana training and education certification program in the District of Columbia. For purposes of this section, a "medical marijuana certification provider" shall mean any person or entity approved by the Board to conduct a medical marijuana and education training program as set forth in § 5105.2. A medical marijuana certification provider permit shall be valid for three (3) years.

Subsection 5105.2(b) is amended by striking the phrase “qualified patient” and inserting the phrase “qualifying patient” in its place.

Subsection 5105.4 is amended to read as follows:

5105.4 The Board shall make the final determination as to the qualifications of the applicant and compliance of the applicant’s program with § 5105.2 and may require a fact-finding hearing with the applicant prior to issuing its decision.

Section 5106, MANAGER CERTIFICATION, is amended to read as follows:

5106.1 A manager’s license shall authorize the licensee to manage a cultivation center, dispensary or testing laboratory.

5106.2 The holder of a manager’s license may be employed by one or more cultivation centers, dispensaries, or testing laboratories without further investigation, subject to compliance by the licensed business.

5106.3 A manager shall complete a medical marijuana training and education program conducted by a Board approved provider. The manager shall be recertified every 3 years from the date of the initial certification.

5106.4 A manager required to complete a medical marijuana training and education

Program under this section shall submit proof of certification to the Board on a form supplied by a Board-approved training provider.

Section 5107, NOTICE TO ADVISORY NEIGHBORHOOD COMMISSION, is amended to read as follows:

5107 NOTICE TO ADVISORY NEIGHBORHOOD COMMISSIONS

- 5107.1 Upon the initial selection of a completed application by the panel, a third year renewal, or an application to transfer a dispensary, cultivation center, or testing laboratory to a new location, the Board shall give written notice through the mail and electronically of the registration application to all ANCs in the affected ward. Notice shall be given by the Board to all ANCs in the affected ward at least thirty (30) days prior to the approval of a location for a dispensary, cultivation center, or testing laboratory, and shall state that the ANCs must submit their comments to the Board prior to the end of the thirty (30) day ANC comment period.
- 5107.2 The written notice shall contain the legal and trade name of the applicant, the street address of the establishment for which the registration is sought, the type of registration sought, and a description of the nature of the operation the applicant has proposed, including the proposed hours of operation.
- 5107.3 The notice shall also state the final day that comments must be received by the Board from the ANCs in the affected ward.
- 5107.4 The Board shall give notice to each ANC in the affected ward by first-class mail, and addressed to the following persons:
- (a) The ANC office;
 - (b) The ANC chairperson, at his or her home address of record; and
 - (c) The ANC member in whose single-member district the establishment is or will be located, at his or her home address of record.
- 5107.5 Notice required to be provided by the Board to each ANC office, ANC Chairperson, and ANC single member district Commissioner, shall be sent to the ANC address on file with the Office of Advisory Neighborhood Commission.
- 5107.6 The Board shall publish the notices required under this section in the *District of Columbia Register*.

Section 5108, POSTED NOTICE TO THE PUBLIC, is amended as follows:

Subsection 5108.1 is amended to read as follows:

- 5108.1 For new and transfer to new location applications, the applicant shall post two (2)

notices, provided by ABRA, indicating that an application for a cultivation center, dispensary, or testing laboratory registration has been filed, in conspicuous places on the outside of the establishment's proposed location for the duration of the ANCs thirty (30) day comment period.

Subsections 5108.2(c) and (d) are amended to read as follows:

- (c) The contact information for the ANC where the establishment is to be located; and
- (d) The telephone number and mailing address of ABRA.

Subsection 5108.4 is amended to read as follows:

5108.4 If the Board determines that the notices posted at an applicant's proposed establishment have not remained visible to the public for the duration of the ANC's thirty (30) day comment period, the Board shall require the reposting of the notices and shall restart the thirty (30) day ANC comment period, unless the applicant has fully performed all other notice requirements and the Board determines that the public has received sufficient notice of the application.

A new subsection 5108.5 is added to read as follows:

5108.5 This section shall not apply to a third-year renewal or transfer of ownership registration application filed by a cultivation center, dispensary or testing laboratory.

Section 5109, COMMENTS FROM ANCS LOCATED IN THE AFFECTED WARD, is amended as follows:

Subsection 5109.1 is amended to read as follows:

5109.1 Comments submitted by an ANC located in the affected ward for consideration shall relate to the ANC's concerns or support regarding the proposed location including but not limited to:

- (a) The potential adverse impact of the proposed location to the neighborhood; and
- (b) An overconcentration or lack of cultivation centers, dispensaries, or testing laboratories in the affected ward.

Section 5110, NON-TRANSFERABLE REGISTRATION CARDS, is amended to read as follows:

5110 NON-TRANSFERABLE REGISTRATION CARDS

- 5110.1 All persons required to register with the Board shall receive and wear on their person, while working in a restricted access area at a cultivation center, dispensary, or testing laboratory, a non-transferable uniform registration identification card from the Board. It shall be a violation of this subtitle for a person to not wear their non-transferable registration identification card while working in a restricted access area of a cultivation center, dispensary, or testing laboratory.
- 5110.2 The non-transferable registration card shall be presented by a manager, director, officer, member, incorporator, agent and employee of a cultivation center, dispensary, or testing laboratory to a Board investigator to confirm that the person is authorized to cultivate, dispense, distribute, possess, test, or transport medical marijuana, or manufacture, possess, or distribute paraphernalia.

Chapter 52, REGISTRATION LIMITATIONS, is amended as follows:

Section 5200, LIMITATION ON THE NUMBER OF DISPENSARIES, CULTIVATION CENTERS, AND TESTING LABORATORIES, is amended to read as follows:

- 5200.1 The number of dispensaries registered to operate in the District of Columbia shall not exceed eight (8). To ensure that qualifying patients have adequate access to medical marijuana, the eighth dispensary shall be issued in either Ward 3 or Ward 5.
- 5200.2 The number of cultivation centers registered to operate in the District of Columbia shall not exceed fourteen (14).
- 5200.3 The number of testing laboratories registered to operate in the District of Columbia shall not be less than two (2).
- 5200.4 Nothing in this subtitle shall require the Board to issue all of the available registrations to operate a dispensary, cultivation center, or testing laboratory.

Chapter 53, GENERAL REGISTRATION REQUIREMENTS, is amended as follows:

Section 5300, DENIAL OF REGISTRATIONS OF LAW, is amended by striking the phrase “the Director” and inserting the phrase “the Board” in its place.

Section 5302, REGISTRATION APPROVAL BEFORE ISSUANCE OF CERTIFICATE OF OCCUPANCY, is amended as follows:

Subsection 5302.1 is amended by amending the lead-in language so that it reads as follows:

- 5302.1 The Board is authorized, in its discretion, to approve the granting of a registration for a cultivation center, dispensary, or testing laboratory, subject to all other

requirements of the Act or this subtitle, to an applicant prior to the issuance of a certificate of occupancy for the building in which the registered premises shall be located, if the Board finds to his or her satisfaction the following:

Subsection 5302.1(a) is amended to read as follows:

- (a) That an applicant for registration has entered into a *bona fide* agreement with the owner of the building proposed to be constructed or remodeled;

Subsection 5302.2 is amended by amending the lead-in language to read as follows:

5302.2 An application for a registration under § 5302.1 shall be made on forms prescribed by the Board and shall include the following information:

Subsection 5302.3 is amended by amending the lead-in language to read as follows:

5302.3 A registration approved by the Board under § 5302.1 shall not be issued until the premises has been finally inspected by the Board, and until the applicant provides to the Board the following:

Subsection 5302.3(e) is amended to read as follows:

- (e) All necessary approvals required under this title from the Metropolitan Police Department (MPD), DCRA, and the Board.

Subsection 5302.4 is amended to read as follows:

5302.4 Applicants for registration under § 5302.1 shall pay the appropriate registration fee, as set forth in this subtitle, and approval by the Board shall remain effective for one hundred twenty (120) days from the date of the approval, except that the Board may grant an extension at his or her discretion for good cause shown.

Section 5303, FAILURE TO OPEN OR OPERATE, is amended to read as follows:

5303 FAILURE TO OPEN OR OPERATE

5303.1 A registration for a dispensary, cultivation center, or testing laboratory shall be returned to the Board if the dispensary, cultivation center, or testing laboratory fails to open for business within one hundred twenty (120) days after the registration has been issued, except that the Board may grant an extension at its discretion for good cause shown.

5303.2 A registration for a dispensary, cultivation center, or testing laboratory shall be returned to the Board if the dispensary, cultivation center, or testing laboratory fails to operate for any reason for more than sixty (60) consecutive days after it has opened for business.

5303.3 An applicant that has been deemed eligible for a dispensary registration shall

complete the steps to obtain a registration and open for business within one hundred twenty (120) days from the date of receipt of the notice of selection.

- 5303.4 Except as provided in § 5303.6, if an applicant that has been deemed eligible for a dispensary registration, or a registrant that has received a dispensary registration, fails to open for business within one hundred twenty (120) days, the Board shall withdraw the applicant's selection, and consider the next highest ranking applicant. If a registration has been issued, the registrant shall surrender and return the registration to the Board.
- 5303.5 If there are no applicants pending, the Board may open the application process to select a replacement dispensary cultivation center or testing laboratory applicant.
- 5303.6 The Board may grant an applicant that has been deemed eligible for a dispensary registration an extension at its discretion for good cause shown.
- 5303.7 The Board may hold a safekeeping hearing pursuant to § 6209 to determine whether to extend or cancel a registration for a dispensary, cultivation center or testing laboratory under this section.

Chapter 54, REGISTRATION APPLICATIONS, is amended as follows:

Section 5400, GENERAL QUALIFICATIONS FOR ALL APPLICANTS, is amended to read as follows:

5400 GENERAL QUALIFICATIONS FOR ALL APPLICANTS

- 5400.1 Before issuing, or renewing a registration or permit for either a business applicant or an individual applicant, the Board shall determine that the applicant meets all of the following criteria:
- (a) The applicant is of good character and generally fit for the responsibilities of registration;
 - (b) The applicant is at least twenty-one (21) years of age;
 - (c) The applicant has not been convicted of any felony before filing the application other than a felony conviction of possession with intent to distribute marijuana that occurred before July 17, 2014;
 - (d) The applicant has paid the annual fee;
 - (e) The applicant is not a licensed physician making patient recommendations;
 - (f) The applicant is not a person whose authority to be a caregiver or qualifying patient has been revoked by the Board; and
 - (g) The applicant has complied with all the requirements of the Act and this

title.

- 5400.2 The Board shall not register either a business applicant or an individual applicant that has failed to file required District tax returns or owes more than one hundred dollars (\$100) in outstanding debt to the District as a result of the items specified in D.C. Official Code: § 47-2862(a)(1) through (6)(2005 Repl.; 2011 Supp.), subject to the exceptions specified in D.C. Official Code § 47-2862(b)(2005 Repl. & 2011 Supp.).

Section 5401, OPEN APPLICATION PERIOD AND REQUIRED LETTER OF INTENT, is amended as follows:

Subsections 5401.1 through 5401.3 are amended to read as follows:

- 5401.1 Applications for a new cultivation center, dispensary, or testing laboratory registration shall only be accepted by the Board during the open application period as specified by the Board by publishing a Notice in the *D.C. Register*; such period shall not be extended.
- 5401.2 Prior to the submission of a formal application for a new cultivation center, dispensary, or testing laboratory registration, the prospective applicant shall submit a Letter of Intent to the Board or the Board's designee. The Director shall only accept Letters of Intent during the time period specified by the Board by Notice in the *D.C. Register*; such period shall not be extended.
- 5401.3 The purpose of the Letter of Intent is to formally notify the Board that an application for a cultivation center, dispensary, or testing laboratory registration will be forthcoming.

Subsection 5401.5 is amended to read as follows:

- 5401.5 At the start of each open application period for new cultivation center, dispensary, or testing laboratory registrations, the Board shall publish a notice in the *D.C. Register* setting forth the process for submission of the applications, which shall include:
- (a) The opening and ending dates for the submission of Letters of Intent to the Board by all individuals and entities who intend to apply for cultivation center, dispensary, or testing laboratory registrations;
 - (b) The opening and ending dates for the submission of applications for a cultivation center, dispensary, or testing laboratory registration by those individuals and entities that have timely submitted Letters of Intent to the Board, meeting the requirements set forth in § 5401.4 of this chapter;
 - (c) A statement that only the individuals and entities that timely submit Letters of Intent to the Board, meeting the requirements set forth in § 5401.4 of this chapter, shall be permitted to submit an application for a cultivation center, dispensary, or testing laboratory registration;

- (d) The address for submission to the Board; and
- (e) The process for obtaining application materials from the Board.

Subsection 5401.6 is amended to read as follows:

5401.6 The Notice required in § 5401.5 of this chapter shall appear, at a minimum, in the *D.C Register* and on ABRA's website.

Subsection 5401.8 is amended to read as follows:

5401.8 An applicant may apply for or hold more than one (1) cultivation center registration, but may apply for or hold only one (1) dispensary registration or testing laboratory registration.

Subsection 5401.10 is amended to read as follows:

5401.10 Only the individuals and entities that timely submitted Letters of Intent to the Board, and received a letter of acceptance from the Board, shall be permitted to submit an application for a cultivation center, dispensary, or testing laboratory registration.

Section 5402, SELECTION PROCESS, is amended to read as follows:

5402 SELECTION PROCESS

5402.1 For cultivation center and dispensary registration applicants, a six (6) member panel shall be convened consisting of one (1) representative from the District Department of the Environment (DDOE), Office of the Attorney General (OAG), Department of General Services Protective Services Division (PSD), DCRA, DC Health and a representative of ABRA to evaluate and score each application.

5402.2 For testing laboratory applicants, a seven (7) member panel shall be convened consisting of one (1) representative from the, DDOE, OAG, PSD, DCRA, Department of Forensic Sciences (DFS), DC Health and a representative of ABRA to evaluate and score each application.

5402.3 For cultivation center and dispensary registration applicants, each panel member shall score each application on a two hundred and fifty (250) point base scale. An applicant's overall score is based upon the quality of the applicant's submission, and the ANC comments submitted in accordance with § 5109 of this subtitle, by discarding the highest and lowest panel member scores, adding up the four (4) remaining scores, and dividing that total by four (4).

5402.4 For testing laboratory applicants, each panel member shall score each application on a two hundred and fifty (250) point base scale. An applicant's overall score is based upon the quality of the applicant's submission, and the ANC comments, by discarding the highest and lowest panel member scores, adding up the five (5) remaining scores, and dividing that total by five (5).

- 5402.5 The maximum points for each criterion are indicated in § 5403 of this subtitle. To be considered eligible for further review, an application must have at least one hundred and fifty (150) points prior to the ANC review. The panel shall set forth through consensus comments the basis of the scoring decision for each criterion.
- 5402.6 Prior to seeking ANC review, the panel shall calculate a provisional score based upon the then available points and bonus points. Each applicant's provisional score shall be calculated by discarding the highest and lowest panel member scores, adding up the remaining scores, and dividing that total by the number of scores that remain. The provisional scores shall be ranked from highest to lowest and the Panel shall provisionally select not more than the fifteen (15) highest ranking cultivation center applicants, not more than the fifteen (15) highest ranking dispensary applicants, and not more than fifteen (15) highest ranking testing laboratories for ANC review. The provisional selection decision shall be made in writing to the successful applicants. Notice shall also be provided by the Board to applicants that are not selected. The Notice shall advise the applicants of the following:
- (a) The applicant's total score;
 - (b) Whether or not the applicant achieved the requisite one hundred and fifty (150) points needed to move forward in the selection process;
 - (c) The summary of the panel's consensus comments that formed the basis for the applicant's score;
 - (d) Whether the panel's consensus comments were adopted by the Board and are the findings of fact which are the basis of and support the Board's rationale for the decision. If the application was denied, the Notice shall also address whether the consensus comments were adopted by the Board and are the findings of fact which are the basis of and support the Board's rationale for the decision to deny the applicant's registration application, or whether the denial was based upon other reasoning. If based upon another reason, that reason shall be clearly articulated in the notice letter; and
 - (e) The applicant's right to judicial review in the District of Columbia Court of Appeals.
- 5402.7 The applications provisionally selected by the panel shall be placarded by the Board with notice given to each ANC in the affected Ward and shall state that the ANCs must submit their comments to the Board not later than thirty (30) days after receiving the notice.
- 5402.8 The ANC comments received during the comment period shall then be forwarded to the panel, which shall have thirty (30) days to evaluate and score the ANC comments. Only the official comments of the ANC that were voted upon and approved by the ANC as a whole shall be accepted by the panel for scoring. All affected ANCs that do not timely submit comments shall be scored by the panel

as if the ANCs submitted neutral comments. The ANC comments shall be worth up to thirty (30) points of the total scoring for each provisionally selected applicant.

- 5402.9 The panel shall prepare a report of the final proposed selections based upon the applicant scores, and then submit it to the Board. The report shall assign a numerical rank for each applicant based on the application's final score, include a narrative of the basis for each of the panel's final proposed selections that includes the consensus comments that formed the basis of the scoring decision for each criterion, and shall include not more than the ten (10) highest scoring cultivation center applicants, not more than the ten (10) highest scoring dispensary applicants, and not more than the ten (10) highest scoring testing laboratory applicants.
- 5402.10 In the event that two (2) or more applicants for a cultivation center registration receive the same total score, the panel shall give priority in rank to the applicant that received the highest score in the security plan category. In the event that the same two (2) applicants receive the same score in the security plan category, the panel shall give priority in rank to the applicant that received the highest score in the cultivation plan category.
- 5402.11 In the event that two (2) or more applicants for a dispensary registration receive the same total score, the panel shall give priority in rank to the applicant that received the highest score in the security plan category. In the event that the same two (2) applicants receive the same score in the security plan category, the panel shall give priority in rank to the applicant that received the highest score in the product safety and labeling plan category.
- 5402.12 In the event that two (2) or more applicants for a testing laboratory registration receive the same total score, the panel shall give priority in rank to the applicant that received the highest score in the laboratory testing plan category. In the event that the same two (2) applicants receive the same score in the laboratory testing plan, the panel shall give priority rank to the applicant that received the highest score in the security plan category.
- 5402.13 Except as provided by § 6000 of this subtitle, the Board shall adopt the panel's report and findings and select the highest scoring applicant for a cultivation center, dispensary, or testing laboratory registration. The selection decision shall be made in writing to the successful applicants. Notice shall also be provided by the Board to applicants that are not selected. The Notice shall advise the applicants of the following:
- (a) The applicant's total score;
 - (b) Whether or not the applicant was selected and deemed eligible for registration;
 - (c) Whether the applicant(s) that was selected and deemed eligible for registration was the highest scoring applicant(s) or otherwise set forth the

ranking of the selected applicant(s);

- (d) The summary consensus comments that formed the basis for the applicant's score;
- (e) Whether the panel's consensus comments were adopted by the Board and are the findings of fact which are the basis of and support the Board's rationale for the decision. If the application was denied, the Notice shall also address whether the consensus comments and final ranking were adopted by the Board and are the findings of fact which are the basis of and support the Board's rationale for the decision to deny the applicant's registration application, or whether the denial was based upon other reasoning. If based upon another reason, that reason shall be clearly articulated in the notice letter; and
- (f) The applicant's right to judicial review in the District of Columbia Court of Appeals.

5402.14 In the event that a selected cultivation center, dispensary, or testing laboratory application is subsequently denied by the Board pursuant to § 6000.2 of this subtitle, the applicant who received the next highest score from the panel who was not initially accepted shall be selected.

5402.15 An applicant submitting a cultivation center or dispensary registration application shall be required to submit the eight thousand dollars (\$8,000) nonrefundable application fee at the time the cultivation center or dispensary application is filed with the Board.

5402.16 An applicant submitting a testing laboratory registration application shall be required to submit the three thousand five hundred dollars (\$3,500) nonrefundable application fee at the time the testing laboratory application is filed with the Board.

Section 5403, SELECTION CRITERIA, is amended to read as follows:

5403 SELECTION CRITERIA

5403.1 Each application shall address all criteria and measures, even when no point values are assigned. This shall include the applicant providing all of the information required by §§ 5400, 5403, and 5404. The failure by an applicant to address all of the required criteria and measures will result in the application being considered non-responsive and not accepted for review by the panel. The required criteria and measures shall include the following:

- (a) Dispensary Criteria:
 - (1) Suitability of the Proposed facility (Up to thirty (30) points)
 - (A) Measure 1: The applicant demonstrates that the proposed

location will provide adequate lighting, display a professional office or business setting, and be convenient for qualifying patients and caregivers. (up to ten (10) points); and

(B) Measure 2: The applicant demonstrates that the proposed building and facility is suitable for the dispensing of medical marijuana. The applicant demonstrates that the proposed facility will possess adequate storage facilities, and adequate space and facilities to monitor the sale of medical marijuana to qualifying patients and caregivers. (up to twenty (20) points);

(2) Proposed Staffing Plan and Knowledge of District and federal law relating to marijuana (Up to twenty (20) points):

(A) Measure 1: The applicant fully describes a staffing plan that will provide and ensure adequate staffing and experience during accessible business hours, safe dispensing, adequate security and theft prevention, and the maintenance of confidential information, including the identity of qualifying patient information. (up to ten (10) points); and

(B) Measure 2: The applicant shall provide an operations manual that demonstrates compliance with the District's medical marijuana rules. The operations manual shall also contain information demonstrating the applicant's knowledge of the District and federal laws and regulations relating to medical marijuana. The applicant shall also submit a notarized written statement on a form provided by the Board indicating that they have read the Act and this subtitle and have knowledge of District and federal law relating to marijuana. (up to ten (10) points);

(3) Security Plan (Up to fifty (50) points):

The applicant shall submit a security plan which shall include the following:

(A) Measure 1: The applicant's security plan fully demonstrates the applicant's ability to prevent the theft or diversion of medical marijuana and how the plan will assist with MPD and ABRA enforcement. Specifically, it shall evidence compliance with all items in § 5405.2 and § 5610, and include all submittals required under that section. (up to twenty (20) points);

- (B) Measure 2: The applicant demonstrates that its plan for record keeping, tracking and monitoring inventory, quality control and security and other policies and procedures will discourage unlawful activity (up to ten (10) points);
 - (C) Measure 3: The applicant's security plan shall describe the enclosed, locked facility that will be used to secure or store medical marijuana, including when the location is closed for business, and its security measures, and the steps taken to ensure that medical marijuana is not visible to the public. (up to ten (10) points); and
 - (D) Measure 4: The security plan describes how it intends to prevent the diversion of medical marijuana to anyone who is not a registered qualifying patient or designated caregiver and includes the applicant's after action plan for any incidents that may trigger enforcement under District of Columbia law or regulations. The plan shall also describe the applicant's plan to coordinate with and dispose of unused or surplus medical marijuana with MPD (up to ten (10) points);
- (4) Product Safety and Labeling Plan (Up to twenty (20) points):
- (A) Measure 1: The applicant shall describe its plan for providing safe and accurate packaging and labeling of medical marijuana. The Applicant shall describe how it intends to dispense medical marijuana to a qualifying patient or caregiver for transport in a secure manner. (up to ten (10) points); and
 - (B) Measure 2: The applicant shall describe its plan for verifying medical marijuana packaged at the dispensary is free of contaminants. (up to ten (10) points);
- (5) Applicant's business plan, marketing plan and services to be offered (Up to fifteen (15) points):
- (A) Measure 1: The applicant shall provide a business plan that describes how the dispensary will operate on a long-term basis. This shall include the applicant providing a detailed description about the amount and source of the equity and debt commitment for the proposed dispensary that demonstrates the immediate and long-term financial feasibility of the proposed financing plan, the relative availability of funds for capital and operating needs, and the financial capability to undertake the project. (up to five (5) points);

- (B) Measure 2: The applicant or its directors, officers, members, or incorporators demonstrates experience in business management and/or having medical industry or horticulturalist experience. (up to five (5) points); and
 - (C) Measure 3: The business plan shall include a start-up timetable which provides an estimated time from registration of the dispensary to full operation, and the assumptions used for the basis of those estimates. (up to five (5) points);
- (6) Advisory Neighborhood Commission comments (Up to thirty (30) points):
 - (A) Measure 1: The ANCs' concerns or support regarding the potential adverse impact of the proposed location to the neighborhood. (Up to twenty (20) points);
 - (B) Measure 2: The ANCs' concerns or support regarding an overconcentration or lack of cultivation centers, or dispensaries in the affected ward. (up to ten (10) points); and
- (7) Educational Materials Plan (Up to fifteen (15) points):
 - (A) Measure 1: The applicant shall describe its proposed plan for providing educational materials and/or information to qualifying patients, and caregivers. (up to five (5) points); and
 - (B) Measure 2: The applicant shall describe its proposed plan for providing training for its staff regarding the administration of marijuana. (up to ten (10) bonus points);
- (8) Environmental Plan (Up to twenty (20) points):
 - (A) Measure 1: The applicant demonstrates an environmental plan of action to minimize the carbon footprint, environmental impact, and resource needs for the sale of medical marijuana. (up to ten (10) bonus points); and
 - (B) The applicant describes any plans for: (1) the use of alternative energy; (2) the treatment of waste water and runoff; (3) scrubbing or treatment of exchanged air; (4) the co-location of dispensaries; and (5) the use of recyclable and biodegradable packaging materials. (Up to ten (10) bonus points); and
- (9) Certified Business Enterprise (fifty (50) points):

(A) Measure 1: The applicant provides documentation, at the time the application is submitted, that it is registered as a medical marijuana certified business enterprise (CBE) by the Department of Small and Local Business Development (DSLBD) or is determined to be eligible to be a medical marijuana certified business enterprise by DSLBD. To qualify or to be considered eligible to be a medical marijuana certified business enterprise an applicant shall be required to meet all of the criteria set forth in D.C. Official Code § 7-1671.06(d)(5)(B-D).

(b) Cultivation Center Criteria:

(1) Suitability of the Proposed facility (Up to twenty (20) points):

(A) Measure 1: The applicant demonstrates that the proposed facility is suitable for organic gardening for the cultivation of medical marijuana, sufficient in size, power allocation, air exchange and air flow, interior layout, lighting, and sufficient both in the interior and exterior to handle the bulk agricultural manufacturing of medical marijuana, product handling, storage, trimming, packaging and shipping. (up to twenty (20) points);

(2) Proposed Staffing Plan and Knowledge of District and federal law relating to marijuana (Up to twenty (20) points):

(A) Measure 1: The applicant fully describes a staffing plan that will provide and ensure adequate staffing and experience for all accessible business hours, safe growing and cultivation, adequate security and theft prevention. (up to ten (10) points); and

(B) Measure 2: The applicant shall provide an operations manual that demonstrates compliance with the District's medical marijuana rules. The operations manual shall also contain information demonstrating the applicant's knowledge of the District and federal laws and regulations relating to medical marijuana. The applicant shall also submit a notarized written statement on a form provided by the Mayor indicating that they have read the Act and this subtitle and have knowledge of District and federal law relating to marijuana. (up to ten (10) points);

(3) Security Plan (Up to forty (40) points):

The applicant shall submit a security plan which shall include:

(A) Measure 1: The applicant's security plan demonstrates its

ability to prevent the theft or diversion of medical marijuana and how the plan will assist with MPD and ABRA enforcement. Specifically, it shall evidence compliance with all items in § 5406.2 and § 5610, and include all submittals required under that section. (up to twenty (20) points);

(B) Measure 2: The applicant demonstrates that its plan for record keeping, tracking and monitoring inventory, quality control and security and other policies and procedures will discourage unlawful activity. It also describes the applicant's plan to coordinate with and dispose of unused or surplus medical marijuana with MPD. (up to five (5) points);

(C) Measure 3: The applicant's security plan shall describe the enclosed, locked facility that will be used to secure or store medical marijuana, including when the location is closed for business, and its security measures, and the steps taken to ensure that medical marijuana is not visible to the public. (up to ten (10) points); and

(D) Measure 4: The applicant shall describe its transportation plan regarding how the cultivation center intends to safely and securely deliver medical marijuana to registered dispensaries. (up to five (5) points);

(4) Cultivation Plan (Up to twenty-five (25) points):

(A) Measure 1: The applicant shall describe its plan to provide a steady supply of medical marijuana to registered dispensaries. (up to five (5) points);

(B) Measure 2: The applicant demonstrates knowledge of organic growing methods to be used in the growing and cultivation of marijuana. The applicant shall describe the various strains to be cultivated. (up to ten (10) points); and

(C) Measure 3: The applicant demonstrates the steps that will be taken to ensure the quality of the marijuana, including the purity and consistency of the medical marijuana to be provided to dispensaries. (up to ten (10) points);

(5) Product Safety and Labeling Plan (Up to thirty (30) points);

(A) Measure 1: The applicant shall describe its plan for providing safe and accurate packaging and labeling of medical marijuana. (up to fifteen (15) points); and

- (B) Measure 2: The applicant shall describe its plan for testing medical marijuana and ensuring that all medical marijuana is free of contaminants. (up to fifteen (15) points);
- (6) Applicant's business plan and services to be offered (Up to fifteen (15) points):
 - (A) Measure 1: The applicant shall provide a business plan that describes how the cultivation center will operate on a long-term basis. This shall include the applicant providing a detailed description about the amount and source of the equity and debt commitment for the proposed cultivation center that demonstrates the immediate and long-term financial feasibility of the proposed financing plan, the relative availability of funds for capital and operating needs, and the financial capability to undertake the project. (up to five (5) points);
 - (B) Measure 2: The applicant or its directors, officers, members, or incorporators demonstrates experience in business management and/or having medical industry or horticulturalist experience. (up to five points); and
 - (C) Measure 3: The business plan demonstrates a start-up timetable which provides an estimated time from registration of the dispensary to full operation, and the assumptions used for the basis of those estimates. (up to five (5) points);
- (7) Advisory Neighborhood Commission comments (Up to thirty (30) points);
 - (A) Measure 1: The ANCs' concerns or support regarding the potential adverse impact of the proposed location to the neighborhood. (up to twenty (20) points);
 - (B) Measure 2: The ANCs' concerns or support regarding an overconcentration or lack of cultivation centers, or dispensaries in the affected ward. (up to ten (10) points);
- (8) Environmental Plan (Up to twenty (20) points):
 - (A) Measure 1: The applicant demonstrates an environmental plan of action to minimize the carbon footprint, environmental impact, and resource needs for the production of medical marijuana. (up to ten (10) bonus points); and
 - (B) The applicant describes any plans for: (1) the use of

alternative energy; (2) the treatment of waste water and runoff; (3) scrubbing or treatment of exchanged air; (4) the co-location of growing facilities and/or the means of packaging or production; and (5) the use of recyclable and biodegradable packaging materials. (Up to ten (10) bonus points); and

(9) Certified Business Enterprise (fifty (50) points)

(A) Measure 1: The applicant provides documentation, at the time the application is submitted, that it is registered as a medical marijuana certified business enterprise (CBE) by the Department of Small and Local Business Development (DSLBD) or is determined to be eligible to be a medical marijuana certified business enterprise by DSLBD. To qualify or to be considered eligible to be a medical marijuana certified business enterprise an applicant shall be required to meet all of the criteria set forth in D.C. Official Code § 7-1671.06(d)(5)(B-D).

(c) Testing Laboratory Criteria:

(1) Suitability of the Proposed facility (Up to forty (40) points)

(A) Measure 1: The applicant demonstrates that the proposed facility is suitable for testing medical marijuana in an environmentally safe manner and is adequate in size to accommodate testing and sample retention. (up to twenty (20) points); and

(B) Measure 2: The applicant demonstrates that the proposed facility is suitable to meet the cultivation centers' or dispensary's needs for testing a variety of medical marijuana products in a timely manner, and maintaining documented chain of custody (up to twenty (20) points);

(2) Proposed Staffing Plan (Up to thirty (30) points):

(A) Measure 1: The applicant fully describes a staffing plan that will provide and ensure that personnel meets the requisite qualifications set forth in the regulations, and has demonstrated knowledge, experience, training, and certification to perform in the designated positions and roles and to conduct the required analytical processes, operations, and testing; ensure quality control and quality assurance, adequate staffing and experience during business hours, and adequate security and theft prevention; and maintain chain of custody, and confidential information. (up to fifteen (15) points); and

- (B) Measure 2: The applicant shall provide an operations manual that demonstrates compliance with the District's medical marijuana rules. The operations manual shall also fully describe a plan to provide and ensure that a system is in place to evaluate and document personnel's competency in performing authorized tests, and to evaluate and document that personnel demonstrate acceptable performance on precision, accuracy, specificity, reportable ranges, blanks, and unknown challenge samples. (up to fifteen (15) points).
- (3) Laboratory testing plan (Up to forty (40) points)
- (A) Measure 1: Applicant demonstrates knowledge, experience, training, and applicable certifications in laboratory testing techniques. (up to fifteen (15) points);
 - (B) Measure 2: Applicant demonstrates knowledge of and fully describes plan to provide and ensure quality assurance, quality control, proficiency testing, analytical processes, chain of custody, sample retention, space, recordkeeping, results reporting, and corrective action protocols (up to fifteen (15) points); and
 - (C) Measure 3: Applicant fully describe the method(s) used to test medical marijuana and medical marijuana products, and report testing results; this includes but is not limited to SOPS (up to ten (10) points);
- (4) Security Plan (Up to twenty (20) points): The applicant shall submit a security plan which shall include the following:
- (A) Measure 1: The applicant's security plan fully demonstrates the applicant's ability to prevent the theft or diversion of medical marijuana and how the plan will assist with MPD and ABRA enforcement. Specifically, it shall evidence compliance with all items and include all submittals required in § 5405.2 and § 5610 of this subtitle. (up to five (5) points);
 - (B) Measure 2: The applicant demonstrates that its plan for record keeping, tracking and monitoring inventory, and security and other policies and procedures will discourage unlawful activity (up to five (5) points);
 - (C) Measure 3: The applicant's security plan shall describe the enclosed, locked facility that will be used to secure or store medical marijuana, including when the location is closed for business, and its security measures, and the steps taken

to ensure that medical marijuana is not visible to the public. (up to five (5) points); and

- (D) Measure 4: The security plan describes how it intends to prevent the diversion of medical marijuana and includes the applicant's after-action plan for any incidents that may trigger enforcement under District of Columbia law or regulations. The plan shall also describe the applicant's plan to coordinate with and dispose of unused or surplus medical marijuana with MPD. (up to five (5) points);
- (5) Knowledge of District and federal law relating to marijuana. (Up to five (5) points):
 - (A) Measure 1: The applicant shall demonstrate knowledge of the District and federal laws and regulations relating to medical marijuana. The applicant shall also submit a notarized written statement on a form provided by the Mayor indicating that they have read the Act and this title and have knowledge of District and federal law relating to marijuana. (up to five (5) points);
- (6) Applicant's business plan and services to be offered (Up to fifteen (15) points):
 - (A) Measure 1: The applicant shall provide a business plan that describes how the testing laboratory will operate on a long-term basis. This shall include the applicant providing a detailed description about the amount and source of the equity and debt commitment for the proposed testing laboratory that demonstrates the immediate and long-term financial feasibility of the proposed financing plan, the relative availability of funds for capital and operating needs, and the financial capability to undertake the project. (up to five (5) points);
 - (B) Measure 2: The applicant or its directors, officers, members, or incorporators demonstrate experience in business management and/or having medical industry or laboratory experience. (up to five (5) points); and
 - (C) Measure 3: The business plan demonstrates a start-up timetable which provides an estimated time from registration of the testing laboratory to full operation, and the assumptions used for the basis of those estimates. (up to five (5) points);
- (7) Advisory Neighborhood Commission comments (Up to thirty (30) points):

- (A) Measure 1: The ANCs' concerns or support regarding the potential adverse impact of the proposed location to the neighborhood. (up to twenty (20) points);
 - (B) Measure 2: The ANCs' concerns or support regarding an overconcentration or lack of testing laboratories and the number of cultivation centers in the affected ward. (up to ten (10) points);
- (8) Environmental Plan (Up to twenty (20) points):
- (A) Measure 1: The applicant demonstrates an environmental plan of action to minimize the carbon footprint, environmental impact, and resource needs for the testing of medical marijuana. (up to ten (10) points); and
 - (B) Measure 2: The applicant describes any plans for: (1) the use of alternative energy; (2) the treatment of waste water and runoff; (3) scrubbing or treatment of exchanged air; and (4) the co-location of testing laboratories. (Up to ten (10) points); and
- (9) Certified Business Enterprise (fifty (50) points):
- (A) Measure 1: The applicant provides documentation that they are registered as a medical marijuana certified business enterprise (CBE) by the Department of Small and Local Business Development (DSLBD) or is determined to be eligible to be a medical marijuana certified business enterprise by DSLBD, at the time they submit an application. To qualify or to be considered eligible to be a medical marijuana certified business enterprise an applicant shall be required to meet all of the criteria set forth in D.C. Official Code § 7-1671.06(d)(5)(B-D).

5403.2 A registration application for a cultivation center, dispensary or testing laboratory shall not be approved for any establishment located within three hundred feet (300 ft.) of a preschool, primary or secondary school, or recreation center.

5403.3 A registration application for a cultivation center, dispensary or testing laboratory shall not be approved for any outlet, property, establishment, or business that sells motor vehicle gasoline or that holds a Motor Vehicle Sales, Service, and Repair endorsement under D.C. Official Code § 47-2851.03(a)(9)(2005 Repl.) or an Environmental Materials endorsement under § 47-2851.03(a)(4)(2005 Repl.) to its basic business license.

5403.4 A registration application for a cultivation center, dispensary or testing laboratory shall not be approved for any location that also sells alcoholic beverages.

5403.5 A registration application for a cultivation center, dispensary or testing laboratory shall not be approved for an establishment intending to operate any other type of business at the proposed location. A dispensary may sell or provide paraphernalia, literature, posters, and other educational materials related to the medical marijuana program.

Section 5404, APPLICATION FORMAT AND CONTENTS, is amended as follows:

Subsection 5404.1 is amended by striking the phrase “the Director” and inserting the phrase “the Board” wherever it appears.

Subsection 5404.1(d) is repealed.

Subsections 5404.2 is amended to read as follows:

5404.2 The applicant shall sign a notarized statement certifying that the application is complete and accurate. Any person who knowingly makes a false statement on an application, or in any accompanying statement under oath that the Board may require, shall be guilty of the offense of making false statements. The making of a false statement, whether made with or without the knowledge or consent of the applicant, shall, in the discretion of the Board, constitute sufficient cause for denial of the application or revocation of the registration. The making of false statements shall also constitute the basis for a criminal offense under D.C. Official Code § 22-2405.

Subsections 5404.3 and 5404.5 are amended by striking the phrase “the Department” and inserting the phrase “the Board” wherever it appears.

Subsection 5404.9 is amended to read as follows:

5404.9 An applicant for a cultivation center, dispensary, or testing laboratory shall not be permitted to make any additions, changes, alterations, amendments, modifications, corrections, or deletions to the application package once it has been submitted to the Board; however, an applicant may be permitted to modify the location of the premises identified on the application pursuant to § 6001.9 of this subtitle.

Section 5405, DISPENSARY REGISTRATION APPLICATION REQUIREMENTS, is amended as follows:

Subsection 5405.2 is amended by striking the phrase “the Department” and inserting the phrase “the Board” wherever it appears.

Subsection 5405.2(m) and (n) are amended to read as follows:

- (m) The type of alarm system and outdoor lighting to be used by the applicant;
- (n) The applicant’s procedures for accepting delivery of medical marijuana at the facility, including but not limited to procedures defining how it is

received, where it is stored, and how the transaction is recorded; and

Subsection 5405.2 is further amended by adding a new paragraph (o) to read as follows:

- (o) The applicant's procedures for delivering medical marijuana to the residences of qualifying patients and caregivers and for curbside pickup, if applicable.

Subsection 5405.3 is amended to read as follows:

5405.3 Upon receipt of a written security plan for an initial dispensary application, the Board shall forward the security plan electronically to MPD or its designee for an assessment. MPD or its designee shall complete its assessment of the security plan within twenty-one (21) days of receipt from the Board. The Board shall not issue a dispensary registration until MPD's or its designee's completion of its security plan assessment and submission of that assessment in writing to the Board.

Section 5406, CULTIVATION CENTER REGISTRATION REQUIREMENTS, is amended as follows:

Subsection 5406.2 is amended by striking the phrase "the Department" and inserting the phrase, "the Board" wherever it appears.

Subsection 5406.2(n) is amended to read as follows:

- (n) The applicant's transportation plan for delivering medical marijuana from the cultivation center to dispensaries or testing laboratories.

Subsection 5406.3 is amended to read as follows:

5406.3 Upon receipt of a written security plan for an initial cultivation center application, the Director shall forward the security plan electronically to MPD or its designee for an assessment. MPD or its designee shall complete its assessment of the security plan within twenty-one (21) days of receipt from the Board. The Board shall not issue a cultivation center registration until MPD's or its designee's completion of its security plan assessment and submission of that assessment in writing to the Board.

Section 5407, CULTIVATION CENTER, DISPENSARY, AND TESTING LABORATORY REGISTRATION ISSUANCE, is amended as follows:

Subsection 5407.1 is amended to read as follows:

5407.1 A registration for a cultivation center, dispensary, or testing laboratory shall not be issued by the Board until all approvals or assessments required under this subtitle have been obtained from MPD or its designee, DCRA, and DC Health.

Section 5408, DIRECTOR, OFFICER, MEMBER, INCORPORATOR, AND AGENT

REGISTRATION REQUIREMENTS, is amended as follows:

Subsection 5408.1 is amended by striking the phrase “the Department” and inserting the phrase “the Board” wherever it appears.

New subsections 5408.3 and 5408.4 are added to read as follows:

5408.3 During the pendency of the public health emergency and public emergency issued by the Mayor in response to the COVID-19 Pandemic, an owner of a licensed cultivation center, dispensary, or testing laboratory may request that the Board issue a temporary registration card to an agent valid for forty five (45) days provided, that the following information is provided:

- (a) A completed facility employment application for the prospective agent;
- (b) A written statement from the cultivation center, dispensary, or testing laboratory attesting that the agent has been selected to work at their facility; and
- (c) A signed attestation from the prospective agent confirming that he or she:
 - (1) Has not been convicted of a felony except for possession with intent to distribute marijuana that occurred before July 17, 2014 before filing the application; and
 - (2) Has not previously had their authority to participate in the Medical Marijuana Program previously revoked by DC Health or the Board.

5408.4 The temporary registration card issued pursuant to § 5419.1 shall expire after forty-five (45) days or upon approval or denial of the agent’s registration application.

Section 5409, EMPLOYEE REGISTRATION REQUIREMENTS, is amended by striking the phrase “the Department” and inserting the phrase “the Board” wherever it appears.

Section 5410, MANAGER’S REGISTRATION REQUIREMENTS, is amended as follows:

Subsections 5410.1 and 5410.2 are amended by striking the phrase “the Department” and inserting the phrase “the Board” wherever it appears.

New subsections 5410.3 and 5410.4 are added to read as follows:

5410.3 During the pendency of the public health emergency and public emergency issued by the Mayor in response to the COVID-19 pandemic, an owner of a licensed cultivation center, dispensary, or testing laboratory may request that the Board issue a temporary registration card to a manager valid for forty-five (45) days,

provided, that the following information is provided:

- (a) A completed facility employment application for the prospective manager;
- (b) A written statement from the cultivation center, dispensary or testing laboratory attesting that the manager has been selected to work at their facility;
- (c) A signed attestation from the prospective manager confirming that he or she:
 - (1) Has not been convicted of a felony except for possession with intent to distribute marijuana that occurred before July 17, 2014 before filing the application; and
 - (2) Has not previously had their authority to participate in the Medical Marijuana Program revoked by DC Health or the Board.

5410.4 The temporary registration card issued pursuant to § 5410.3 shall expire after forty-five (45) days or upon approval or denial of the manager's registration application.

Section 5411, CRIMINAL BACKGROUND CHECK, is amended as follows:

Subsection 5411.1 is amended to read as follows:

5411.1 Each applicant required to be registered under the Act and this subtitle shall be required to undergo a criminal background check prior to being registered. In the case of an applicant for a non-profit or for-profit corporation, partnership, or limited liability company, a criminal background check shall be conducted on all of its directors, officers, members, incorporators, or agents. The criminal background check shall include both a local and FBI investigation. The applicant shall be responsible for paying the applicable fee to MPD.

Section 5413, RESTRICTIONS ON HOLDING A CONFLICT OF INTEREST, is amended as follows:

5413.1 The holder of a cultivation center registration shall not be permitted to register with the Board for more than one (1) medical marijuana dispensary.

Section 5414, Renewal Process, is amended by striking the phrases "the Director" and "the Department" and inserting the phrase "the Board" in their place.

Section 5417, DENIED OR WITHDRAWN APPLICATIONS, is repealed.

Section 5418, LIMITATION ON SUCCESSIVE APPLICATIONS AFTER DENIAL, is amended by striking the phrase “the Director” and inserting the phrase “the Board” in its place.

A new section 5419 is added to read as follows:

5419 EMPLOYEE TEMPORARY REGISTRATION REQUIREMENTS

5419.1 During the pendency of the public health emergency and public emergency issued by the Mayor in response to the COVID-19 pandemic, an owner of a licensed cultivation center, dispensary, or testing laboratory may request that the Board issue a temporary registration card to an employee valid for forty five (45) days provided, that the following information is provided:

- (a) A completed facility employment application for the prospective employee;
- (b) A written statement from the cultivation center, dispensary, or testing laboratory attesting that the employee has been selected to work at their facility; and
- (c) A signed attestation from the prospective employee confirming that he or she:
 - (1) Has not been convicted of a felony except for possession with intent to distribute marijuana that occurred before July 17, 2014 before filing the application; and
 - (2) Has not previously had their authority to participate in the Program revoked by DC Health or the Board.

5419.2 The temporary registration card issued pursuant to § 5419.1 shall expire after forty-five (45) days or upon approval or denial of the employee’s registration application.

Chapter 55, REGISTRATION CHANGES, is amended as follows:

Section 5500, TRADE NAMES AND CORPORATE NAMES, is amended by striking the phrase “the Department” and inserting the phrase “the Board” wherever it appears.

Subsection 5500.5 is repealed.

Section 5501, INDIVIDUAL OWNERSHIP, PARTNERSHIP, LIMITED LIABILITY COMPANY OR PARTNERSHIP, AND CORPORATE CHANGES, is amended by striking the phrase “the Department” and inserting the phrase “the Board”.

Section 5502, TRANSFER OF EQUAL OR MAJORITY OWNERSHIP OR CONTROL, is amended by striking the phrases “the Department” or “the Department of Health” with the phrase “the Board” in their places.

Section 5503, CHANGE OF LOCATION OR EXPANSION, is amended by striking the phrase “the Department” or “the Department of Health” and inserting the phrase “the Board” in their places.

Subsection 5503.2 is amended to read as follows:

5503.2 An application for change of location or expansion of a dispensary, cultivation center, or testing laboratory into adjacent property shall be subject to ANC review, and shall not be approved if the relocation would result in more than two (2) dispensaries or six (6) cultivation centers being registered to operate within a single election ward.

Subsections 5503.6 through 5503.8 are amended to read as follows:

5503.6 As part of the review of an application for a change of location, the Board shall give written notice through the mail of the application to all ANCs in the affected ward, pursuant to the requirements set forth in § 5107 of this subtitle.

5503.7 Pursuant to § 5109 of this subtitle, the comments timely submitted by an ANC located in the affected ward for consideration shall relate to the ANC’s concerns or support regarding the proposed location including but not limited to:

- (a) The potential adverse impact of the proposed location to the neighborhood; and
- (b) An overconcentration or lack of cultivation centers or dispensaries in the affected ward.

5503.8 The timely comments submitted by an ANC located in the affected ward, shall be reviewed by the Board in accordance with D.C. Official Code § 1-309.10(d).

Chapter 56, GENERAL OPERATING REQUIREMENTS, is amended as follows:

Section 5600, INSTRUCTIONS TO REGISTRANTS, is amended to read as follows:

5600 INSTRUCTIONS TO REGISTRANTS

5600.1 The Board shall develop and furnish to registrants, at the time of issuance of registration, written information describing the laws and regulations applicable to the dispensary, cultivation center, or testing laboratory’s day-to-day operations.

5600.2 Applications shall also be made available on ABRA’s website. To the extent possible, applications shall be posted on ABRA’s website in various languages for

informational purposes. Applications submitted to the Board shall be completed in English.

Section 5601, POSTING OF IDENTIFICATION REQUIREMENT BY DISPENSARY, is amended by striking the phrase “the Department” and inserting the phrase “the Board” wherever it appears.

Section 5602, HOURS OF OPERATION AND SALE, is amended as follows:

The title is amended to read as follows:

5602 HOURS OF OPERATION, SALE, SERVICE, AND DELIVERY

Subsection 5602.1 is amended to read as follows:

5602.1 A registered medical marijuana dispensary may operate, sell and deliver medical marijuana on any day and at any time except between the hours of 9:00 p.m. and 7:00 a.m.

Subsection 5602.9 is amended to read as follows:

5602.9 The Board may further limit the hours of operation for a cultivation center, dispensary, or testing laboratory on a case-by-case basis as a condition of registration in response to written comments received from an ANC in the affected ward, or as the result of the dispensary, cultivation center, or testing laboratory’s failure to comply with the Act, or this subtitle.

Section 5604, MANAGER’S REGISTRATION, is amended to read as follows:

5604 MANAGER’S REGISTRATION

5604.1 In the absence of an owner, a cultivation center, dispensary or testing laboratory shall have a Board-approved manager present at the registered premises during the hours that the cultivation center, dispensary or testing laboratory is open.

5604.2 An applicant for a Manager’s registration shall submit:

- (a) An application to the Board on the prescribed form;
- (b) A copy of his or her certificate showing completion of a medical marijuana training and education program from a Board-approved medical marijuana certification provider; and
- (c) The required fee.

5604.3 If a registered cultivation center, dispensary, or testing laboratory has designated a person to manage the registered business, each manager shall be the holder of a valid Manager’s registration which shall be renewable each year.

- 5604.4 A Manager's registration shall remain valid until surrendered, expired, suspended, or revoked.
- 5604.5 An applicant for a Manager's registration shall be subject to the requirements of § 5409 and the approval of the Board.
- 5604.6 A registered cultivation center, dispensary or testing laboratory shall notify the Board within seven (7) calendar days of discovering any manager's felony conviction for any crime; except that there shall be no notification required for a felony conviction of possession with intent to distribute marijuana that occurred before July 17, 2014.
- 5604.7 Failure of the registered cultivation center, dispensary or testing laboratory to comply with § 5604.6, may, in the discretion of the Board, cause the cultivation center's, dispensary's or testing laboratory's registration to be suspended or revoked.
- 5604.8 A registered cultivation center, dispensary, or testing laboratory may file a written request with the Board that an applicant for a Manager's registration who has not completed a medical marijuana training and education certification program be issued a temporary Manager's registration and shall attest that the applicant for the Manager's registration will complete the medical marijuana and marijuana training within thirty (30) calendar days of receipt of the temporary Manager's Registration.
- 5604.9 The written request for a temporary Manager's registration shall set forth the name of the registered establishment, the trade name, the address of the establishment, the name of the applicant for the Manager's registration, and the reason why the issuance of the temporary Manager's registration is necessary.
- 5604.10 The temporary Manager's registration issued pursuant to § 5604.8 shall cease after thirty (30) days or upon the approval or denial of the Manager's registration application.

Section 5605, DESTRUCTION AND DISPOSAL OF UNUSED OR SURPLUS MEDICAL MARIJUANA AND REPORTING THEFT, is amended as follows:

Subsection 5605.3 is amended by striking the phrase "the Department" and inserting the phrase "the Board" in its place.

Subsection 5605.5(c) is repealed.

Subsection 5605.6 is repealed.

Section 5606, NOTICE OF CRIMINAL CONVICTION OF DIRECTOR, OFFICE, MEMBER, INCORPORATOR, AGENT OR EMPLOYEE, is amended as follows:

Subsection 5606.1 is amended by striking the phrase “the Department” and inserting the phrase “the Board” in its place.

A new subsection 5606.2 is added to read as follows:

5606.2 This section shall not apply to a felony conviction of possession with intent to distribute marijuana that occurred before July 17, 2014.

Section 5607, LABELING AND PACKAGING OF MEDICAL MARIJUANA, is amended as follows:

Subsections 5607.1(g), 5607.7(b), and 5607.9 are amended by striking the phrase “qualified patient” and inserting the phrase “qualifying patient” wherever it appears.

Subsection 5607.15 is amended by striking phrase “the Department” and inserting the phrase “the Director” in its place.

Subsection 5607.17 is amended to read as follows:

5607.17 A dispensary or cultivation center shall submit its labeling to the Board for approval and record. The Board shall transmit the final dispensary labeling designs to MPD.

Section 5608, INGESTIBLE ITEMS, is amended as follows:

Subsection 5608.1(a) is amended by striking the phrase “the Department” and inserting the phrase “DC Health” in its place.

Subsection 5608.1(c) is amended by striking the phrase “the Department” and inserting the phrase “the Board” wherever it appears.

Subsection 5608.5(d) is amended to read as follows:

(d) That contains more than 100mg of THC per package.

Section 5610, ELECTRONIC RECORDING SECURITY AND ALARM SYSTEM, is amended as follows:

Subsection 5610.1(c) is amended to read as follows:

(c) The recording device shall be a digital video recorder that displays a date and time stamp on all recorded video;

Subsection 5610.1(h) is amended to read as follows:

- (h) Upon request, the security recording shall be made available within 48 hours to MPD, the Board or an ABRA investigator.

Subsection 5610.3 is amended to read as follows:

- 5610.3 A dispensary, cultivation center, or testing laboratory shall maintain for a period of three (3) years reports of incidents that triggered an alarm. Such reports shall be made available to ABRA during any inspection of the facility. A dispensary, cultivation center, or testing laboratory shall notify the Board by electronic means within twenty-four (24) hours of any incident in which a theft, burglary, robbery, or break in occurred, whether or not items were actually removed from the facility. The facility manager shall follow up the initial notice with a written report describing in detail the factual circumstances surrounding the incident and include an inventory of all stolen items, if applicable.

Section 5611, RESERVED, is amended to read as follows:

5611 EDUCATIONAL CLASSES AND DEMONSTRATIONS

- 5611.1 A dispensary may offer educational classes and demonstrations to qualifying patients, caregivers and non-resident qualifying patients consistent with the requirements of this subtitle.
- 5611.2 Educational classes and demonstrations permitted to be offered by a dispensary on-site shall include cooking and how-to classes and demonstrations, including how to utilize marijuana paraphernalia, how to cook foods with medical marijuana and other medical marijuana preparation techniques.
- 5611.3 A dispensary shall only offer educational classes and demonstrations on the registered premises of the dispensary.
- 5611.4 A dispensary may permit a qualifying patient, caregiver or non-resident qualifying patient to smell or touch medical marijuana products provided medical marijuana is not administered or consumed on the registered premises and the medical marijuana has not been sold or otherwise given away.
- 5611.5 An educational activity that includes the smoking, administering or consumption of medical marijuana shall be prohibited.
- 5611.6 A dispensary shall ensure that containers of medical marijuana to be utilized for educational activities are labeled as such and may not be sold.
- 5611.7 A dispensary shall ensure that medical marijuana containers to be utilized for

educational purposes remain in the dispensary's secure storage area during non-operating hours.

- 5611.8 A dispensary shall not allow a qualifying patient, caregiver, or non-resident qualifying patient to leave the registered premises with medical marijuana that was made available or offered as part of the educational activity.
- 5611.9 A dispensary shall destroy and dispose of medical marijuana utilized during the educational activity consistent with the requirements of this subtitle. This subsection shall include all medical marijuana that is physically touched or handled by patients, caregivers or dispensary staff as part of the educational activity.
- 5611.10 A dispensary may offer educational activities on the registered premises between the hours of 7:00 a.m. and 9:00 p.m., daily.
- 5611.11 A dispensary shall be permitted to charge a qualifying patient, caregiver or non-resident qualifying patient an additional fee to attend or participate in the educational class or demonstration.

Section 5612, PRODUCTION OF VALID PHOTO IDENTIFICATION REQUIRED, is amended by striking the phrase “the Department” and inserting the phrase “the Board” in its place.

Section 5613, TEMPORARY SURRENDER OF REGISTRATION – SAFEKEEPING, is amended by striking the phrase “the Department” and inserting the phrase “the Board” wherever it appears.

Section 5614, CO-LOCATION AND INTEGRATION, is amended as follows:

Subsection 5614.2 is amended to read as follows:

5614.2 A cultivation center and dispensary may be located in the same building provided that they share the same Board approved ownership but shall maintain separate books and records and a separate secure space, provided that qualifying patients and caregivers are prohibited from entering any portion of the cultivation center area.

Section 5615, SEED-TO-SALE TRACKING SYSTEM, is amended by striking the phrase “the Department” and inserting the phrase “the Board” wherever it appears.

Section 5616, SIGN REQUIREMENTS, is amended to read as follows:

5616 SIGN REQUIREMENTS

- 5616.1 A dispensary shall post at its building entrance in a conspicuous place, a sign

from the Board which states the following:

- (a) Persons under the age of eighteen (18) are precluded from entering the premises unless they are a qualifying patient and are in the presence of a parent or guardian; and
- (b) Smoking, ingesting or consuming marijuana on the premises or in the vicinity of the dispensary is prohibited.

5616.2 A dispensary shall post a sign provided by the Board that is either visible from the point of entry or the point of sale, which indicates the following:

- (a) The obligation of the qualifying patient or caregiver to produce a valid registration card issued by the Board;
- (b) The obligation of the qualifying patient or caregiver to produce a valid government issued photo identification document displaying proof of age that matches the name on the registration card;
- (c) The use of medical marijuana may impair a person's ability to drive a motor vehicle, aircraft, or motorboat, ride a bicycle, or operate heavy machinery; and
- (d) The sale and use of marijuana and the diversion of marijuana for non-medical purposes, including to a third party, is a crime in violation of District law.

5616.3 A cultivation center or dispensary shall post a sign provided by the Board at all areas of ingress and egress to limited access areas, which reads: "Access to this area is restricted to persons registered with the Board visibly displaying a registration identification card."

5616.4 A dispensary shall conspicuously post a sign in the area of the dispensary that is accessible to registered patients and caregiver or make a booklet or other document readily available to the dispensary's registered patients and caregivers, containing the current retail prices of all items available for sale within the dispensary.

Section 5619, LIMITED ACCESS AREAS, is amended as follows:

Subsections 5619.1 and 5619.3 are amended by striking the phrase "the Department" and inserting the phrase "the Board" in its place.

Subsection 5619.4 is amended to read as follows:

5619.4 Persons registered by the Board shall wear their registration identification issued by the Board at all times while working or entering the limited access area.

Section 5620, MANUFACTURING STANDARDS, is amended as follows:

Subsection 5620.1(j) is amended by striking the phrase "the Department" and inserting the

phrase “the Board” in its place.

Subsections 5620.4 and 5620.5 are amended by striking the phrase “the Director” and inserting the phrase “the Board” wherever it appears.

Subsection 5620.6 is amended by striking the phrase “the Director of the Department of Health” and inserting the phrase “the Board” wherever it appears.

Subsection 5620.8 is amended by striking the phrase “the Department of Health” and inserting the phrase “the Board” in its place.

Section 5621, TRANSPORT OF MEDICAL MARIJUANA, is amended to read as follows:

5621 TRANSPORT OF MEDICAL MARIJUANA

5621.1 A cultivation center shall obtain from the Board a transport permit to transport medical marijuana within the District of Columbia to registered dispensaries or testing laboratories. An original transport permit shall be required for each vehicle being designated by the cultivation center or its contracted agent to be authorized to deliver medical marijuana to registered dispensaries.

5621.2 A testing laboratory shall obtain from the Board a transport permit to transport medical marijuana within the District of Columbia from a cultivation center or dispensary to the testing laboratory. An original transport permit shall be required for each vehicle being designated by the testing laboratory or its contracted agent to be authorized to transport medical marijuana from a cultivation center or dispensary to a testing laboratory.

5621.3 A cultivation center, testing laboratory, or its contracted agent shall not transport medical marijuana within the District of Columbia without an original transport permit. A cultivation center or testing laboratory shall permit only an employee, director, officer, member, incorporator, or agent registered with the Board or its contracted agent to transport medical marijuana to a registered dispensary.

5621.4 Upon demand by an MPD officer or ABRA investigator, the registered person in charge of the transportation for the cultivation center or testing laboratory, or its contracted agent shall exhibit to the MPD officer or ABRA investigator an original transport permit.

Chapter 57, PROHIBITED AND RESTRICTED ACTIVITIES, is amended as follows:

Section 5701, SALE OF MEDICAL MARIJUANA BY CULTIVATION CENTERS, is amended as follows:

Subsection 5701.1 is amended by striking the phrase “qualified patient” and inserting the phrase “qualifying patient” wherever it appears.

5703 DELIVERY OF MEDICAL MARIJUANA

- 5703.1 Except as provided in §§ 5703.2 and 5703.3, a dispensary shall not be permitted to transport or deliver medical marijuana to a qualifying patient or caregiver or non-resident qualifying patient or from a cultivation center or testing laboratory. It shall be a violation of this subtitle for a dispensary to transport or deliver medical marijuana to a qualifying patient or caregiver or non-resident qualifying patient, cultivation center, or testing laboratory other than as provided in §§ 5703.2 and 5703.3.
- 5703.2 A dispensary, meeting the requirements of § 5703.3, shall only be permitted to deliver medical marijuana to a qualifying patient or caregiver registered in the District of Columbia Medical Marijuana Program and that has been issued a District of Columbia Government medical marijuana card. A dispensary shall also be permitted to deliver in the District of Columbia to a non-resident qualifying patient unless ABRA determines that there is a shortage of medical marijuana or the real-time electronic records system is inactive. A dispensary shall not deliver or transport medical marijuana to a non-resident patient who does not possess a valid medical marijuana card issued by the state or U.S. territory that they reside or to a District resident who possesses a medical marijuana card that was not issued by DC Health or, after December 9, 2020, by ABRA. A dispensary that delivers medical marijuana to non-qualifying non-resident patients or individuals who possess cards issued by unauthorized entities on the Internet such as getnugg.com shall be subject to disciplinary action, up to and including revocation of registration.
- 5703.3 A dispensary shall only be permitted to deliver medical marijuana to a qualifying patient or caregiver registered in the District of Columbia Medical Marijuana Program or to a non-resident qualifying patient if the dispensary complies with the following requirements:
- (a) The dispensary shall register its delivery vehicles with the Board by completing a Board-issued application form and providing all required information which shall include each vehicle's license plate number, vehicle identification number (VIN), and its make, model and color;
 - (b) The dispensary may not register more than five (5) delivery vehicles in total with the Board;
 - (c) A delivery vehicle shall not be marked with any signage, symbols, images, or advertisement identifying the vehicle as associated with medical marijuana;
 - (d) A delivery vehicle shall have a functioning global positioning system (GPS) to ensure that the most direct delivery route is followed;
 - (e) A delivery driver shall be an employee of the dispensary;

- (f) The dispensary shall register the name and medical marijuana employee registration number of each delivery driver with the Board;
- (g) The dispensary's delivery driver(s) shall have an active District of Columbia medical marijuana employee registration;
- (h) The dispensary's delivery driver(s) shall wear an employee badge when making deliveries;
- (i) The dispensary shall implement a mechanism or process for patients and caregivers to submit copies of their registration cards and identification cards to the dispensary for verification prior to delivery, and the dispensary shall maintain a copy of both as part of the dispensary's recordkeeping requirements;
- (j) Prior to delivery, the dispensary shall:
 - (1) Verify that the patient, or the patient and caregiver, is actively enrolled in the District Program or is a non-resident qualifying patient, and that the delivery address is a residence or a commercial building address in the District that is not on Federal property or public or private school grounds;
 - (2) Maintain a copy of the medical marijuana program or out of state or U.S. territory registration card and a copy of the valid government-issued identification card;
 - (3) Verify that the patient's requested amount does not exceed the patient's rolling thirty (30)-day limit of four ounces (4 oz.);
 - (4) Receive and only accept an order by electronic or other means from a qualifying patient or the qualifying patient's caregiver or a non-resident qualifying patient; and
 - (5) Deliver no more than once per day to the qualifying patient or the qualifying patient's caregiver or a non-resident qualifying patient;
- (k) The dispensary shall only make deliveries to residential or commercial building addresses located within the District that are not on Federal property or public or private school grounds to qualifying patients and caregivers registered in the District medical marijuana program or to non-resident qualifying patients as set forth in § 5703.2;
- (l) The dispensary may make deliveries up to seven (7) days a week, but shall only make deliveries between the hours of 9:00 a.m. and 9:00 p.m.;

- (m) The dispensary shall implement a mechanism or recordkeeping process for patients and caregivers to document receipt of medical marijuana deliveries, and shall maintain the records as part of the dispensary's recordkeeping requirements. If, in an enforcement action pursuant to Chapter 10 or Chapter 62 of this subtitle, a patient or caregiver disputes receiving the medical marijuana and the dispensary does not have documentation proving the delivery occurred, the Board shall apply a rebuttable presumption that the delivery did not occur;
- (n) A dispensary delivery driver shall not make more than ten (10) deliveries in a single delivery run;
- (o) A dispensary delivery driver shall only travel from the dispensary to the driver's assigned delivery address(es) and return to the dispensary;
- (p) A dispensary delivery driver shall not at any time possess a combined total of cash and medical marijuana exceeding five thousand dollars (\$5,000.00) in value;
- (q) The dispensary shall record each delivery in the METRC delivery manifest system in real-time and maintain a copy of the record as part of the dispensary's recordkeeping requirements;
- (r) Each Monday by noon, the dispensary shall provide the Board with a copy of its delivery manifest, which shall contain the entries for all deliveries made during the previous week; and
- (s) The dispensary shall provide a copy of its delivery manifest to the Board or ABRA investigators, or MPD immediately upon request.

5703.4

A dispensary shall only be permitted to dispense medical marijuana through curbside pickup or at-the-door pickup to a qualifying patient or caregiver or non-resident qualifying patient if the dispensary complies with the following requirements:

- (a) A dispensary shall only be permitted to dispense medical marijuana through curbside pickup or at-the-door pickup to a qualifying patient or caregiver registered in the District Program, or to a patient enrolled in another state's medical marijuana program who is recognized by the Board, as evidenced by a state-issued medical marijuana patient card and with a government-issued identification card. A dispensary that dispenses medical marijuana to individuals who possess cards issued by unauthorized entities on the Internet such as getnugg.com or states that are not yet recognized by the Board shall be subject to disciplinary action up to and including revocation of registration;

- (b) The dispensary shall implement a mechanism or process for a patient or a District registered caregiver to submit a copy of the patient's, or registered caregiver's, medical marijuana registration card and the patient's, or registered caregiver's, government-issued identification card to the dispensary for verification prior to dispensing. The dispensary shall maintain a copy of both as part of the dispensary's recordkeeping requirements;
- (c) Prior to dispensing, the dispensary shall:
 - (1) Verify that the patient, or patient and registered caregiver, is actively registered in the District medical marijuana program, or that the non-resident patient is actively enrolled in another state's medical marijuana program;
 - (2) Maintain a copy of the medical marijuana program or out of state or U.S. territory registration card and a copy of the government-issued identification card; and
 - (3) Verify that the patient's requested amount does not exceed the patient's thirty (30)-day limit of four (4) ounces;
- (d) The dispensary shall ensure that the entire exchange of the medical marijuana product to the patient or registered caregiver is clearly captured on the dispensary's video surveillance system;
- (e) The dispensary shall only provide curbside pickup at curbside directly in front of the dispensary and in view of the dispensary's video surveillance cameras. If the dispensary's location or video surveillance system is not equipped to meet this requirement, the dispensary shall not provide curbside pickup or at-the-door pickup.
- (f) The dispensary shall implement procedures to ensure that curbside pickup or at-the-door pickup is completed quickly and efficiently; and
- (g) The dispensary shall implement a mechanism or recordkeeping process for patients to document receipt of curbside pickup or at-the-door pickup, and shall maintain the records as part of the dispensary's recordkeeping requirements. If, in an enforcement action pursuant to chapter 10 or chapter 62 of this subtitle, a patient disputes receiving the medical marijuana and the dispensary does not have documentation including clear video evidence proving the dispensing occurred, the Board shall apply a rebuttable presumption that the dispensing did not occur.

5703.5

At the dispensary's discretion, the dispensary may require electronic payment before scheduling a delivery, curbside pickup or at-the-door pickup; may limit

deliveries, curbside pickup, and or at-the-door pickup to electronic payment only.

5703.6 A cultivation center shall not be permitted to deliver medical marijuana to any premises other than the specific registered premises of the dispensary where the medical marijuana is to be sold.

Section 5704, PLANT LIMITATIONS, is amended as follows:

Subsection 5704.1 is amended to read as follows:

5704.1 A dispensary shall not be permitted to possess or sell marijuana plants. It shall be a violation of this subtitle for a dispensary to possess or sell marijuana plants or for a cultivation center to sell marijuana plants to a dispensary.

Section 5705, PROHIBITION REGARDING ON-PREMISE CONSUMPTION, is amended to read as follows:

5705 PROHIBITION REGARDING ON-PREMISES CONSUMPTION

5705.1 A cultivation center, dispensary or testing laboratory shall not permit the consumption of medical marijuana at the registered premises in any form. The dispensary, cultivation center or testing laboratory shall dispense or distribute medical marijuana in a closed container that shall not be opened after sale, or the contents consumed, on the premises where sold. A dispensary may exhibit for display purposes only clear jars of medical marijuana to assist qualifying patients in making informed purchase making decisions.

5705.2 It shall be a violation of this subtitle for a cultivation center, dispensary or testing laboratory to have on the registered premises any medical marijuana or marijuana paraphernalia that shows evidence of the medical marijuana having been consumed or partially consumed.

Section 5707, MINIMUM AGE AND ENTRY REQUIREMENTS, is amended as follows:

5707 MINIMUM AGE AND ENTRY REQUIREMENTS

5707.1 A person under twenty-one (21) years of age shall not be employed by a dispensary to sell or dispense medical marijuana.

5707.2 A person under twenty-one (21) years of age shall not be employed by a cultivation center to grow or cultivate medical marijuana.

5707.3 A person under twenty-one (21) years of age shall not be employed by a testing laboratory to test medical marijuana.

5707.4 A person under the age of eighteen (18) shall be precluded from purchasing medical marijuana from a dispensary unless he or she is a qualifying patient and is in the presence of a parent or guardian.

- 5707.5 A dispensary may prohibit an individual who is not a qualifying patient, caregiver, or on official government business from entering or remaining on the registered premises.
- 5707.6 A dispensary, cultivation center and testing laboratory shall maintain a visitor log on-site. A dispensary's visitor log shall include the visitor's name, title, company, date, time and purpose of the visit.
- 5707.07 A dispensary, cultivation center and testing laboratory shall provide visitor identification badges and register any visitors that are not qualifying patients or caregivers or non-resident qualifying patients, including but not limited to vendors, potential vendors, managers, agents, or employees, elected officials and medical consultants.
- 5707.08 In the event of an emergency, a dispensary that is not open to the public, a cultivation center or a testing laboratory shall be permitted to provide an outside contractor with access to a limited or restricted access area for the sole purpose of making repairs. The dispensary, cultivation center or testing laboratory shall be required to log in and out the outside contractor and retain with the log a photocopy of the outside contractor's government issued identification.
- 5707.09 A dispensary, cultivation center or testing laboratory shall provide any utilized outside contractor with a visitor identification badge prior to entering a limited or restricted access area and shall be escorted at all times by a registered dispensary, cultivation center or testing laboratory owner, manager, employee or agent. The outside contractor shall have their visitor identification badge displayed at all times while he or she is working in the limited or restricted access area. The dispensary, cultivation center or testing laboratory shall ensure that the outside contractor does not touch any plant or medical marijuana. All visitor badges shall be returned to the dispensary, cultivation center or testing laboratory upon exit.
- 5707.10 A dispensary, cultivation center or testing laboratory shall allow access to limited or restricted access areas to emergency services personnel, such as firefighters, MPD, ABRA investigators or other government officials in the performance of their duties without an escort in order to perform his or her job.
- 5707.11 In the event of an emergency, a dispensary that is not open to the public, a cultivation center or a testing laboratory shall provide notice to ABRA but not be required to obtain agency approval to allow an outside contractor, such as an electrician or repair person, to work in a limited or restricted access area between the hours of 7:00 a.m. and 9:00 p.m. However, notification must be made and the required visitor log must be filled out prior to the electrician or other repair person being allowed entry to the limited or restricted access area.
- 5707.12 In the event of an emergency, Board or ABRA approval shall be required in order for a dispensary, cultivation center or dispensary to allow an outside contractor, such as an electrician or repair person, to work in a restricted or limited access area between the hours of 9:00 p.m. and 7:00 a.m.

5707.13 A dispensary, cultivation center or dispensary shall be required to obtain Board or ABRA approval for a prospective unregistered employee, manager, agent or owner to attend a staff meeting being held in a restricted or limited access area.

Section 5708, COMPENSATION OR GIFTS TO PHYSICIANS, is amended to read as follows:

5708 COMPENSATION OR GIFTS

5708.1 It shall be a violation of this subtitle for a cultivation center or dispensary, or a director, officer, member, incorporator, agent, or employee of a cultivation center or dispensary to provide financial compensation, an office, or anything of value to a physician who recommends the use of medical marijuana.

5708.2 A cultivation center or dispensary shall not be permitted to hold educational seminars, classes, or discussions regarding medical marijuana for physicians.

5708.3 It shall be a violation of this subtitle for a cultivation center or dispensary, or a director, officer, member, incorporator, agent, or employee of a cultivation center or dispensary to provide financial compensation, an office, or anything of value to a testing laboratory or the testing laboratory's director, officer, member, incorporator, agent, or employee.

Section 5709, MEDICAL MARIJUANA AND PARAPHERNALIA RESTRICTIONS, is amended to read as follows:

5709 MEDICAL MARIJUANA AND PARAPHERNALIA RESTRICTIONS

5709.1 A dispensary shall not provide a qualifying patient or caregiver more than four (4) ounces of dried medical marijuana, or the equivalent of four (4) ounces of dried medical marijuana in a form other than dried, either at one (1) time or within a thirty (30) day period.

5709.2 A dispensary shall dispense medical marijuana and distribute paraphernalia only to a qualifying patient or caregiver.

Section 5710, VISIBILITY, is amended as follows:

Subsection 5710.1 is amended to read as follows:

5710.1 A dispensary, cultivation center or testing laboratory shall not permit medical marijuana or paraphernalia to be visible from any public or other property not owned by the dispensary, cultivation center or testing laboratory.

Chapter 58, ADVERTISING, is amended as follows:

Subsection 5801, PROHIBITED STATEMENTS, is amended as follows:

Subsection 5081.2 is amended to read as follows:

5801.2 A statement that is known by the dispensary, cultivation center or testing laboratory to be false or misleading with respect to advertised price charged to the qualifying patient, ingredients of medical marijuana, source of manufacturer, or statements as to health benefits, shall be prohibited.

Chapter 59, RECORDS AND REPORTS, is amended as follows:

Section 5902, DISPENSARY BOOKS AND RECORDS, is amended as follows:

Subsection 5902.2 is amended by striking the phrase “qualified patient” and inserting the phrase “qualifying patient” wherever it appears.

Section 5903, CULTIVATION CENTER REPORTS, is amended as follows:

Subsection 5903.2 is amended by striking the phrase “the Department” and inserting the phrase “the Board” wherever it appears.

Subsection 5903.2(k) is amended by striking the phrase “the Mayor” and inserting the phrase “the Board” in its place.

Subsection 5903.3 is amended by striking the phrase “the Department” and inserting the phrase “the Board” in its place.

Section 5904, DISPENSARY REPORTS, is amended as follows:

Subsection 5904.2 is amended by striking the phrase “the Department” and inserting the phrase “the Board” in its place.

Subsection 5904.2(a) is amended by striking the phrase “qualified patient” and inserting the phrase “qualifying patient” in its place

Subsection 5904.2(i) is amended by striking the phrase “the Mayor” and inserting the phrase “the Board” in its place.

Subsection 5904.3 is amended by striking the phrase “the Department” and inserting the phrase “the Board” in its place.

Section 5906, RETENTION AND INSPECTION OF BOOKS AND RECORDS, is amended as follows:

Subsection 5906.1 is amended to read as follows:

5906.1 The books and records referred to in this chapter, including the original and duplicate invoices, shall be open to inspection by the Board or ABRA’s enforcement division and the OTR, during the establishment’s approved hours of operation.

Section 5907, REPORTING DIRECTOR, OFFICER, MEMBER, INCORPORATOR, AGENT, EMPLOYEE, AND MANAGER CHANGES, is amended as follows:

Subsection 5907 is amended by striking the phrase “the Mayor” and inserting the phrase “the Board” wherever it appears.

Chapter 60, DIRECTOR APPROVAL PROCEDURES, is amended follows:

Chapter 60 is renamed BOARD APPROVAL PROCEDURES.

Section 6000, DIRECTOR REVIEW REGISTRATION APPLICATIONS, is amended as follows:

Section 6000 is renamed BOARD REVIEW REGISTRATION APPLICATIONS

Subsection 6000.1 is amended to read as follows:

6000.1 No registration application shall be approved until the Board has determined that the applicant has complied with the requirements of § 5400.1 or, in the case of a renewal, in compliance with the legal requirements of the Act and this subtitle. The Board shall also consider, in the case of a third renewal for a cultivation center, dispensary or testing laboratory, any timely comments filed by an ANC located in the affected ward.

Subsection 6000.2 is amended by amending the lead-in language to read as follows:

6000.2 The Board may deny an application for good cause. For purposes of this section, “good cause” shall include, but not be limited to, a finding by the Board that either:

Subsection 6000.3 is amended by striking the phrase “the Director” and inserting the phrase “the Department” in its place.

Section 6001, DIRECTOR FINAL DECISIONS AND JUDICIAL REVIEW, is amended as follows:

Section 6001 is renamed THE BOARD’S FINAL DECISION AND JUDICIAL REVIEW.

Subsections 6001.1 and 6001.2 are amended to read as follows:

6001.1 Denial by the Board of an application or renewal application for any registration under this subtitle shall be deemed a final Board action.

6001.2 An initial applicant for registration of a dispensary, or cultivation center or testing laboratory may seek review of the Board’s Director’s final decision in the District of Columbia Court of Appeals within thirty (30) days after receipt of the notice if the applicant:

- (a) Submitted a Letter of Intent that was not accepted by the Board;

- (b) Submitted an application that was determined to be non-responsive;
- (c) Received a score of less than one hundred fifty (150) points by the panel prior to the ANC review; or
- (d) Received a score of one hundred fifty (150) points or more by the panel prior to the ANC review and was denied registration.

Subsection 6001.5 is amended by amending the lead-in by striking the phrase “the Department” and inserting the phrase “the Board” in its place.

Subsection 6001.5(a) is amended to read as follows:

- (a) Applicant’s letter of intent to file an application for a cultivation center, dispensary or testing laboratory registration with the Medical Marijuana Program;

Subsection 6001.5(e) is amended to read as follows:

- (e) Notices and correspondence between the Board or ABRA and the applicant pertaining to the application for registration; and

Subsections 6001.8 through 6001.10 is amended by striking the phrase “the Department” and inserting the phrase “the Board” in its place.

Subsection 6001.11 is amended to read as follows:

6001.11 In the event that after the rescoring and ranking of its application an applicant is not eligible for a registration, the Board shall notify the applicant of the outcome of the rescoring process and that the applicant’s application remains denied. Notification by the Board that an applicant is not eligible for a registration after the completion of a rescoring process shall be deemed a final decision and the applicant may seek review of the Board’s decision by the District of Columbia Court of Appeals in accordance with the District of Columbia Administrative Procedure Amendment Act of 1975, effective October 8, 1975 (D.C. Law 1-19; D.C. Official Code §§ 2-501 - 2-511), as amended.

Subsections 6001.12 through 6001.14 are repealed.

Subsection 6001.15 is amended by striking the phrase “the Director” and inserting the phrase “the Board”.

Section 6002, REVOCATION OF REGISTRATION FOR CONVENIENCE OF THE DISTRICT, is amended to read as follows:

6002 REVOCATION OF REGISTRATION FOR CONVENIENCE OF THE DISTRICT

6002.1 If the Board determines a revocation is in the District’s interest, the Board may revoke a registrant’s registration. Revocation pursuant to this section may occur

only if there are no further cultivation center, or dispensary or testing laboratory registrations permitted by law to be awarded to an applicant that has become eligible for a registration pursuant to § 6001.10.

6002.2 The registrant whose registration is in jeopardy of revocation pursuant to § 6002.1 shall receive a show cause notice pursuant to § 6204 which states that the registrant's registration is in jeopardy, and that the registrant is being provided an opportunity to show cause to the Board why the holder's registration should not be revoked pursuant to § 6002.3. If after receiving notice of the action, the registrant fails to appear at the evidentiary show cause the Board shall either proceed *ex parte* or cancel the registration and the registrant shall have no further right of appeal of the Board's final action which results in the revocation or non-issuance of his or her registration.

6002.3 The Board shall terminate a cultivation center's, dispensary's or testing laboratory's registration for the District's convenience by delivering to the holder of the registration a Notice of Revocation specifying the reason for the revocation and the effective date of the revocation.

6002.4 Upon receipt of a Notice of Revocation, a cultivation center, dispensary or testing laboratory shall immediately:

- (a) Stop all activities authorized by the registration;
- (b) Begin the transfer all forms medical marijuana in accordance with its closure plan, which shall be completed within twenty-four (24) hours after receipt of the Notice of Revocation;
- (c) Surrender its registration to the Board within twenty-four (24) hours after receipt of the Notice of Revocation, or after the cultivation center, dispensary or testing laboratory has transferred all medical marijuana from its premises, whichever comes first; and
- (d) Notify the Board, the DCRA, and the MPD of the completion of the transfers and closure of the cultivation center, dispensary or testing laboratory pursuant to its closure plan.

6002.5 A cultivation center's, dispensary's or testing laboratory's registration does not create a contractual relationship with the District government.

Chapter 61, MANDATORY REVOCATION AND MANDATORY SUSPENSION, is amended as follows:

Section 6100, MANDATORY REVOCATION OR SUSPENSION OF REGISTRATION, is amended as follows:

Subsections 6100.1 and 6100.2 are amended by striking the phrase "the Department" and inserting the phrase "the Board" wherever it appears.

Subsections 6100.3 and 6100.4 are amended to read as follows:

6100.3 A cultivation center may request that an investigator put on protective gear prior to entering a cultivation center.

6100.4 The Board shall mandatorily suspend the registration of a cultivation center, dispensary or testing laboratory upon a finding that a director, officer, member, incorporator, agent manager or employee of a cultivation center, ~~or~~ dispensary or testing laboratory has willfully violated any provision specifically contained in the Act. The Board shall remove the suspension once the Board is satisfied that the director, officer, member, incorporator, agent, manager or employee is no longer affiliated or employed with the cultivation center dispensary or testing laboratory.

Chapter 62, ENFORCEMENT PROCEEDINGS AND HEARINGS, is amended as follows:

Section 6200, COMPLAINTS AGAINST DISPENSARIES, CULTIVATION CENTERS, AND AFFILIATED EMPLOYEES OR OFFICERS, is amended to read as follows:

6200 COMPLAINTS AGAINST DISPENSARIES, CULTIVATION CENTERS, TESTING LABORATORIES AND AFFILIATED EMPLOYEES OR OFFICERS

6200.1 The Board shall receive, at any time during the registration period, complaints from any person, or an ANC in the affected ward, alleging a violation by a cultivation center, dispensary, or testing laboratory or employee, officer or affiliate thereof. Complaints shall be in writing and set forth enough information to allow the Board staff to investigate the matter, which shall include at a minimum:

- (a) The facts or circumstances that form the basis of the complaint, including the date(s), time(s), and location(s) of the incident(s);
- (b) Clear identification of the dispensary, cultivation center, or testing laboratory or registered individual that is the subject of the complaint;
- (c) The name(s), and contact information (if known) of any witnesses to the incident;
- (d) Any supporting documentation or photos; and
- (e) The contact information for the complainant.

6200.2 In addition to written complaints identifying the complainant, any person may make an anonymous complaint in writing to the Board or orally to any ABRA investigator. Anonymous complaints shall be investigated to the best of the Board's ability but may result in no action being taken if the anonymous complainant fails to provide the Board or the ABRA investigator with adequate information.

- 6200.3 Nothing in this chapter shall preclude the Board from initiating an investigation on its initiative if it finds that there exists a reasonable basis to believe that there is a violation of the regulations or Act.
- 6200.4 Upon receiving a complaint, the Board may, in its discretion, request that the cultivation center, dispensary or testing laboratory complained of answer the complaint within ten (10) days of receipt of the complaint. The Board shall attach a copy of the complaint to the request or shall describe the acts alleged in the complaint. The cultivation center, or dispensary or testing laboratory may respond either personally or through a legal representative.
- 6200.5 If the Board receives a written response from a cultivation center, dispensary or testing laboratory, it may, in its discretion, send a copy of the response to the complainant and request a written reply within a time period determined by the Board.
- 6200.6 At any point during the course of the investigation or inquiry into the complaint, the Board may determine that there is not and will not be sufficient evidence to warrant further proceedings. In such event, the Board shall dismiss the complaint.
- 6200.7 If the Board determines, after investigation, that there is otherwise reason to believe that the acts alleged occurred and constitute a violation of the regulations or the Act, the Board may fine the registration holder pursuant to the Civil Infractions Act, or initiate an action to suspend or revoke the registration.
- 6200.8 All written complaints as set forth under § 6200.1, which identify the complainant by name and address, shall be acknowledged in writing by the Board within thirty (30) days of receipt of the complaint. At the conclusion of the matter, the Board shall advise the complainant of the action that the Board has taken on the matter.
- 6200.9 The Board shall maintain records documenting complaints received and the action taken in response to the complaint.

Section 6201, REVOCATION, SUSPENSION, OR FINES – GENERAL PROVISIONS, is amended to read as follows:

6201 REVOCATION, SUSPENSION, OR FINES – GENERAL PROVISIONS

- 6201.1 Except in the case of a summary suspension or revocation action, the Board shall not revoke or suspend a registration until the holder of the registration has been given an opportunity to be heard in his or her defense.
- 6201.2 If a registration is revoked or suspended, no part of the registration fee shall be returned.
- 6201.3 If the Board revokes a registration for a cultivation center, dispensary or testing laboratory, no registration shall be issued to the same person or persons whose registration is so revoked for the same or any other location for five (5) years following the revocation, except as provided below.

- 6201.4 If the Board revokes a manager's registration or a registration for a person other than a cultivation center, dispensary or testing laboratory, a manager's registration or individual registration shall not be issued to the same person for two (2) years.
- 6201.5 This section shall not apply to registrations revoked by the Board for the convenience of the District.
- 6201.6 The Board may fine, suspend, or revoke the registration of any registration holder during the registration period if:
- (a) The registration holder violates any of the provisions of the Act or this subtitle;
 - (b) The registration holder allows the registered establishment to be used for any unlawful or disorderly purpose;
 - (c) The registration holder fails to supervise in person, or through a manager approved by the Board, the business for which the registration was issued;
 - (d) The registration holder fails or refuses to allow an ABRA investigator, a designated agent of the Board, or a member of MPD to enter or inspect without delay the registered premises or examine the books and records of the business, or otherwise interferes with an investigation; or
 - (e) The registration holder fails to follow its security plan.
- 6201.7 The Board may revoke the registration of a registration holder as a result of any of the following events during the period for which the registration was issued:
- (a) The registration holder knowingly or recklessly sells or distributes medical marijuana to an unregistered patient;
 - (b) The registration holder knowingly or recklessly purchases marijuana from an unregistered cultivation center or dispensary;
 - (c) The registration holder knowingly or recklessly makes a false or misleading statement to the Board or in any affidavit or application that they submit to the Board;
 - (d) The registration holder unlawfully interferes or impedes in an inspection of their premises conducted by an ABRA investigator or MPD; or
 - (e) The registration holder permits or encourages the consumption of medical marijuana on their premises. Repeated violations for permitting the consumption of medical marijuana on the registered premises shall be considered evidence of encouragement.
- 6201.8 The Board may impose civil fines under the Civil Infractions Act for any infraction under this subtitle, not to exceed two thousand dollars (\$2,000) per first offense violation.

Section 6202, NOTICE OF CONTEMPLATED ACTION AND HEARING, is amended to read as follows:

6202 NOTICE OF CONTEMPLATED ACTION AND HEARING

6202.1 Violation of any provision of the Act or this subtitle may result in a notice of intent to suspend or revoke the registration of a dispensary, cultivation center, testing laboratory, director, officer, member, incorporator, agent, employee, or manager.

6202.2 Except in the case of a summary suspension or revocation, the Board shall give a registrant written notice and hold a show cause hearing pursuant to § 6204 prior to taking any final action which would:

- (a) Suspend registration; or
- (b) Revoke registration.

6202.3 A show cause notice of intent to suspend or revoke shall contain the following:

- (a) A statement of the proposed action;
- (b) A statement setting forth the reasons for the proposed action, including a specification of any specific violation complained of;
- (c) Reference to any particular section of the Act or this subtitle allegedly violated;
- (d) A date of both a show cause status and evidentiary show cause hearing as well as the contact information for the assigned Office of Attorney General attorney; and
- (e) A statement that the Board may proceed *ex parte* in the event that if the registrant does not appear for the show cause hearing.

6202.4 A notice, order, decision, or pleading required by this chapter to be served upon a party shall be served upon the party or upon the representative designated by the party or by law to receive service of papers. If a party has appeared through counsel, service may be made upon the counsel of record.

6202.5 Service on a registrant shall be directed to the last known address of the registrant on file with the Board or the registrant's resident agent or attorney, and shall be completed by one (1) of the following methods:

- (a) Personal delivery;
- (b) Leaving it at the party's place of business or with the party's registered agent; or
- (c) Certified mail, return receipt requested.

- 6202.6 Proof of service, stating the name and address of the person on who service is made and the manner and date of service, may be shown by one (1) of the following methods:
- (a) Written acknowledgement by the party or other person served in accordance with § 6202.5 or by the party's counsel;
 - (b) The certificate of the serving party or that party's counsel; or
 - (c) A return receipt if service is made by certified mail.
- 6202.7 If service is by personal delivery, it shall be deemed to have been served at the time when delivery is made to the party or other person served in accordance with § 6202.5.
- 6202.8 If service is by certified mail, it shall be deemed to have been made on the date shown on the return receipt showing delivery of the notice to the party or refusal of the party to accept delivery.
- 6202.9 If the party is no longer at the last known address as shown by the records of the Board and no forwarding address is available, service shall be deemed to have been made on the date the return receipt bearing that notification is received by the Board.
- 6202.10 Unless otherwise authorized by the Board, any notice from or to the Board shall be made by personal delivery or sent by certified mail, return receipt requested.
- 6202.11 The decision rendered by the Board shall be the Final Order in this matter. Either party may seek review of the Board's decision by the District of Columbia Court of Appeals in accordance with the District of Columbia Administrative Procedure Amendment Act of 1975, effective October 8, 1975 (D.C. Law 1-19; D.C. Official Code §§ 2-501 - 2-511), as amended.

Section 6203, NOTICE OF SUMMARY SUSPENSION ACTION AND HEARING, is amended to read as follows:

- 6203 NOTICE OF SUMMARY SUSPENSION OR SUMMARY REVOCATION ACTION AND HEARING**
- 6203.1 Violation of the Act or this subtitle may result in the summary suspension or summary revocation of a cultivation center's, dispensary's or testing laboratory's registration.
- 6203.2 If the Board determines, after investigation, that the operations of a cultivation center, dispensary or testing laboratory present an imminent danger to the health and safety of the public, the Board may summarily suspend, revoke or restrict, without a hearing, the registration of the cultivation center, dispensary or testing laboratory.

6203.3 The Board may also summarily suspend, revoke or restrict a cultivation center, dispensary or testing laboratory registration when:

- (a) The establishment has been the scene of an assault on a police officer, ABRA investigator or other government inspector or investigator, or other governmental official, who was acting in his or her official capacity;
- (b) The establishment is in violation of the District of Columbia Controlled Substances Act or chapter 11 of title 48 of the District of Columbia Official Code; or
- (c) A registered person from the dispensary assaults a qualifying patient or caregiver at the registered premises.

6203.4 A notice of summary suspension or revocation shall contain the following:

- (a) A statement that operations must cease immediately, with the exception of necessary tending requirements by cultivation centers;
- (b) A statement that the dispensary, cultivation center or testing laboratory must submit to an immediate inventory of all medical marijuana items on the premises by ABRA investigators;
- (c) A statement that the dispensary, cultivation center or testing laboratory must surrender all registration cards and permits associated with the dispensary, cultivation center or testing laboratory to the Board within twenty-four (24) hours of receiving the summary suspension notice;
- (d) A statement setting forth the reasons for the summary action, including a specification of any specific violation complained of;
- (e) Reference to any particular section of the Act or rules allegedly violated;
- (f) A statement that the registrant may request an immediate hearing before the Board for the purpose of determining whether the suspension shall continue. The registrant shall file the request with the Board within three (3) business days after service of a notice of a summary suspension, revocation or restriction of the registration. The Board shall hold a hearing within two (2) business days of receipt of a timely request unless otherwise agreed by the parties to be held at a later date. The Board shall issue a decision within three (3) business days after the hearing.
- (g) A person aggrieved by a final summary action may file an appeal with the District of Columbia Court of Appeals in accordance with the District of Columbia Administrative Procedure Amendment Act of 1975, effective October 8, 1975 (D.C. Law 1-19; D.C. Official Code §§ 2-501 - 2-511), as amended.

6203.5 A notice, order, decision, or pleading required by this chapter to be served upon a party shall be served upon the party or upon the representative designated by the

party or by law to receive service of papers. If a party has appeared through counsel, service may be made upon the counsel of record.

6203.6 Service on a registrant shall be directed to the last known address of the registrant on file with the Board or the registrant's resident agent or attorney, and shall be completed by one (1) of the following methods:

- (a) Personal delivery;
- (b) Leaving it at the party's place of business or with the party's registered agent; or
- (c) Certified mail, return receipt requested.

6203.7 Proof of service, stating the name and address of the person on who service is made and the manner and date of service, may be shown by one (1) of the following methods:

- (a) Written acknowledgement by the party or other person served in accordance with § 6203.6 or by the party's counsel;
- (b) The certificate of the serving party or that party's counsel; or
- (c) A return receipt if service is made by certified mail.

6203.8 If service is by personal delivery, it shall be deemed to have been served at the time when delivery is made to the party or other person served in accordance with § 6203.6.

6203.9 If service is by certified mail, it shall be deemed to have been made on the date shown on the return receipt showing delivery of the notice to the party or refusal of the party to accept delivery.

6203.10 If the party is no longer at the last known address as shown by the records of the Board, and no forwarding address is available, service shall be deemed to have been made on the date the return receipt bearing that notification is received by the Board.

6203.11 A registrant whose registration has been summarily suspended may request an immediate hearing before the Board within three (3) business days for the purpose of determining whether the suspension shall continue. The registrant shall file the request with the Board within three (3) business days after receiving the notice. The hearing shall be held by the Board within two (2) business days after receiving the request unless otherwise agreed by the parties to be held at a later date.

6203.12 Unless otherwise authorized by the Board, any notice from or to the Board shall be made by personal delivery or sent by certified mail, return receipt requested.

6203.13 A request for a hearing under this chapter shall include the following:

- (a) A statement of the facts relevant to the review of the action;
- (b) A statement of the arguments that the respondent considers relevant to the review of the action; and
- (c) Any other evidence considered relevant.

6203.14 If the registrant fails to request a hearing within the time and in the manner specified in the notice, the summary suspension shall continue until after a finding by the Board that the imminent danger no longer exists, or until after a decision on a notice of intent to revoke or suspend the registration becomes final under § 6202.13 or 6202.16.

6203.15 If a hearing is timely requested, the proceedings shall thereafter be conducted pursuant to chapter 17 of Title 23 of the DCMR.

6203.16 The decision rendered by the Board shall be the Final Order in this matter. Either party may seek review of the Board's decision with District of Columbia Court of Appeals in accordance with the District of Columbia Administrative Procedure Amendment Act of 1975, effective October 8, 1975 (D.C. Law 1-19; D.C. Official Code §§ 2-501 - 2-511), as amended.

Section 6204, REQUEST FOR SUSPENSION OR REVOCATION OF REGISTRATION BY CHIEF OF POLICE, is amended to read as follows:

6204 SHOW CAUSE HEARINGS

6204.1 Whenever the Board has reasonable cause to believe that any registration or permit should be suspended or revoked pursuant to section 6 of the act, it shall notify the person to whom the registration or permit was issued by personal service or certified mail at the last address recorded by that person with the Board, citing that person to appear before the Board not less than thirty (30) days thereafter. The notice shall state the time and place set by the Board for the hearing.

6204.2 The holder of the registration of permit shall appear in his or her defense in person or virtually and may have representation by counsel or other designated representative and shall be entitled to offer evidence before the Board with respect to the charges.

6204.3 If the person whose registration or permit is sought to be suspended or revoked waives the hearing or fails to appear at the time and place set for the hearing, the Board may proceed *ex parte*, unless the Board extends the time for the hearing.

6204.4 The Board shall make its findings of fact based upon the evidence which has been presented to it.

6204.5 The Board may, in its discretion, accept from both (1) the holder of the registration or permittee and (2) the Office of the Attorney General or the prosecuting entity an offer in compromise and settlement to resolve the charges brought at the show cause hearing by the District of Columbia against the holder of the registration or permit. An offer in compromise and settlement may be tendered to the Board at any time prior to the issuance of a decision by the Board on the contested matter.

6204.6 An offer submitted by the parties and accepted by the Board shall constitute a waiver of appeal and judicial review.

6204.7 A show cause hearing shall be conducted pursuant to the procedures set forth in Chapter 17 of Title 23 of the DCMR.

Section 6205, NOTICE TO DISTRICT AGENCIES, is amended to read as follows:

6205 NOTICE TO DISTRICT AGENCIES

6205.1 The Board shall provide written notice to MPD of any decision that results in the suspension or revocation of the cultivation center's, dispensary's or testing laboratory's registration.

Section 6206, NOTICE OF SUSPENSION OR REVOCATION TO PUBLIC, is amended as follows:

Subsection 6206.1 is amended to read as follows:

6206.1 If a cultivation center, dispensary or testing laboratory registration is revoked or suspended, the Board shall post two (2) notices in conspicuous places at or near the main street entrance of the outside of the establishment.

Subsection 6206.4 is repealed.

Section 6207, EXAMINATION OF PREMISES AND BOOKS AND RECORDS, is amended as follows:

Subsection 6207.1 is amended by amending the lead-in language to read as follows:

6207.1 A cultivation center dispensary or testing laboratory shall allow any ABRA investigator or compliance analyst, or member of the Metropolitan Police Department a full opportunity to investigate, inspect, and examine, at any time during business hours and other times of apparent activity:

Subsection 6207.3 is amended to read as follows:

6207.3 All books and records required to be maintained by the cultivation center dispensary or testing laboratory shall be maintained at the registered premises.

New sections 6208 and 6209 are added to read as follows:

6208 FACT-FINDING HEARINGS

- 6208.1 Prior to rendering a final decision on a licensing or registration request or an ABRA Investigative Report, the Board may hold a non-evidentiary fact-finding hearing to obtain further information from an applicant, licensee, permittee, witness, government official, or any other member of the public with the permission of the Board.
- 6208.2 A dispensary, cultivation center, testing laboratory or a registered patient or caregiver shall not be fined or have its registration suspended or revoked at a fact-finding hearing. However, information provided at a fact-finding hearing may result in an enforcement action being taken under the Act or this subtitle. The fact-finding hearing may also result in the Board initiating an action to deny, modify, place conditions, or approve an application, as well as any other action authorized by the Act or this subtitle.
- 6208.3 An applicant or registration holder that fails to appear at a fact-finding hearing without good cause or refuses to respond to questions asked by the Board may have their application deemed abandoned, which shall result in the denial of their application.
- 6208.4 At any time, in its discretion, the Board may limit or exclude the submission of evidence, statements, and testimony at the hearing.
- 6208.5 All fact-finding hearings shall be open to the public unless closed to the public in accordance with section 405 of the Open Meetings Act, effective March 31, 2011, (D.C. Law 18-350; D.C. Official Code § 2-575), as amended.

6209 SAFEKEEPING HEARINGS

- 6209.1 The Board may hold a contested case safekeeping hearing to determine whether to extend or cancel a registration for a dispensary, cultivation center or testing laboratory that is currently not open or operating as required by §§ 5303 and 5613.
- 6209.2 In determining whether to extend or cancel a registration, the Board shall consider whether the holder of the registration has made reasonable progress toward opening or reopening.
- 6209.3 The term “reasonable progress” for purposes of this section shall mean taking deliberate steps to start or resume business operations, including acquiring

necessary permits or approvals from DCRA, the Office of Zoning, the Historic Preservation Board, or any District agency, executing contractual agreements or lease agreements, retaining contractors, or transferring the license to a new owner or new location, if permitted. The Board may also take into account any prior commitments made by the holder of the registration to the Board.

Chapter 63, SCALE PROGRAM, is amended as follows:

Section 6300, SLIDING SCALE PROGRAM, is amended as follows:

Subsection 6300.2 is amended by striking the phrase “the Director” and inserting the phrase “the Board” in its place.

Subsections 6300.5 and 6300.6 are amended by striking the phrase “the Department” and inserting the phrase “the Board” in its place.

Subsection 6300.8 is amended by striking the phrase “the Director” and inserting the phrase “the Board” in its place.

Chapter 64, TESTING LABORATORIES, is amended as follows:

Section 6400, APPLICABILITY, is amended by striking the phrase “the Department” and inserting the phrase “the Board” wherever it appears.

Section 6401, GENERAL PROVISIONS, is amended by striking the phrase “the Department” and inserting the phrase “the Board” wherever it appears.

Section 6402, TESTING LABORATORY REGISTRATION APPLICATION REQUIREMENTS AND SELECTION PROCESS, is amended as follows:

Subsections 6402.3 and 6402.4 are amended by striking the phrase “the Director” and inserting the phrase “the Board” wherever it appears.

Subsection 6402.6(f) is amended to read as follows:

- (f) A notarized written statement from the applicant that he or she has read the Act and this subtitle and has knowledge of the District and federal laws and regulations relating to medical marijuana; and

A new subsection 6402.6(g) is added to read as follows:

- (g) Information regarding whether the applicant has qualified as a medical marijuana certified business enterprise or is eligible to qualify as a medical marijuana certified business enterprise.

Subsection 6402.7 is amended by striking the phrase “the Department” and inserting the phrase “the Board” in its place.

Subsection 6402.8 is amended to read as follows:

6402.8 Upon receipt of a written security plan for an initial testing laboratory application,

the Board shall forward the security plan electronically to MPD or its designee for an assessment. MPD or its designee shall complete its assessment of the security plan within twenty-one (21) days of receipt from the Board. The Board shall not issue a testing laboratory registration until MPD or its designee completes its security plan assessment and submits that assessment in writing to the Board.

Section 6404, ACCREDITATION, CERTIFICATION AND INSPECTION, is amended by striking the phrase “the Department” and inserting the phrase “the Board” wherever it appears.

Section 6405, RECORDS RETENTION, is amended as follows:

Subsection 6405.1 is amended by striking the phrase “the Department” and inserting the phrase “the Board” in its place.

Subsection 6405.2 is amended by striking the phrase “the Department” and inserting the phrase “the Board or ABRA” in its place.

Section 6406, LABORATORY PERSONNEL QUALIFICATIONS AND DUTIES, is amended by striking the phrase “the Department” and inserting the phrase “the Board” wherever it appears.

Section 6407, STANDARD OPERATING PROCEDURE REQUIREMENTS”, is amended as follows:

Subsection 6407 is amended by striking the phrase “the Department’s” and inserting the phrase “the Board’s” in its place.

Section 6409, TESTING REQUIREMENTS AND METHODOLOGIES, is amended as follows:

Subsections 6409.2 and 6409.3 are amended by striking the phrase “the Department” and inserting the phrase “the Board” wherever it appears.

Subsection 6409.5 is amended to read as follows:

6409.5 The samples personally selected and collected by the testing laboratory shall include, at a minimum:

- (a) One (1) testable sample of the final product of flower, from each harvest for every strain of medical marijuana grown by the cultivation center;
- (b) One (1) testable sample of the final product of flower stored and packaged at the dispensary; and
- (c) One (1) testable sample of each type of product produced from each batch of medical marijuana, such as but not limited to, the following:
 - (1) Tincture;
 - (2) Topical;

- (3) Shatter;
- (4) Oils;
- (5) Edibles;
- (6) Wax;
- (7) Kief; and
- (8) Hash.

Section 6410, RESULT REPORTING, is amended as follows:

Subsection 6410.2 is amended by striking the phrase “the Department’s” and inserting the phrase “the Board’s” in its place.

Subsections 6410.4, 6410.6, and 6410.7 are amended by striking the phrase “the Department” and inserting the phrase “the Board” wherever it appears.

Chapter 99, DEFINITIONS, is amended as follows:

Section 9900, DEFINITIONS, is amended as follows:

Subsection 9900.1 is amended by adding the following definitions in alphabetical order:

ABRA – Alcoholic Beverage Regulation Administration

Board – Alcoholic Beverage Control Board

Fact-finding hearing - a hearing held by the Board to obtain further information from an applicant in response to either (1) a licensing or registration request or (2) an investigation conducted by ABRA.

Offer in Compromise – a negotiation between the Government and the Respondent to settle the charges brought by the Government for those violations committed by the Respondent in the instant case.

Safekeeping hearing – means a proceeding held by the Board to determine whether reasonable cause exists to extend the period that a registration is in safekeeping with the Board or whether the registration should be cancelled by the Board.

Subsection 9900.1 is further amended by amending the following terms and definitions to read as follows:

Business applicant - a person who has made an application to register a cultivation center, dispensary, testing laboratory or medical marijuana certification provider permit and who has an application pending before the Board.

Caregiver -- a person who:

- (a) Is designated by a qualifying patient as the person authorized, on the qualifying patient's behalf, to possess, obtain from a dispensary, dispense, administer, and assist in the administration of medical marijuana;
- (b) Is registered with the Board as the qualifying patient's caregiver;
- (c) Is not currently, with the exception of caregivers providing services on behalf of nursing homes and hospices, serving as the caregiver for another qualifying patient; and
- (d) Is at least eighteen (18) years of age.

Cultivation Center -- means a facility operated by an organization or business registered with the Board pursuant to section 6 of the Act from or at which medical marijuana is cultivated, possessed, manufactured, and distributed in the form of medical marijuana, and paraphernalia is possessed and distributed to dispensaries.

Director -- means the Director of the Alcoholic Beverage Regulation Administration or his or her designee or designees.

Dispensary -- means a facility operated by an organization or business registered with the Board pursuant to section 6 of the Act from or at which medical marijuana is possessed and dispensed and paraphernalia is possessed and distributed to a qualifying patient or a caregiver.

Expediter - other than a registered caregiver, any person or entity employed, contracted, volunteering, or compensated by any form of remuneration, gift, donation, or bartering, to register individuals as patients in the medical marijuana program, to connect individuals with recommending authorized practitioners, to solicit individuals to become qualifying patients, to complete application forms or to assist individuals in completing application forms to become qualifying patients, or to transport or deliver to the Board application forms for individuals seeking to become qualifying patients.

Individual Applicant - an individual who has made an application for a manager's registration or for registration as a director, officer, member, incorporator, agent, or employee and who has an application pending before the Board.

Letter of information - a written request from the Board for further factual information in response to a request for an advisory opinion.

Manager - an individual who has obtained a manager's registration from the Board and who is designated by the cultivation center, dispensary or testing laboratory to manage the registered premises in the absence of a registered owner.

Nonresident Card - a medical marijuana patient card issued by a state or U.S. territory that has an active medical marijuana program and issues either a card or state-issued document evidencing the patient's participation in the program.

Nonresident Qualifying Patient - a person that is not a resident of the District of Columbia who is enrolled in another jurisdiction's medical marijuana program, unless the Board Department has determined that there is a shortage of medical marijuana or the real-time electronic records system referenced in the Act is inactive.

Panel -- means the six (6) member or seven (7) member, composite board appointed by the Board responsible for evaluating, rating and scoring applications for cultivation center and dispensary registrations.

Placard -- means a written notice posted at an establishment for the purpose of notifying the public of action involving a new or transfer to new location registration application for either a cultivation center, dispensary or testing laboratory.

Qualifying patient -- a resident of the District who has a qualifying medical or dental condition or is undergoing a qualifying medical or dental treatment, or a patient enrolled in another jurisdiction's medical marijuana program; provided, that a patient from another jurisdiction shall not be a qualifying patient if the Board determines that there is a shortage of medical marijuana or the real-time electronic records system referenced in the Act is inactive.

State-issued document- a document issued by the State or U.S. territory agency responsible for administering the medical marijuana program in that state or U.S. territory which bears on its face the nonresident patient's name and program identification number, and an official seal or imprint.

Testing Laboratory -- An entity that is not owned or operated by a director, officer, member, incorporator, agent, or employee of a cultivation center or dispensary, and is registered by the Board to test medical marijuana and medical marijuana products that are to be sold.

Subsection 9900.1 is further amended by deleting the following term and definition:

Department -- means the Department of Health.

Copies of the proposed rulemaking can be obtained by contacting Martha Jenkins, General Counsel, Alcoholic Beverage Regulation Administration, 2000 14th Street, N.W., Suite 400, Washington, D.C. 20009. Persons with questions concerning the rulemaking should contact Martha Jenkins at 202-442-4456 or email martha.jenkins@dc.gov. All persons desiring to comment on the proposed rulemaking must submit their written comments, no later than thirty (30) days after the date of publication of this notice in the *D.C. Register*, Martha Jenkins, General Counsel, Alcoholic Beverage Regulation Administration, at 2000 14th Street, N.W., 4th Floor, Washington, D.C. 20009 or martha.jenkins@dc.gov.