MURIEL BOWSER
MAYOR

May 18, 2023

The Honorable Phil Mendelson
Chairman
Council of the District of Columbia
John A. Wilson Building
1350 Pennsylvania Avenue, NW, Suite 504
Washington, DC 20004

Dear Chairman Mendelson:

Enclosed for consideration and approval by the Council of the District of Columbia is a proposed resolution entitled the "Medical Cannabis Regulations Approval Resolution of 2023."

The proposed resolution would approve the Medical Cannabis Notice of Final Rulemaking, which the District of Columbia Alcoholic Beverage and Cannabis Board (Board) adopted on January 25, 2023, on a vote of six (6) to zero (0). The proposed rulemaking was published in the *D.C. Register* on March 10, 2023. The Board did not receive any comments that necessitated changes to the rulemaking.

The proposed rulemaking amends Subtitle C of Title 22 of the District of Columbia Municipal Regulations to comprehensively modify and update the regulations governing the District of Columbia's Medical Cannabis Program.

I ask that the Council act favorably on this resolution. If you have any questions on this matter, please contact Donovan Anderson, Chairperson, Alcoholic Beverage and Cannabis Board, at (202) 442-4423.

Sincerely,

Muriel Bowser

Enclosures

Chairman Phil Mendelson
at the request of the Mayor

A PROPOSED RESOLUTION

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To approve the proposed final rules of the Alcoholic Beverage and Cannabis Board to amend the District's medical cannabis regulations.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Medical Cannabis Regulations Approval Resolution of 2023".

Sec. 2. Pursuant to section 14(b) 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(b)) the Council approves the proposed final rulemaking of the Alcoholic Beverage and Cannabis Board, transmitted to the Council by the Mayor on ----------, to comprehensively amend and update the regulations governing the District's medical cannabis program.

Sec. 3. This resolution shall take effect immediately.

ALCOHOLIC BEVERAGE CONTROL BOARD
ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF FINAL RULEMAKING

The Alcoholic Beverage and Cannabis Board (Board), pursuant to Section 14 of the Legalization of Marijuana for Medical Treatment Initiative of 1999 (the Act), effective July 27, 2010 (D.C. Law 18-210; D.C. Official Code § 7-1671.13); and Mayor's Order 2020-099, dated September 30, 2020; hereby gives notice of the adoption, on an emergency basis, of amendments to Chapters 1 (Department of Health General Provisions), 2 (Conditions of Registration), 3 (Use of Medical Marijuana), 4 (Disposal of Medical Marijuana), 5 (Qualifying Patients), 6 (Caregivers), 7 (Registration Cards), 8 (Recommending Authorized Practitioners), 9 (Denial of Applications), 10 (Enforcement Actions), 11 (Confidentiality of Records), 12 (Investigations and Inspections), 13 (Fees), 14 (Medical Marijuana Advisory Committee), 50 (Registration, Licensing, and Enforcement of Cultivation Centers, Dispensaries, and Testing Laboratories), 51 (Registration and Permit Categories), 52 (Registration Limitations), 53 (General Registration Requirements), 54 (Registration Applications), 55 (Registration Changes), 56 (General Operating Requirements), 57 (Prohibited and Restricted Activities), 58 (Advertising), 59 (Records and Reports), 60 (Director Approval Procedures), 61 (Mandatory Revocation and Mandatory Suspension), 62 (Enforcement Proceedings and Hearings), 63 (Sliding Scale Program), 64 (Testing Laboratories), and 99 (Definitions) of Subtitle C (Medical Marijuana) of Title 22 (Health) of the District of Columbia Municipal Regulations (DCMR).

I. PROCEDURAL BACKGROUND

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 (Department of 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*.).

The Board acquired jurisdiction over the Program on October 1, 2020. Immediately after acquiring jurisdiction of the Program, the Board adopted a series of emergency rulemakings to ensure that qualifying patients were able to receive their medical marijuana, without disruption, during the COVID-19 pandemic. *See* Medical Marijuana Delivery Notice of Third Emergency Rulemaking, 68 DCR 00158 (January 1, 2021); and Nonresident Notice of Emergency Rulemaking, at 67 DCR 14549 (December 11, 2020).

After adopting the above-referenced emergency rulemakings, the Board determined that additional changes to the program were warranted. Therefore, the Board drafted the Medical Marijuana Program Notice of Emergency and Proposed Rulemaking, which the Board adopted on March 3, 2021. *See* 68 DCR 4361 (April 23, 2021) [EXPIRED]. The Board held a public hearing concerning the proposed rulemaking on April 28, 2021.

II. PUBLIC COMMENTS

The Board reviewed and duly considered the comments it received at the public hearing.

Below is a summary of those comments and the Board's response in italics:

A. DAWN LEE-CARTY

Dawn Lee-Carty is the mother of a minor qualifying patient. Ms. Lee-Carty testified that her child ingested contaminated medical marijuana that resulted in the child being hospitalized. Ms. Lee-Carty raised concerns about the possibility of patients receiving contaminated medical marijuana, and as such, recommended that the Board revisit the District's testing requirements. Specifically, she requested that the Board amend the regulations to require that testing laboratories test for the presence of piperonylbutoxide (PBO), which was the contaminant that was found in the ingested medical marijuana that led to Zoe's hospitalization.

Ms. Lee-Carty further recommended that the Board amend the regulations concerning the District's liability so that the District is held liable for harm(s) that may befall customers, registrants, and families participating in the Medical Marijuana Program.

Lastly, Ms. Lee-Carty recommended that the regulations be amended to permit one to grow marijuana for their own medical needs, or if they are a caregiver of a minor, for the minor's needs. Ms. Lee-Carty believes her child would not have become ill from contaminated medical marijuana had she been permitted to grow her own.

Although the Board is sympathetic to Ms. Lee-Carty's concerns, it does not agree with amending the medical marijuana regulations to change the permissible PBO levels. The regulations already require testing laboratories to test for PBO among other contaminants. Subsection 6409.5 of 22-C DCMR sets a limit for PBO at 1.0 PPM, which is consistent with other jurisdictions, including Maryland - a leader in testing and updating its testing requirements. A review of other jurisdictions' medical marijuana laws and regulations revealed PBO limits in excess of 1.0 PPM, including 3.0 PPM in California and Nevada. For these reasons, the Board rejected this recommendation.

The Board rejected the recommendation that the medical marijuana regulations be amended to allow the District to be potentially liable for harm that one may suffer from participating in the Program. The Board notes that the District does not distribute, produce, or sell medical marijuana products itself; therefore, it is not liable for any harms caused by such products or errors in the manufacturing process. The Board further notes that as an administrative agency, the Board lacks the authority to waive immunity or change the District's liability status. Finally, the Board notes that the Board is not aware of anything in the District's medical marijuana laws that protect cultivation centers and dispensaries from products liability and similar lawsuits based on harms caused by their products.

Finally, the Board rejects Ms. Lee-Carty's recommendation that the District's medical marijuana regulations should be revised to allow one to grow their own medical marijuana for their personal use at this time. This recommendation would require a statutory amendment. The Board would not be able to revise the regulations unless and until the statute is revised. The Board further notes that current law already allows individuals to grow up to six marijuana plants at one time.

B. RABBI KAHN AND STEPHANIE KAHN

Rabbi Kahn and Stephanie Kahn are the co-owners of Takoma Wellness Center. They testified in general support of the rulemaking, especially as it relates to the proposed changes to the fines, show cause proceedings, fact finding hearings, and qualifying patients being allowed to administer or have medical marijuana administered at a location other than their residence. They did, however, request that the Board amend the regulations to allow dispensaries to sell medical marijuana to patients who have received a medical marijuana card from their home state.

The Board agreed with this recommendation because it will allow persons who have been approved for a medical marijuana card outside of the District to be able to receive marijuana for their medical needs from a District dispensary. As such, the Board revised the definition of "Active Medical Marijuana Program" in 22 DCMR C § 9900.1 to recognize medical marijuana cards that were issued by a state or U.S. territory that allows the use of marijuana for one's medical needs.

C. ADRIAN SALSGIVER

Adrian Salsgiver, a qualifying patient in the District's Medical Marijuana Program, testified in support of the Board's proposed rulemaking and suggested amending the regulations to allow patients to administer medical marijuana at additional locations, permitting dispensaries to provide educational classes, and removing the cap on dispensary delivery vehicles that provide delivery services. Mr. Salsgiver did suggest that the Board revise the regulations to eliminate the limit on the amount of medical marijuana a qualifying patient is permitted to have (e.g., two ounces (2 oz.)).

Although the Board agreed with Mr. Salsgiver's recommendation, his suggested amendments regarding the medical marijuana limits cannot be addressed by rulemaking. The Council will need to revise the statute before the Board can revise the regulations.

D. DISTRICT OF COLUMBIA CANNABIS TRADE ASSOCIATION

The District of Columbia Cannabis Trade Association (CTA) testified at the public hearing and submitted written comments to the Board. The CTA supported various aspects of the proposed regulations, including allowing qualifying patients to administer medical marijuana at a location other than their residence, repealing the mandatory training program for recommending authorized practitioners, authorizing medical marijuana trainings and demonstrations at dispensaries, and renaming the Board and the Alcoholic Beverage Regulation Administration.

Additionally, the CTA suggested that the Board incorporate the following revisions to the regulations:

1. Establish penalties for unlawfully operating establishments and the building owners where they are located;

2. Require that at least one individual within the medical marijuana industry (*e.g.*, dispensary, cultivation center, or testing laboratory) serve as a member of the Advisory Committee;

3. Address all forms of social inequities which present barriers to persons entering the medical marijuana market, as opposed to those disenfranchised based on race, ethnicity, and criminal background;

4. Allow dispensaries to use their own drivers for medical marijuana dispensaries;

5. Permanently allow for temporary registration cards, rather than limiting their use to periods of public health emergency;

6. Allow qualifying patients to self-certify in order to obtain a medical marijuana patient card;

7. Increase the thirty (30)-day patient allowance from four ounces (4 oz.) to six or eight ounces (6 oz. or 8 oz.);

8. Remove the tax on medical marijuana;

9. Make the medical marijuana program card valid for two (2) years;

10. Allow cultivators to grow hemp and for dispensaries to sell it;

11. Allow dispensaries to throw away unused medical marijuana if the ratio of by-product to the other content of trash is less than fifty percent (50%);

12. Revise the sliding scale requirements in 22 DCMR § 6300.1;

13. Revise the regulations to allow for deliveries to one's porch, driveway, or walkway, and remove the requirement that one affirm that there is not a gun in the residence;

14. Fully regulate CBD shops; and

15. Lastly, the CTA opposed the proposed regulation to increase the number of dispensaries.

The Board appreciated CTA's concerns regarding the illicit marijuana market and the adverse impact it has on the community, qualifying patients, and lawfully operating medical marijuana businesses. The Board, however, believes that the Metropolitan Police Department is engaged on this issue and that these concerns should be addressed legislatively rather than amending the regulations. As such, it rejected the CTA's recommendation to penalize illegal operations and the building owners whose buildings are being used for these activities.

The Board agreed with CTA's suggestion that a member of the industry should be a member of the Advisory Board, and thus, revised 22-C DCMR §1400.1 to reflect this change. The Board also agreed with the recommendation to allow dispensaries to use their own employees to delivery medical marijuana. This change is reflected in 22-C DCMR § 5703.3. The Board also agreed with the CTA's recommendation to allow for deliveries to be made on one's porch, walkway, or driveway, and to remove the requirement that one attest that guns are not present in the residence. These changes are reflected in 22-C DCMR § 5703.3(l).

Additionally, the Board agreed with the CTA's recommendation for a new third-party delivery license. The Board notes, however, that this is included in the Medical Cannabis Amendment Act of 2021, which was discussed in a November 19, 2021 hearing. Any future amendments to the regulations would be dependent on the Council's decision on the pending legislation. Finally, with respect to the CTA's recommendations concerning the disposal of unused marijuana, the Board decided not to take any action at this time. Instead, it will work with the Department of Environment and Energy (DOEE) and the Metropolitan Police Department (MPD) to further amend the disposal requirements.

CTA's other recommendations, although valid, cannot be addressed via rulemaking. Instead, they would require statutory amendments by the Council. These include:

1. *Allowing qualifying patients to self-certify;*
2. *Changing the number of dispensaries;*
3. *Not taxing medical marijuana, and therefore treating it like other pharmaceuticals;*
4. *Making the medical marijuana cards valid for two (2) years;*
5. *Removing the requirement for criminal background checks for medical marijuana patient caregivers;*
6. *Changes to the sliding scale requirement; and*
7. *Allowing cultivation centers to grow hemp.*

E. PHYTO CULTIVATION LLC

Phyto Cultivation LLC, (Phyto) a District cultivation center, submitted written testimony. Specifically, Phyto suggested increasing the limit of THC in certain products, eliminating the 250 patient recommendation limit and audit requirement on practitioners that issue a certain number of medical marijuana patient recommendations, and continuing to allow telehealth services. Phyto also suggested allowing the use of cannabidiol (CBD) as an ingredient and adding additional packaging and anti-tampering requirements for cultivation centers and dispensaries. Lastly, Phyto raised similar concerns as CTA as it relates to the disposal of medical marijuana.

The Board agreed with Phyto's recommendation that medical practitioners should not be subject to a recommendation limit in a 12-month period and an audit for exceeding this amount. The Board notes that even if this requirement is lifted, medical practitioners will still be subject to professional standards and oversight by the appropriate medical board. As such, the Board is seeking to repeal 22-C DCMR § 806.

F. PATRICIA C. FRYE, MD

Dr. Patricia Frye, a practicing physician, submitted written comments to the Board. Specifically, Dr. Frye asked the Board to permanently allow telehealth medicine.

The Board agreed with this recommendation, which is reflected in the proposed new section 22-C DCMR § 807.

III. THE BOARD'S DECISION

In addition to the comments received by the Board in response to the initial rulemaking, the Council of the District of Columbia passed a series of emergency and temporary bills concerning the Program. The comments received by the Board as well as the Council's legislative action required further review by the Board. Thus, the Board renewed the emergency rules on June 23, 2021, to maintain the status quo while it completed its review of additional submitted comments and Council enacted legislative amendments. *See Medical Marijuana Program Notice of Second Emergency Rulemaking*, 68 DCR 007493 (July 30, 2021) [EXPIRED].

Having completed its review and after further amending the rules, the Board adopted the *Medical Marijuana Program Notice of Third Emergency and Proposed Rulemaking*, by a vote of six (6) to zero (0) on October 20, 2021, (69 DCR 013529 (November 4, 2022)) These emergency rules expired on January 23, 2022; prompting the Board to take additional emergency action. Specifically, on January 26, 2022, the Board adopted the *Medical Marijuana Program Notice of Fourth Emergency and Proposed Rulemaking* by a vote of six (6) to zero (0), (69 DCR 013624 (November 4, 2022)).

Since adopting the Fourth Emergency Rulemaking, the Board determined that additional changes were necessary to the proposed rulemaking. These changes, which are substantive in nature, are in response to the comments and feedback the Board and the Alcoholic Beverage Regulation Administration received concerning the Program. Given the necessary substantive changes, the Board adopted the *Notice of Fifth Emergency and Proposed Rulemaking* on March 16, 2022, by a vote of six (6) to zero (0). The emergency rules took effect at that time and were published in the *D.C. Register* at 69 DCR 013716 (November 4, 2022).

On July 13, 2022, the Board adopted the *Medical Marijuana Notice of Sixth Emergency Rulemaking*, by a vote of six (6) to zero (0). These emergency rules were unchanged from the *Notice of Fifth Emergency and Proposed Rulemaking*. The Board determined that immediate action was necessary for the continued administration of the District's Program. Although the Notice of Sixth Emergency Rulemaking was not published in the *District of Columbia Register*, the rulemaking was posted to the agency's website on July 13, 2022, while the rulemaking underwent legal sufficiency review. Copies of the emergency rulemaking were also available at ABRA's office.

The *Medical Marijuana Notice of Sixth Emergency Rulemaking* was superseded by the Board's adoption of the *Medical Marijuana Notice of Seventh Emergency and Proposed Rulemaking* on November 9, 2022, by a vote of five (5) to zero (0). This version of the rules contained additional changes which were substantive in nature. The Notice of Seventh Emergency Rulemaking was posted to the agency's website on July 13, 2022, while the rulemaking underwent legal sufficiency review.

The legal sufficiency review resulted in additional substantive amendments to conform the rules to the law requiring the Board's adoption of the *Medical Marijuana Notice of Eighth Emergency*

and Proposed Rulemaking on January 25, 2023, by a vote of six (6) to zero (0). Thus, both the *Medical Marijuana Notice of Sixth Emergency Rulemaking* and the *Medical Marijuana Notice of Seventh Emergency and Proposed Rulemaking* were superseded prior to publication in the *District of Columbia Register.*

The Medical Marijuana Notice of Eighth Emergency and Proposed Rulemaking was published in the *D.C. Register* on March 10, 2023, for thirty (30)-day notice and comment. The Board did not receive any comments during the comment period.

On May ___, 2023, the emergency and proposed rulemaking was submitted to the Council for the District of Columbia (Council). See Medical Cannabis Regulations Approval Resolution of 2023 (PR-____). The Council approved the emergency and proposed rules on _____, 2023. The rules are now ripe for the Board to take final rulemaking action.

The Board adopts the Medical Marijuana Notice of Final Rulemaking by a vote of five (5) to zero (0) on _____, 2023. The final rules shall take effect five (5) days after publication in the *D.C. Register.*

Subtitle C, MEDICAL MARIJUANA, of Title 22 DCMR, HEALTH, 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 card to possess, use, administer, or dispense medical marijuana in the District of Columbia, and to authorized practitioners 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 may impose fines, and ABRA investigators may issue citations, 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 citations issued by 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.

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

Section 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 Within fourteen (14) calendar days of any change in the qualifying patient's name, address, caregiver, or authorized practitioner, 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 authorized practitioner;

(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.

200.7 Within fourteen (14) calendar days of receiving notice of a qualifying patient's change of name, address, or authorized practitioner, 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.

200.8 Within fourteen (14) calendar days of the authorized practitioner 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.

200.9 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.

200.10 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.

200.11 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.

200.12 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 and renumbered 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 an authorized practitioner within the last 2 years in accordance with the Act, except for individuals 21 years of age and older, who shall be permitted to self-certify on a form provided by ABRA that they are utilizing marijuana for medical purposes as part of the registration process and registering with the Board; or

(b) Enrolling in another jurisdiction's medical marijuana program.

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;

(d) Either consents to serve as the qualifying patient’s caregiver or designates another adult to serve as the caregiver; and

(e) Consents that the caregiver shall control the acquisition, possession, dosage, and frequency of use of medical marijuana by the minor qualifying patient.

300.8 The maximum amount of medical marijuana any qualifying patient or caregiver may possess at any time is:

(a) Eight (8) ounces of dried medical marijuana; or

(b) The equivalent of eight (8) ounces of dried medical marijuana when sold in any other form.

300.9 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, scooter, e-scooter, bicycle, e-bike, aircraft, or motorboat while under the influence of medical marijuana.

300.10 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.

300.11 Notwithstanding any other provision of this subtitle, during the effective period of the Medical Marijuana Patient Access Extension Second Emergency Amendment Act of 2022, effective October 17, 2022 (D.C. Act 24-565) (the "Emergency Act"):

(a) A qualifying patient or caregiver may possess up to eight (8) ounces of dried medical marijuana, or the equivalent of eight (8) ounces of dried medical marijuana when sold in any other form;

(b) Section 2(b) of the Emergency Act shall apply in circumstances where a qualifying patient's or caregiver's registration card has expired or will expire between March 1, 2020 and March 31, 2023;

(c) Qualifying patients and caregivers who register after November 5, 2021 but before March 31, 2023 shall be issued nontransferable identification cards that expire biennially;

(d) Telephone bills and bank statements shall, in the manner described in section 3 of the Emergency Act, serve as a form of acceptable proof of residency.

301 BARRING NOTICES

301.1 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; or

(b) Presents a registration identification card that appears to have been fraudulent, tampered, altered, or owned by another person.

301.2 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. Official Code § 22-3302.

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

Section 400, DISPOSAL OF MEDICAL MARIJUANA BY QUALIFYING PATIENTS AND CAREGIVERS, is amended as follows:

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 use or destruction, regardless of whether 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) Except as otherwise provided by District law, 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. Amending 502.1(a) in its entirety to read as follows:

(a) The applicant’s full legal name and date of birth;

3. Amending 502.1(b) to replace the phrase “Two (2) recent passport-type photographs” with the phrase "One (1) recent passport-type photograph” in its place.

4. 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 or her unexpired government-issued identification card and his or 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.l(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, if issued before March 31, 2023, expire two (2) years after the date of issuance and may be renewed in accordance with the renewal provisions under this chapter. Upon receipt of a complete application, the Board shall issue the applicant a temporary patient registration card that shall be valid for 30-days.

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 recommendation from an authorized practitioner 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; and

(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 recommendation from an authorized practitioner 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;

(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

(f) 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 802.2 is amended to read as follows:

802.2 The Board shall maintain a confidential record identifying each 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 repealed.

Section 807, TELEHEALTH MEDICINE, is added to read as follows:

807 TELEHEALTH MEDICINE

807.1 Authorized practitioners may provide telehealth medicine services to qualifying patients, including recommending the use of medical marijuana in accordance with this title, consistent with the laws and regulations governing their medical practice.

807.2 For purposes of this section, "telehealth medicine" means the use of electronic information and telecommunication technologies, including teleconference and videoconference, to provide care when the qualifying patient and the authorized practitioner are not in the same place at the same time.

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;

(c) The Board determines that the caregiver has a disqualifying conviction; or

(d) The application otherwise fails to comply with the Act or this title.

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 registration identification card may request a hearing with the Board to review any decision by ABRA denying an application or renewal application. The hearing request shall be in writing and filed with the Board within thirty (30) days from service of the notice

of denial.

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 COMPLAINTS AGAINST PATIENTS, CAREGIVERS OR RECOMMENDING AUTHORIZED PHYSICIANS

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 practitioners, whether those practitioners are authorized or unauthorized, shall be forwarded to the relevant licensing board for

disposition when applicable. ABRA retains the authority to investigate and resolve complaints relating to practitioners whose recommendations may be in violation of this Chapter.

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 or 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 or e-mail 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;

(c) Certified mail, return receipt requested; or

(d) Electronic mail where the registrant or their resident agent or counsel has agreed to accept service by electronic means.

1003.6 Proof of service, stating the name and address of the person on whom 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 service is by electronic mail, it shall be deemed to have been served on the day and time that the email is sent to the registrant or their resident agent or counsel.

1003.10 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.

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 Act, approved October 21, 1968, (82 Stat. 1204; D.C. Official Code § 2-501 et seq.).

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 pursuant to the District of Columbia Administrative Procedure Act, approved October 21, 1968, (82 Stat. 1204; D.C. Official Code § 2-501 et seq.)..

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 or the email address 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;

(c) Certified mail, return receipt requested; or

(d) Electronic mail where the registrant or their resident or counsel has agreed to accept service by email.

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;

(b) The certificate of the serving party or that party's counsel; or

(c) A return receipt if service is made by certified mail; or

(d) An acknowledgment of receipt by responding to the email that is sent to the registrant or their resident agent or counsel in accordance with § 1003.5(d).

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 service is by electronic mail, it shall be deemed to have been served on the day and time that the email is sent to the registrant or their resident agent or counsel.

1004.10 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.

1004.11 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.

1004.12 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 in accordance with the District of Columbia Administrative Procedure Act, approved October 21, 1968, (82 Stat. 1204; D.C. Official Code § 2-501 et seq.)..

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

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

1100 MEDICAL MARIJUANA PATIENT RECORDS

1100.1 The Board shall maintain a confidential list of qualifying patients and caregivers to whom it has issued registration identification cards.

1100.2 All information obtained by the Board relating to qualifying patients and caregivers shall be confidential and subject to the protections of the District's privacy laws and privileges, including specifically the following:

(a) Applications and supporting information submitted by qualifying patients and caregivers;

(b) Individual names and other identifying information about qualifying patients and caregivers;

(c) Certifications issued by practitioners;

(d) Information on identification cards; and

(e) Information relating to the qualifying patient's medical condition(s).

1100.3 To the extent consistent with District and federal law, ABRA employees may access confidential records as necessary to perform their official duties.

1100.4 The Board shall verify to law enforcement personnel whether a registration identification card is valid.

1100.5 The Board may disclose confidential information in the course of any judicial or administrative proceeding in response to an order of the court, provided that the Board discloses only the information expressly authorized by such order.

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 authorized practitioners, 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 the

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 the 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 a 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:

(a) The Director of the Department of Behavioral Health or his or her designee;

(b) The Director of the Department of Health or his or her designee;

(c) The Director of ABRA or his or her designee;

(d) Two (2) members appointed by the City Administrator, one (1) of which shall be a member of a dispensary; cultivation center, or testing laboratory; and

(e) Two (2) members appointed by ABRA's Director who shall be District residents and possess either a medical or science background that is relevant to the medical marijuana industry.

1400.2 The Director of ABRA or his or her 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) 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

(b) 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 repealed.

Section 1403, MEDICAL MARIJUANA ADVISORY COMMITTEE HEARING ON PETITIONS, is repealed.

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.l 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 assigned, 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 5101.4 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, 2022, 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 forty-five (45) days for public comment once every three (3) years on an applicant for a dispensary, cultivation center, or testing laboratory's renewal. The renewal ANC comment period for each registration listed below shall occur sequentially every three (3) years starting with the following dates:

License Class	Licensure Period	Ending Year
Dispensary	Jan. 1 to Dec 31	2023
Cultivation Center	Jan. 1 to Dec. 31	2024
Testing Laboratory	Jan. 1 to Dec. 31	2025

5101.4 The notice to the ANCs set forth in § 5101.3 of this chapter on a renewal application shall be provided to the ANCs not later than forty-five (45) 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 forty-five (45) 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.

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.

A new subsection 5105.6 is added to read as follows:

5105.6 A medical marijuana certification provider permit shall be valid for three (3) years.

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.

5107.2 The written notice shall be given at least forty-five (45) 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 forty-five (45) day ANC comment period.

5107.3 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.

5107.4 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 ANC's forty-five (45) 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 forty-five (45) day comment period, the Board shall require the reposting of the notices and shall restart the forty-five (45) 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 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.

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 to 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).

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 its 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 its 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 applications 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 had a felony conviction for a crime of violence, a gun offense, tax evasion, fraud, or credit card fraud within the 3 years preceding the date the application is filed with ABRA;

(d) The applicant has paid the annual fee;

(e) The applicant is not a licensed authorized practitioner 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 Chapter.

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) subject to the exceptions specified in D.C. Official Code § 47-2862(b).

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 *District of Columbia Register*. The period selected by the Board shall not be extended.

5401.2 Until June 1, 2022, 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 period specified by the Board by notice in the *District of Columbia Register*; such period shall not be extended. After June 1, 2022, the Board shall no longer require applicants to submit a Letter of Intent prior to submitting an application for a new cultivation center, dispensary, or testing laboratory.

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. This subsection shall expire on June 1, 2022.

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 *District of Columbia Register* setting forth the process for submission of the applications, which shall include:

(a) Until June 1, 2022, 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) Until June 1, 2022, 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. After June 1, 2022, an applicant shall no longer be required to submit a Letter of Intent to the Board to file an application.

(c) Until June 1, 2022, 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 *District of Columbia 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 Until June 1, 2022, 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.

Subsection 5401.11 is added and shall read as follows:

5401.11 A motion for reconsideration may be filed by the applicant within ten (10) calendar days of receipt of the denial of the Letter of Intent.

Subsection 5401.12 is added and shall read as follows:

5401.12 The motion for reconsideration filed in accordance with § 5401.11 shall be in writing.

Subsection 5401.13 is added and shall read as follows:

5401.13 The Board shall grant a motion for reconsideration for good cause shown.

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), the Department of Buildings (DOB), Department of Health (DOH), 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, DOB, Department of Forensic Sciences (DFS), DOH, 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. 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 Superior Court.

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 Superior Court.

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 a nonrefundable application fee of one thousand dollars ($1,000) at the time the cultivation center or dispensary application is filed with the Board. The remaining amount of the total application fee of eight thousand dollars ($8,000) shall be submitted within thirty (30) days of being selected by the Board

for a cultivation or a dispensary registration.

5402.16 An applicant submitting a testing laboratory registration application shall be required to submit a nonrefundable application fee of one thousand dollars ($1,000) at the time the testing laboratory application is filed with the Board. The remaining amount of the total application fee of three thousand five hundred dollars ($3,500) shall be submitted within thirty (30) days of being selected by the Board for the testing laboratory registration.

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 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 those sections. (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).

(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) 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) 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) points).

(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 an equity impact enterprise by the Department of Small and Local Business Development (DSLBD).

(B) To qualify as a medical marijuana CBE, an applicant shall be required to meet all of the criteria set forth in D.C. Official Code § 7-1671.06(d)(5)(C).

(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 laws 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 deliver medical marijuana safely and securely 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 ANC's concerns or support regarding the potential adverse impact of the proposed location to the neighborhood. (up to twenty (20) points);

(B) Measure 2: The ANC's 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) 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) points).

(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 an equity impact enterprise by the Department of Small and Local Business Development (DSLBD).

(B) To qualify as a medical marijuana CBE, an applicant shall be required to meet all of the criteria set forth in D.C. Official Code § 7-1671.06(d)(5)(C).

(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 center's 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 describes the method(s) used to test medical marijuana and medical marijuana products, and report testing results; this includes but is not limited to standing operating procedures (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 subtitle 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):

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);

(A) 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

(B) 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 ANC's concerns or support regarding the potential adverse impact of the proposed location to the neighborhood. (up to twenty (20) points);

(B) Measure 2: The ANC's 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).

(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 an equity impact enterprise by the Department of Small and Local Business Development (DSLBD).

(B) To qualify as a medical marijuana CBE, an applicant shall be required to meet all of the criteria set forth in D.C. Official Code § 7-1671.06(d)(5)(C).

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.l 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 may amend or correct the application package prior to the application filing deadline. Once the application filing deadline passes, no further amendments or corrections shall be submitted to the Board, except in accordance with § 6001.9.

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, DOB, and Department of Health.

Section 5408, DIRECTOR, OFFICER, MEMBER, INCORPORATOR, AND AGENT REGISTRATION REQUIREMENTS, is amended as follows:

Subsection 5408.l is amended by striking the phrase "the Department" and inserting the phrase "the Board" wherever it appears.

New subsection 5408.3 is added to read as follows:

5408.3 During the pendency of the 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 crime of violence, a gun offense, tax evasion, fraud, or credit card fraud within the three (3) years prior to filing the application; and

(2) Has not previously had their authority to participate in the Medical Marijuana Program revoked by Department of Health or the Board.

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 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.

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 CHECKS, 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 renamed amended as follows:

5413 RESTRICTIONS ON OWNERSHIP AND HOLDING A CONFLICT OF INTEREST

5413.1 No person shall hold, own, control, or have any beneficial or other financial interest in more than one (1) dispensary.

5413.2 No person shall hold, own, control, or have any beneficial or other financial interest in more than one (1) testing laboratory.

5413.3 The holder of a testing laboratory registration shall not hold, own, control, or have any beneficial or other financial interest in any cultivation center or dispensary.

5413.4 The holder of a cultivation center registration may hold, own, control, or have a beneficial or other financial interest in up to one (1) additional dispensary registration.

5413.5 No person shall, whether in whole or in part, hold, own, or control more than twenty percent (20%) of all cultivation center registrations.

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" wherever it appears.

A new section 5419, CONTINUANCES, is added to read as follows:

5419.1 The Board may, on the request of both an affected ANC and the applicant, extend an affected ANC's comment period deadline for the sole purpose of allowing the ANC to vote on and provide comment on a dispensary, cultivation center, or testing laboratory 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" wherever it appears.

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" wherever it appears.

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" wherever it appears.

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 an 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.l 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 5607.13 is amended to read as follows:

5607.13 The cultivation center shall place medical marijuana products in tamper-proof, heat-sealed packaging prior to transporting the products to the dispensary, and the packaging shall remain in that state until purchased by a qualifying patient or his or her caregiver for the qualifying patient's use.

Subsection 5607.14 is amended to read as follows:

5607.14 The dispensary shall not open the medical marijuana package prior to being sold to the qualifying patient or his or her caregiver, except for purposes of adding the barcode and patient labels.

Subsection 5607.16 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 "Department of 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 5608.3 is amended to read as follows:

5608.3 Marijuana-infused products that are likely to appeal to minors by virtue of their shape, design, or flavor are prohibited.

Subsection 5608.4 is amended to read as follows:

5608.4 Brightly colored marijuana-infused products shall be prohibited.

Subsection 5608.5(a)(2) is amended to read as follows:

5608.5(a)(2) Products in the shape of an animal, vehicle, person, fruit, or character;

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

(d) That contains more than 200mg of THC per package except as provided in subsection 5608.7.

Subsection 5608.6(c) is amended to read as follows:

(c) Each serving size piece shall contain a maximum of 20 mg of THC; and

A new subsection 5608.7 is added to read as follows:

5608.7 The sale of an ingestible item containing either a serving size piece of more than 20 mg of THC or more than 200 mg of THC per package shall be permitted as follows:

(a) Notwithstanding the THC limits set forth in subsections 5608.5 and 5608.6, a cultivation center may apply to the Board to manufacture, sell, and transfer to dispensaries ingestible items that may be sold only to registered patients with a written recommendation from an authorized practitioner, and that contain:

(1) Serving size pieces with a maximum of 50 mg of THC; and

(2) No more than 500 mg of THC per package.

(b) It shall be a violation of this title for a dispensary to sell ingestible items containing more than 20 mg of THC per serving size piece or 200 mg of THC per package to a registered patient that does not possess a valid written recommendation from an authorized practitioner.

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 forty-eight (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.l 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(U) 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.

A new Section 5622, INVENTORY, is added to read as follows:

5622.1 Each cultivation center, dispensary, and testing laboratory shall be required to develop, implement, and maintain, on its registered premises, a real-time inventory control plan, which shall:

(a) Establish inventory controls and procedures it will use to conduct inventory reviews and verify the cultivation center's, dispensary's or testing laboratory's cultivated, stored, useable and unusable marijuana and marijuana products that are in its possession; and

(b) Include its procedures for storing marijuana and marijuana products and preventing theft and diversion.

5622.2 Each cultivation center, dispensary and testing laboratory shall be responsible for inputting and maintaining in the District's seed-to-sale tracking system an accurate inventory in real time of all marijuana and marijuana products in the possession of the cultivation center, dispensary, or testing laboratory. This inventory shall include all marijuana and marijuana products available for cultivation, finished usable marijuana and marijuana products available for sale, immature and mature plants, and unusable marijuana and marijuana products at the registered premises.

5622.3 In entering inventory into the District's seed-to-sale tracking system, pursuant to § 5600.2, a cultivation center, dispensary or testing laboratory shall include damaged, defective, expired, or adulterated marijuana or marijuana products awaiting disposal, including the name, the quantity, and the reasons for which the cultivation center, dispensary, or testing laboratory is maintaining the marijuana or marijuana products.

5622.4 In tracking its marijuana and marijuana products inventory, a cultivation center, dispensary or testing laboratory shall:

(a) Update marijuana and marijuana product inventories on at least a daily basis;

(b) Conduct a monthly inventory audit of cultivated, stored, useable and unusable marijuana and marijuana products; and

(c) Conduct a comprehensive annual inventory audit at least once a year.

5622.5 The record of an inventory audit conducted pursuant to this section shall include, at a minimum, the date of the audit, a summary of the audit findings, and the name, signature, and title of the person(s) who conducted the audit.

5622.6 A dispensary, cultivation center or testing laboratory that becomes aware of a reportable loss, discrepancies identified during an audit, diversion, or theft, whether or not the marijuana or marijuana products are subsequently recovered and/or the responsible parties are identified, shall notify the Board and MPD within twenty-four (24) hours pursuant to the procedures set forth in subsections 5605.4 and 5610.3.

5622.7 For the purpose of this section, the phrase "unusable marijuana and marijuana products" means the seeds and roots of the cannabis plant, as well as any products derived therefrom.

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.

Section 5703, DELIVERY OF MEDICAL MARIJUANA, is amended to read as follows:

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 in which they reside or to a District resident who possesses a medical marijuana card that was not issued by Department of 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 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, by checking their medical marijuana registration card and comparing it to their records in order to ensure that the information matches;

(2) Verify that the delivery address is a residence or a commercial building address in the District that is not on Federal or District Government property or public or private school grounds;

(3) 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;

(4) Verify that the patient's requested amount does not exceed the patient's rolling thirty (30)-day limit of eight ounces (8 oz.) ;

(5) 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

(6) 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 or District Government 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 patient or caregiver ordering the medical marijuana shall be physically present at the residence or the commercial building in the District where medical marijuana can be lawfully delivered. For purposes of this paragraph, "physically present at the residence" includes the residence's porch, driveway, or yard. The phrase does not include any place that is not included within the residence's property line, including the sidewalk or the curb.

(m) 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.;

(n) 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;

(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; and

(r) 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 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 eight (8) 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-PREMISES 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 to read 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.

5707.7 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.

5707.8 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.

5707.9 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 their job.

5707.11 For non-emergency repairs, a dispensary that is not open to the public, a cultivation center, or a testing laboratory shall provide notice to ABRA before allowing 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.

5707.12 For the purposes of this section, an emergency repair is one that needs to be performed in order to prevent a risk of injury, a risk to the health of any person, property damage, or other conditions that would necessitate the closing of the facility.

Section 5708, COMPENSATION OR GIFTS TO AUTHORIZED PRACTITIONERS, is renamed and 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 an authorized practitioner 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 authorized practitioners.

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 eight ounces (8 oz.) of dried medical marijuana, or the equivalent of eight ounces (8 oz) 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 5801.2 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, ABRA's Enforcement Division, or any other District agency that may have jurisdiction over the establishment, including Office of Tax and Revenue, Department of Consumer and Regulatory Affairs, and D.C. Fire and Emergency Medical Services, 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 OF 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 D.C. Superior Court 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 in the District of Columbia Superior Court.

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, 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 § 6002.1. If after receiving notice of the action, the registrant fails to appear at the evidentiary show cause hearing 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 of the 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 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, 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 with or employed by 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 renamed 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 an 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* 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 Procedure Act, effective October 21, 1968, (82 Stat. 1204; D.C. Official Code § 2-501 et seq.).

Section 6203, NOTICE OF SUMMARY SUSPENSION ACTION AND HEARING, is Renamed and 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, 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 Act, effective October 21, 1968 (82 Stat.1204; D.C. Official Code § 2-501 et seq.).

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 Act, effective October 21, 1968 (82 Stat 1204; D.C. Official Code § 2-501 et seq.).

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 Notwithstanding § 6204.1, the Board may serve the registrant by electronic mail if they agree to accept service by email. Service shall be sent to the email address on file or the registrant or their resident agent or counsel and shall be deemed served on the date and time stated on the email.

6204.3 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.

6204.4 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.

6204.5 The Board shall make its findings of fact based upon the evidence which has been presented to it.

6204.6 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.

6204.7 An offer submitted by the parties and accepted by the Board shall constitute a waiver of appeal and judicial review.

6204.8 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, or any other District agency with jurisdiction over the establishment, a full opportunity to investigate, inspect, and examine, at any time during business hours and other times of apparent activity:

Subsections 6207.3 and 6207.4 are 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.

6207.4 Notwithstanding § 6207.3, the establishment may store its books and records electronically; provided that they provide the ABRA investigator, Metropolitan Police Department Officer, or an employee of any other District agency with jurisdiction over the program with access to the to the electronic records during normal business hours and produce the physical books and records within forty-eight (48) hours of notice of the inspection.

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, registrant, 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, SLIDING 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 cannabis certified business enterprise or is eligible to qualify as a medical cannabis 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:

Active Medical Marijuana Program - a program established by a state or U.S. territory that allows the use of marijuana for one's medical needs.

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 a 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 and issued an official card by a local, state, federal government entity recognizing their participation in the jurisdiction's medical marijuana program; provided, that a patient from another jurisdiction shall not be a qualifying patient if ABRA determines that there is a shortage of medical marijuana or the real-time electronic records system referenced in section 6(4)(A) of the Act (D.C. Official Codes § 7- 1671.05(4)(A)) 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.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL

BRIAN L. SCHWALB
ATTORNEY GENERAL

PRIVILEGED AND CONFIDENTIAL
ATTORNEY-CLIENT COMMUNICATION

LEGAL COUNSEL DIVISION

MEMORANDUM

TO: **Tommy Wells**
Director
Office of Policy and Legislative Affairs

FROM: **Megan D. Browder**
Deputy Attorney General
Legal Counsel Division

DATE: **April 13, 2023**

SUBJECT: **Legal Sufficiency Review – Draft "Medical Cannabis Regulations Approval Resolution of 2023"**
(AE-21-199 J)

This is to Certify that this Office has reviewed the above-referenced draft legislation and found it to be legally sufficient. If you have any questions in this regard, please do not hesitate to call me at (202) 724-5524.

Megan D. Browder

Megan D. Browder

Government of the District of Columbia
Office of the Chief Financial Officer

Glen Lee
Chief Financial Officer

MEMORANDUM

TO:	**The Honorable Phil Mendelson** **Chairman, Council of the District of Columbia**
FROM:	**Glen Lee** **Chief Financial Officer**
DATE:	**May 4, 2023**
SUBJECT:	**Fiscal Impact Statement – Medical Cannabis Regulations Approval Resolution of 2023**
REFERENCE:	**Draft Resolution as provided to the Office of Revenue Analysis on April 3, 2023**

Conclusion

Funds are sufficient in fiscal year 2023 budget and proposed fiscal year 2024 through fiscal year 2027 budget and financial plan to implement the proposed resolution.

Background

Since 2010, the District of Colombia has had a medical marijuana program for qualifying patients, caregivers, and authorizing prescribers[1]. In 2020, responsibility for administering the District's medical marijuana program was transferred from the Department of Health to the Alcohol Beverage and Cannabis Administration (ABCA) and the Alcoholic Beverage and Cannabis Control Board (the Board)[2].

Since 2020, the Board has issued Notices of Emergency and Proposed Rulemaking (NOEPR) governing operation of the program to ensure that patients could continue to receive medical marijuana without interruption during the transition of the medical marijuana program from the Department of Health to ABCA, and to ensure timely access through the pandemic. The District also

[1] As provided by 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.)).
[2] Medical Marijuana Program Administration Amendment Act of 2020, effective December 3, 2020 (D.C. Law 23-149; D.C. Official Code 25-204.02).

enacted the Medical Cannabis Amendment Act of 2022 (Act)[3]. The Board has now determined that additional substantive revision is needed for ABCA to execute the medical marijuana program going forward, including to update for the Act. The rulemaking would largely make permanent regulations currently in effect under emergency rulemaking. If the resolution is adopted by Council, the agency would proceed to final rulemaking.

The rulemaking proposes to make permanent the requirements for applying for and receiving a registration identification card for the medical marijuana program (for patients and authorized caregivers); outline the use and limitations on medical marijuana (including adding a new requirement restricting operation of scooters, bicycles, and e-bicycles); provides requirements for disposal; and outline actions which would result in suspension or revocation of the card. The rulemaking also makes permanent a policy to allow individuals to obtain medical marijuana at District dispensaries if they have a card indicating active certification in another state's medical marijuana program.

The rulemaking establishes requirements for qualifying cultivation centers, dispensaries, and testing laboratories. The rulemaking permits up to 8 dispensaries, 14 cultivation centers and 2 testing laboratories to operate in the District. These license limits are unchanged from the prior regulation in effect.

The rulemaking sets out the requirements for licensing of cultivation centers, dispensaries, and testing laboratories. Applicants for a medical marijuana business license cannot have had a felony conviction within the last three years for a crime of violence, a gun offense, tax evasion, fraud, or credit card fraud. This requirement is a change from the rulemaking previously in effect, which prohibited applicants from qualifying if they had any felony conviction since 2014 (except for a conviction for possession). The rulemaking establishes the process that the Board will use to receive, review, and grade applications for licenses and how licenses will be awarded.

The rulemaking establishes requirements for the operation of dispensaries, including restrictions on hours of operations, the process for purchases and deliveries, requirements for staff qualifications and criteria, and training requirements. The rulemaking also establishes a new inventory control plan requirement for cultivation centers, dispensaries, and testing laboratories. The rulemaking increases the amount of marijuana a dispensary can provide to a patient from 4 ounces to 8 ounces per rolling 30-day period.

A new section places constraints on the type, decoration, and display of consumable forms of marijuana (such as infused or edible products). Consumable products cannot be prepared or displayed in ways that are designed to be attractive to children, such as bright colors, animal shapes or flavors. The rulemaking also limits the amount of THC that can be included in a consumable or infused item available for purchase.

Financial Plan Impact

The resolution will approve rulemaking which makes final many provisions already in place via temporary regulation. New policies included in the proposed rulemaking include changes in the total allowable amount of marijuana purchased per 30-day period for an eligible patient; a requirement for an inventory control plan at dispensaries; limits on the marketing and sale of consumable

[3] Law 24-332, effective March 22, 2023

products that are designed to appeal to children; and changes to the licensing requirements for dispensaries, cultivation centers and testing laboratories. These additional requirements can be absorbed within ABCA's current budget and financial plan.