

# **DISTRICT OF COLUMBIA MUNICIPAL REGULATIONS**

  

## **FOR THE MEDICAL MARIJUANA PROGRAM**

**This document does not contain all of the laws and regulations that pertain to, or affect the Medical Marijuana Program.**

**You should consult with your own legal adviser to be sure that you are aware of all laws and regulations pertaining to the District's Medical Marijuana Program.**

**The Department of Health does not provide legal advice to the public.**

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## SUBTITLE C      MEDICAL MARIJUANA

### CHAPTER 1      DEPARTMENT OF HEALTH GENERAL PROVISIONS

#### **100      APPLICABILITY AND SANCTIONS**

- 100.1      This chapter shall apply to applicants for and holders of a qualifying patient or caregiver registration to possess, use, administer, or dispense medical marijuana in the District of Columbia, and to recommending physicians who provide written recommendations for the use of medical marijuana under the Act.
- 100.2      No person shall possess, use, administer, or dispense marijuana in any form for the purpose of a medical use unless the person is registered with the District of Columbia government under the Act.
- 100.3      Any person who possesses or uses marijuana or its paraphernalia in a manner not authorized by the Act or without a medical marijuana registration card shall be subject to criminal prosecution and sanctions.
- 100.4      Any person who makes a fraudulent representation to a law enforcement official of any fact or circumstance relating to the person's use or possession of medical marijuana or use of paraphernalia to avoid arrest or prosecution shall be subject to a criminal fine not to exceed one thousand dollars (\$1,000.00); which shall be in addition to any other penalties that may apply.

- 100.5 The Department of Health (Department) may impose sanctions and civil fines under the Civil Infractions Act for any infraction under this subtitle, not to exceed two thousand (\$2,000.00) per first offense violation.
- 100.6 The Director may, at his discretion, obtain assistance to discharge his responsibilities under this title through entering into Memoranda of Understanding with other DC government agencies or by contracting with non-government entities.

## CHAPTER 2 CONDITIONS OF REGISTRATION

### 200 GENERAL PROVISIONS

- 200.1 A registration identification card shall not be transferable.
- 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 Director.
- 200.3 As part of the registration process, applicants shall sign a written statement certifying that the applicant assumes any and all risk or liability that may result under District of Columbia and federal laws from the possession, use, administration, or dispensing of medical marijuana. The applicant shall further acknowledge that he or she understands that the medical marijuana laws and enforcement thereof of the District of Columbia and the Federal government are subject to change at any time.
- 200.4 The applications for a patient or caregiver registration shall specifically recite verbatim, each of the following notices:
- (a) **Limitation of Liability** – The District of Columbia shall not be liable to the registrant, its employees, agents, business invitees, licensees, customers, clients, family members or guests for any damage, injury, accident, loss, compensation or claim, based on, arising out of or resulting from registrant's participation in the District of Columbia's medical marijuana program, including but not limited to the following: arrest and seizure of persons and/or property, prosecution pursuant to federal laws by federal prosecutors, interruption in registrant's ability to operate its medical marijuana cultivation center and/or dispensary; any fire, robbery, theft, mysterious disappearance or any other casualty; the actions of any other registrants or persons within the cultivation center and/or dispensary. This Limitation of Liability provision shall survive expiration or the earlier termination of this registration if such registration is granted; and

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

200.5 As part of the registration process, every applicant for either a patient or caregiver registration shall sign a written statement attesting to the following:

- (a) The applicant acknowledges receipt and advisement of the notices set forth in § 200.4;
- (b) The applicant agrees to and accepts the limitation of liability against the District, as set forth in § 200.4;
- (c) The applicant assumes any and all risk or liability that may result under District of Columbia or federal laws arising from the possession, use, cultivation, administration, or dispensing of medical marijuana;
- (d) The applicant understands that the medical marijuana laws and enforcement thereof of the District of Columbia and the Federal government are subject to change at any time; and
- (e) The applicant chooses to sign this attestation willingly and without reservation and is fully aware of its meaning and effect.

200.6 Execution of the attestation set forth in § 200.5 shall be a required element of each application for a patient or caregiver registration.

200.7 As part of the registration process, a qualifying patient shall designate the dispensary from which he or she will receive medical marijuana, and this designation shall appear on the qualifying patient's registration card and, if applicable, the caregiver's registration card.

200.8 A qualifying patient may change his or her designated dispensary by providing fourteen (14) calendar days written notice to the Department on a patient change of information form provided by the Department as set forth in § 200.7 of this chapter.

200.9 Within fourteen (14) calendar days of any change in the qualifying patient's name, address, caregiver, recommending physician, or designated dispensary, a qualifying patient who has been issued a registration identification card shall:

- (a) Submit a completed patient change of information form to the Department, and include as applicable:
  - (1) Designation of a new dispensary;
  - (2) Designation of a new caregiver; or
  - (3) A recommendation form from the new recommending physician;
- (b) Surrender his or her current registration identification card to the Department;
- (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.

200.10 Within fourteen (14) calendar days of receiving notice of a qualifying patient's change of name, address, recommending physician, or designated dispensary, the patient's registered caregiver shall:

- (a) Submit a written request for a new registration identification card to the Department on a form provided by the Department;
- (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.

200.11 Within fourteen (14) calendar days of the recommending physician declaring that a qualifying patient no longer suffers from a qualifying medical condition or treatment, the qualifying patient shall:

- (a) Surrender his or her registration card to the Department;
- (b) Notify his or her registered caregiver of the change; and
- (c) Return any unused medical marijuana to the District of Columbia Metropolitan Police Department.

200.12 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 Department shall send written notice via U.S. Postal Service certified mail to the caregiver's address on file with



the Department. 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.

- 200.13 Within fourteen (14) calendar days after receiving notice that a qualifying patient has designated a different individual to serve as his caregiver or that qualifying patient no longer suffers from a qualifying medical condition or treatment, the caregiver shall:
- (a) Surrender his or her registration card to the Department; and
  - (b) Return any unused medical marijuana to the District of Columbia Metropolitan Police Department.
- 200.14 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 Director or his or her designee;
  - (b) Submit the required written notification reporting forms to the Department within seventy-two (72) hours after the initial discovery;
  - (c) Pay the required fee; and
  - (d) Be issued a new registration identification card.
- 200.15 Within fourteen (14) calendar days after any change in a caregiver's name or address, he or she shall:
- (a) Notify the Department 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**

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

- 300.1 A qualifying patient shall only possess and administer medical marijuana, or use paraphernalia, for treatment of a qualifying medical condition or the side effects of a qualifying medical treatment after:
- (a) Obtaining a signed, written recommendation from a physician in accordance with this chapter; and

(b) Registering with the Department.

- 300.2 A qualifying patient or caregiver shall only possess, administer, or dispense medical marijuana, or possess or use paraphernalia, obtained from the registered dispensary designated on his or her registration identification card.
- 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 or cultivation center.
- 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; or
  - (b) At a medical treatment facility when receiving medical care for a qualifying medical condition, if permitted by the medical facility.
- 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 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 For purposes of determining whether a dwelling or dwelling unit is the qualifying patient's residence as defined by the Act, when at issue, the Department may consider documentation and information of the same nature and type as is required to prove District residency under this subtitle.
- 300.8 A qualifying patient who is a minor shall only possess and administer medical marijuana if the parent or legal guardian of the minor has signed a written statement affirming that the parent or legal guardian:
- (a) Understands the qualifying medical condition or qualifying medical treatment of the minor;
  - (b) Understands the potential benefits and potential adverse effects of the use of medical marijuana in general, and specifically, in the case of the minor;
  - (c) Consents to the use of medical marijuana for the treatment of the minor's qualifying medical condition or treatment of the side effects of the minor's qualifying medical treatment; and
  - (d) Consents to, or designates another adult to, serve as the caregiver for the

qualifying patient and the caregiver controls the acquisition, possession, dosage, and frequency of use of medical marijuana by the qualifying patient.

- 300.9 The maximum amount of medical marijuana any qualifying patient or caregiver may possess at any time is:
- (a) Four (4) ounces of dried medical marijuana; or
  - (b) The equivalent of four (4) ounces of dried medical marijuana when sold in any other form.
- 300.10 Repealed.
- 300.11 Nothing in the Act or this subtitle shall be construed as permitting a qualifying patient to:
- (a) Undertake any task under the influence of medical marijuana when doing so would constitute negligence or professional malpractice; or
  - (b) Operate, navigate, or be in actual physical control of any motor vehicle, aircraft, or motorboat while under the influence of medical marijuana.
- 300.12 A qualifying patient or caregiver shall not engage in abusive, intimidating, threatening, or disruptive conduct while on the premises of a dispensary.
- 300.13 A dispensary shall have the right to refuse service to a qualifying patient or caregiver who:
- (a) Engages in abusive, intimidating, threatening, or disruptive conduct while on the premises of a dispensary;
  - (b) Presents a registration identification card that appears to have been tampered with or altered; or
  - (c) For other good cause shown.
- 300.14 After refusing to provide service to a patient or caregiver pursuant to § 300.12, the dispensary shall notify the Department in writing within twenty-four (24) hours or one (1) business day of refusing service, and provide full information and details as to the basis for the refusal.
- 300.15 No qualifying patient or caregiver shall use butane or other explosive gases to extract or separate resin from marijuana, or tetrahydrocannabinol from marijuana, or in any other manner.

**CHAPTER 4 DISPOSAL OF MEDICAL MARIJUANA****400 DISPOSAL OF MEDICAL MARIJUANA BY QUALIFYING PATIENTS AND CAREGIVERS**

- 400.1 A qualifying patient or caregiver who is no longer registered with the program or eligible for registration with the program shall within fourteen (14) calendar days after he or she ceases to be registered or eligible for registration with the Department return any unused medical marijuana in his or her possession to the District of Columbia Metropolitan Police Department.
- 400.2 A qualifying patient or caregiver whose registration has been summarily suspended or revoked by the Department shall within twenty-four (24) hours after receiving notice of the suspension or revocation return any unused medical marijuana in his or her possession to the District of Columbia Metropolitan Police Department.
- 400.3 A qualifying patient or caregiver who is no longer registered with the Department shall not transfer, share, give, or deliver any unused medical marijuana in his or her possession to another qualifying patient or caregiver for medical use or destruction whether or not the person is registered with the District's Medical Marijuana Program.
- 400.4 A qualifying patient or caregiver shall not dispose of medical marijuana in any manner other than permitted under this chapter.

**CHAPTER 5 QUALIFYING PATIENTS****500 QUALIFICATION FOR PATIENT REGISTRATION**

- 500.1 To qualify for a patient registration identification card, an applicant shall:
- (a) Be a bona fide resident of the District of Columbia at the time of application and remain a bona fide resident during treatment with medical marijuana;
  - (b) Have a qualifying medical condition or be undergoing a qualifying medical treatment;
  - (c) Have a signed, written physician's recommendation for the use of medical marijuana meeting the requirements of this chapter; and
  - (d) If the qualifying patient is a minor, the signed written consent of his or her parent or legal guardian.

**501 RESIDENCY**

- 501.1 For purposes of this subtitle, a patient shall be a resident of the District of Columbia if the individual:
- (a) Is physically present in the District of Columbia;
  - (b) Has taken verifiable actions to make the District his or her home indefinitely with no present intent to reside elsewhere; and
  - (c) Is not merely present in the District for the sole purpose of obtaining medical marijuana.
- 501.2 In proving bona fide District residency, an applicant shall submit at least two (2) of the following items:
- (a) Proof of payment of District of Columbia personal income tax, in the name of the applicant, for the tax period closest in time to the application date;
  - (b) A property deed for a District of Columbia residence showing the applicant as an owner or co-owner;
  - (c) A valid unexpired lease or rental agreement in the name of the applicant on a District of Columbia residential property;
  - (d) A pay stub issued less than forty-five (45) days prior to the application date which shows evidence of the applicant's withholding of District income tax;
  - (e) A voter registration card with an address in the District of Columbia;
  - (f) Current official documentation of financial assistance received by the applicant from the District Government including, but not limited to Temporary Assistance for Needy Families (TANF), Medicaid, the State Child Health Insurance Program (SCHIP), Supplemental Security Income (SSI), housing assistance, or other governmental programs;
  - (g) A current motor vehicle registration in the name of the applicant evidencing District residency;
  - (h) A valid unexpired District motor vehicle operator's permit or other official non-driver identification in the name of the applicant;
  - (i) Utility bills (excluding telephone bills) from a period within the two (2) months immediately preceding the application date in the name of the applicant on a District of Columbia residential address; or

- (j) Any other reasonable form of verification deemed by the Director or the Director's agent to demonstrate proof of current residency.

## **502 QUALIFYING PATIENTS APPLICATION**

502.1 To apply for a patient registration identification card, an applicant shall submit a completed application to the Department on the required forms, which shall include:

- (a) The applicant's social security number, or if the applicant does not have a social security number, the applicant shall:
  - (1) Submit with the application a sworn affidavit, under penalty of perjury, stating that he or she does not have a social security number; and
  - (2) Provide the Department with his or her social security information once a social security number has been obtained;
- (b) Two (2) recent passport-type photographs of the applicant's face measuring two inches by two inches (2 in. x 2 in.), which clearly expose the area from the top of the forehead to the bottom of the chin;
- (c) 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;
- (d) Proof of District residency, including his or her District of Columbia residential address which shall not be a post office box number;
- (e) A signed and dated written physician's recommendation for the use of medical marijuana meeting the requirements of this chapter, that is dated not more than ninety (90) days prior to the application date;
- (f) Designation of the dispensary where the qualifying patient will receive his or her medical marijuana;
- (g) Designation of the individual who will serve as his or her caregiver, if applicable; and
- (h) Payment of the required application fee.

502.2 To apply for a registration identification card for a minor, the parent or legal guardian of the minor shall submit a completed application to the Department on the required forms, which shall include:

- (a) The minor and parent or legal guardian's social security numbers, or if the applicant does not have a social security number, the applicant shall:
  - (1) Submit with the application a sworn affidavit, under penalty of perjury, stating that he or she does not have a social security number; and
  - (2) Provide the Department with his or her social security information once a social security number has been obtained;
- (b) Two (2) recent passport-type photographs of the minor's face measuring two inches by two inches (2 in. x 2 in.), which clearly expose the area from the top of the forehead to the bottom of the chin;
- (c) 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;
- (d) Proof of the minor and parent or legal guardian's District residency, including his or her District of Columbia residential address which shall not be a post office box number;
- (e) A signed and dated written physician's recommendation for the use of medical marijuana meeting the requirements of this chapter, that is dated not more than ninety (90) days prior to the application date;
- (f) Designation of the individual who will serve as the minor's caregiver;
- (g) Designation of the dispensary where the qualifying patient will receive his or her medical marijuana;
- (h) The signed, written statement of the minor's parent or legal guardian affirming that he or she:
  - (1) Understands the qualifying medical condition or qualifying medical treatment of the minor;
  - (2) Understands the potential benefits and potential adverse effects of the use of medical marijuana, in general, and specifically, in the case of the minor;
  - (3) Consents to the use of medical marijuana for the treatment of the minor's qualifying medical condition or treatment of the side effects of the minor's qualifying medical treatment; and
  - (4) Consents to, or has designated another adult to, serve as the

caregiver for the qualifying patient and that the caregiver will control the acquisition, possession, dosage, and frequency of use of medical marijuana by the qualifying patient; and

- (i) Payment of the required application fee.

502.3 The minor's designated caregiver shall also register with the Department and obtain a caregiver registration identification card.

## **CHAPTER 6 CAREGIVERS**

### **600 LIMITATIONS ON CAREGIVERS**

600.1 A caregiver shall only possess and dispense medical marijuana to a qualifying patient, and possess and use paraphernalia, for the sole purpose of assisting in the administration of medical marijuana to a qualifying patient in accordance with the Act and this subtitle.

### **601 CAREGIVER QUALIFICATIONS**

601.1 To qualify for a caregiver registration identification card, an applicant shall:

- (a) Be designated by a qualifying patient to serve as the person authorized, on the qualifying patient's behalf, to possess, obtain from a dispensary, dispense, and assist in the administration of medical marijuana;
- (b) Be registered with the Department as the qualifying patient's caregiver;
- (c) Not be currently serving as the caregiver for another qualifying patient;
- (d) Be at least eighteen (18) years of age; and
- (e) Have never been convicted of possession or sale of a controlled substance, unless such conviction occurred after the effective date of the Act and was related to the possession of marijuana that is authorized under the Act.

### **602 CAREGIVER APPLICATION**

602.1 To apply for a caregiver registration identification card, an applicant shall submit a completed application to the Department on the required forms, which shall include:

- (a) The applicant's social security number, or if the applicant does not have a social security number, the applicant shall:



- (1) Submit with the application a sworn affidavit, under penalty of perjury, stating that he or she does not have a social security number; and
- (2) Provide the Department with his or her social security information once a social security number has been obtained;
- (b) Two (2) recent passport-type photographs of the applicant's face measuring two inches by two inches (2 in. x 2 in.), which clearly expose the area from the top of the forehead to the bottom of the chin;
- (c) 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;
- (d) His or her residential address, which shall not be a post office box number;
- (e) Authorization of the Department to conduct a criminal background check, which shall include consent to be fingerprinted in accordance with applicable District and federal laws and regulations; and
- (f) Payment of the required application fee.

602.2 All fees associated with the criminal background check shall be paid by the caregiver.

### **603 MARIJUANA OBTAINED FROM DESIGNATED DISPENSARY**

603.1 A caregiver shall only obtain medical marijuana for the qualifying patient from the dispensary designated on his or her registration identification card 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 changes his or her designated dispensary, or 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 Department and obtain new registration identification cards reflecting the change.

## **CHAPTER 7 REGISTRATION CARDS**

**700 ISSUANCE OF REGISTRATION CARDS**

- 700.1 Upon receipt and approval of a valid and complete application, the Department shall issue a registration identification card to a qualifying patient or caregiver in accordance with the Act and this subtitle.
- 700.2 Subject to § 600.3, a registration identification card issued pursuant to this chapter shall expire one (1) year after the date of issuance, and may be renewed in accordance with the renewal provisions under this chapter.
- 700.3 Unless timely renewed in accordance with the renewal provisions under this chapter, upon expiration of a registration, a qualifying patient or caregiver shall immediately cease from the use or possession of medical marijuana until he or she is issued a new registration identification card from the Department.

**701 CONTENTS OF REGISTRATION CARDS**

- 701.1 A qualifying patient registration identification card shall contain:
- (a) The date of issuance and expiration date;
  - (b) The qualifying patient's full, legal name, and the full, legal name of the patient's caregiver, if applicable;
  - (c) The registration identification number for the qualifying patient and the patient's caregiver, if applicable;
  - (d) The photograph of the qualifying patient;
  - (e) The name and address of the patient's designated dispensary;
  - (f) The District of Columbia medical license number of the recommending physician; and
  - (g) A Department internal authentication identifier.
- 701.2 A caregiver registration identification card shall contain:
- (a) The date of issuance and expiration date;
  - (b) The caregiver's full, legal name, and the qualifying patient's full, legal name;
  - (c) The registration identification number for the caregiver and the qualifying patient;

- (d) The photograph of the caregiver;
- (e) The name and address of the patient's designated dispensary;
- (f) The District of Columbia medical license number of the recommending physician; and
- (g) A Department internal authentication identifier.

## **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 Department 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; and
  - (3) A signed and dated written physician's recommendation for the use of medical marijuana meeting the requirements of this chapter, that is dated not more than ninety (90) days prior to the application date;
- (b) Designate the dispensary where the qualifying patient will receive his or her medical marijuana; and
- (c) 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 Department 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 § 104.3;

- (c) A signed and dated written physician's recommendation for the use of medical marijuana meeting the requirements of this chapter, that is dated not more than ninety (90) days prior to the application date;
- (d) Designation of the individual who will serve as the minor's caregiver;
- (e) Designation of the dispensary where the qualifying patient will receive his or her medical marijuana;
- (f) The signed, written statement of the minor's parent or legal guardian affirming that he or she:
  - (1) Understands the qualifying medical condition or qualifying medical treatment of the minor;
  - (2) Understands the potential benefits and potential adverse effects of the use of medical marijuana, in general, and specifically, in the case of the minor;
  - (3) Consents to the use of medical marijuana for the treatment of the minor's qualifying medical condition or treatment of the side effects of the minor's qualifying medical treatment; and
  - (4) Consents to, or has designated another adult to, serve as the caregiver for the qualifying patient and that the caregiver will control the acquisition, possession, dosage, and frequency of use of medical marijuana by the qualifying patient; and
- (g) Payment for the required application fee;

702.4 The minor's designated caregiver shall also renew his or her registration with the Department and obtain a new caregiver registration identification card.

## **CHAPTER 8           RECOMMENDING AUTHORIZED PRACTITIONERS<sup>1</sup>**

### **800                    QUALIFICATIONS TO BE A RECOMMENDING AUTHORIZED PRACTITIONER<sup>2</sup>**

**800.1<sup>3</sup>                An authorized practitioner who is licensed and in good standing to practice medicine, osteopathy, advanced practice registered nursing, dentistry,**

<sup>1</sup> Pending publication of final rulemaking for authorized practitioners, published in the DC Register for public comment period on 8/11/17 at 64 DCR 7951.

<sup>2</sup> Pending publication of final rulemaking for authorized practitioners, published in the DC Register for public comment period on 8/11/17 at 64 DCR 7951.

<sup>3</sup> Pending publication of final rulemaking for authorized practitioners, published in the DC Register for public comment period on 8/11/17 at 64 DCR 7951.

naturopathic medicine, or as a physician assistant in the District of Columbia may recommend the use of medical marijuana to a qualifying patient if the authorized practitioner:

- (a) Is in a bona fide relationship with the qualifying patient, which for purposes of complying with this chapter and the Act shall mean that the authorized practitioner:
  - (1) Has completed a full assessment of the patient's medical or dental history and current medical or dental condition, including a personal physical examination, not more than ninety (90) days prior to making the recommendation; and
  - (2) Has responsibility for the ongoing care and treatment of the patient either directly or in consultation with another licensed authorized practitioner;
- (b) Makes the recommendation based upon the authorized practitioner's assessment of the qualifying patient's:
  - (1) Medical or dental history;
  - (2) Current medical or dental condition; and
  - (3) A review of other approved medications and treatments that might provide the qualifying patient with relief from a qualifying medical or dental condition or the side effects of a qualifying medical or dental treatment; and
- (c) Is not the owner, director, officer, member, incorporator, agent, or employee of a dispensary, cultivation center, or testing laboratory.

800.2<sup>4</sup>

A authorized practitioner who is licensed and in good standing to practice medicine, osteopathy, advanced practice registered nursing, dentistry, naturopathic medicine, or as a physician assistant in the District of Columbia may evaluate a patient for the sole or primary purpose of the recommendation of medical marijuana only if:

- (a) The evaluation is based upon a written referral to the recommending authorized practitioner by the patient's current primary care authorized practitioner or an authorized practitioner specialist responsible for the current treatment of the patient's medical condition;
- (b) The recommending authorized practitioner complies with the requirements

<sup>4</sup> Pending publication of final rulemaking for authorized practitioners, published in the DC Register for public comment period on 8/11/17 at 64 DCR 7951.

set forth in subsection 800.1; and

- (c) There is no exchange of any form of remuneration, gift, donation, bartering, referral fees, or fee-splitting between the referring and recommending authorized practitioner either directly or indirectly.

## **801 FORM OF RECOMMENDATION**

801.1<sup>5</sup> An authorized practitioner's recommendation that a qualifying patient may use medical marijuana shall be written on a form provided by the Department and include the following:

- (a) The name, address, telephone number, and specialty or primary area of clinical practice of the authorized practitioner;
- (b) The authorized practitioner's District of Columbia health occupation license number;
- (c) The qualifying patient's name, date of birth, and home address;
- (d) The patient's qualifying medical or dental condition or qualifying medical or dental treatment;
- (e) A statement certifying that the patient has a qualifying medical or dental condition or suffers from the side effects of a qualifying medical or dental treatment, and that in the authorized practitioner's professional opinion the potential benefits of the medical use of marijuana would likely outweigh the health risks for this patient;
- (f) The length of time that the qualifying patient has been under the care of the authorized practitioner;
- (g) A statement that the authorized practitioner has explained the potential risks and benefits of the use of marijuana to the qualifying patient and the qualifying patient's parent or legal guardian, if applicable;
- (h) The authorized practitioner's signature and date; and
- (i) The qualifying patient's signed consent for the release of medical or dental information related to the patient's qualifying medical or dental condition or treatment.

## **802 RECORDS MAINTAINED BY AUTHORIZED PRACTITIONERS AND**

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<sup>5</sup> Pending publication of final rulemaking for authorized practitioners, published in the DC Register for public comment period on 8/11/17 at 64 DCR 7951.

**DEPARTMENT<sup>6</sup>**

802.1<sup>7</sup> An authorized practitioner recommending the use of medical marijuana to a qualifying patient shall maintain a record for each qualifying patient which shall:

- (a) Accurately reflect the evaluation and treatment of the patient and include the following as applicable:
  - (1) Patient's name and the date(s) of treatment;
  - (2) Patient's medical or dental history and updated health history;
  - (3) Documented results of a full assessment of the patient's medical or dental history and current medical or dental condition;
  - (4) Documented results of the authorized practitioner's physical examination of the patient;
  - (5) Treatment plan;
  - (6) Informed consent document(s);
  - (7) Diagnosis and treatment rendered;
  - (8) List of drugs prescribed, administered, dispensed and the quantity;
  - (9) Radiographs;
  - (10) Patient financial/billing records;
  - (11) Name of the authorized practitioner or assistive personnel providing service(s);
  - (12) Laboratory work orders; and
- (b) Be kept for three (3) years after last seeing the patient or three (3) years after a minor patient reaches eighteen (18) years of age.

802.2<sup>8</sup> The Department shall maintain a confidential record, which shall not be subject to requests under the Freedom of Information Act, of each recommending

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<sup>6</sup> Pending publication of final rulemaking for authorized practitioners, published in the DC Register for public comment period on 8/11/17 at 64 DCR 7951.

<sup>7</sup> Pending publication of final rulemaking for authorized practitioners, published in the DC Register for public comment period on 8/11/17 at 64 DCR 7951.

<sup>8</sup> Pending publication of final rulemaking for authorized practitioners, published in the DC Register for public comment period on 8/11/17 at 64 DCR 7951.

authorized practitioner for the purpose of monitoring compliance with the Act.

**803<sup>9</sup>**

**NO OFFICE AT A DISPENSARY, CULTIVATION CENTER, OR TESTING LABORATORY**

803.1<sup>10</sup>

An authorized practitioner recommending the use of medical marijuana to a qualifying patient shall not:

- (a) Have a professional office located at or adjacent to a dispensary, cultivation center, or testing laboratory;
- (b) Have employees, agents, volunteers, or independent-contractors affiliated directly or indirectly with the authorized practitioner be located at or adjacent to a dispensary, cultivation center, or testing laboratory; or
- (c) Receive financial compensation directly or indirectly from a dispensary, cultivation center, or testing laboratory, or a director, officer, member, incorporator, agent, or employee of a dispensary, cultivation center, or testing laboratory.

803.2<sup>11</sup>

An authorized practitioner recommending the use of medical marijuana to a qualifying patient shall not have employees, agents, volunteers, or independent-contractors affiliated directly or indirectly with a dispensary, cultivation center, or testing laboratory on the premises of the authorized practitioner's professional office, clinic, or an institutional facility where the authorized practitioner sees patients or has privileges to see patients.

803.3<sup>12</sup>

An authorized practitioner recommending the use of medical marijuana to a qualifying patient shall not have expeditors or employees, agents, volunteers or independent-contractors affiliated directly or indirectly with an expeditor on the premises of the authorized practitioner professional office, clinic, or an institutional facility where the authorized practitioner sees patients or has privileges to see patients.

**804<sup>13</sup>**

**NOTIFICATION OF END OF QUALIFYING MEDICAL OR DENTAL CONDITION OR TREATMENT**

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<sup>9</sup> Pending publication of final rulemaking for authorized practitioners, published in the DC Register for public comment period on 8/11/17 at 64 DCR 7951.

<sup>10</sup> Pending publication of final rulemaking for authorized practitioners, published in the DC Register for public comment period on 8/11/17 at 64 DCR 7951.

<sup>11</sup> Pending publication of final rulemaking for authorized practitioners, published in the DC Register for public comment period on 8/11/17 at 64 DCR 7951.

<sup>12</sup> Pending publication of final rulemaking for authorized practitioners, published in the DC Register for public comment period on 8/11/17 at 64 DCR 7951.

<sup>13</sup> Pending publication of final rulemaking for authorized practitioners, published in the DC Register for public comment period on 8/11/17 at 64 DCR 7951.



804.1<sup>14</sup> An authorized practitioner shall notify the Department 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.

**805 TRAINING PROGRAM FOR RECOMMENDING AUTHORIZED PRACTITIONERS<sup>15</sup>**

805.1 <sup>16</sup>The Department shall make available an educational program for authorized practitioners on the medical and dental indications, uses, and side effects of medical marijuana and the District's medical marijuana program, and may charge a fee for the training program.

805.2 <sup>17</sup>The program shall be made available to authorized practitioners licensed to practice medicine, osteopathy, advanced practice registered nursing, dentistry, naturopathic medicine, or as a physician assistant in the District of Columbia who recommend or intend to recommend the use of medical marijuana to qualifying patients.

805.3 <sup>18</sup>If approved by the District of Columbia Board of Medicine, Nursing, or Dentistry the program may be used toward satisfying the continuing education requirements for the respective health profession for the number of credits approved by the board.

**806 <sup>19</sup>BOARD AUDITS AND REVIEW OF RECOMMENDATIONS**

806.1 <sup>20</sup>The Department shall timely notify the Board of Medicine whenever a physician, naturopathic physician, or physician assistant provides more than 250 recommendations in any 12-month period to patients for the use of medical marijuana.

806.2 <sup>21</sup>The Department shall timely notify the Board of Nursing whenever an advance practice registered nurse provides more than 250 recommendations in any 12-month period to patients for the use of medical marijuana.

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<sup>14</sup> Pending publication of final rulemaking for authorized practitioners, published in the DC Register for public comment period on 8/11/17 at 64 DCR 7951.

<sup>15</sup> Pending publication of final rulemaking for authorized practitioners, published in the DC Register for public comment period on 8/11/17 at 64 DCR 7951.

<sup>16</sup> Pending publication of final rulemaking for authorized practitioners, published in the DC Register for public comment period on 8/11/17 at 64 DCR 7951.

<sup>17</sup> Pending publication of final rulemaking for authorized practitioners, published in the DC Register for public comment period on 8/11/17 at 64 DCR 7951.

<sup>18</sup> Pending publication of final rulemaking for authorized practitioners, published in the DC Register for public comment period on 8/11/17 at 64 DCR 7951.

<sup>19</sup> Pending publication of final rulemaking for authorized practitioners, published in the DC Register for public comment period on 8/11/17 at 64 DCR 7951.

<sup>20</sup> Pending publication of final rulemaking for authorized practitioners, published in the DC Register for public comment period on 8/11/17 at 64 DCR 7951.

<sup>21</sup> Pending publication of final rulemaking for authorized practitioners, published in the DC Register for public comment period on 8/11/17 at 64 DCR 7951.

806.3 <sup>22</sup>The Department shall timely notify the Board of Dentistry whenever a dentist provides more than 250 recommendations in any 12-month period to patients for the use of medical marijuana.

806.4 <sup>23</sup>The Boards of Medicine, Nursing, and Dentistry shall audit and review the recommendations submitted by the authorized practitioners under its purview who provide more than 250 recommendations in a 12-month period.

## CHAPTER 9 DENIAL OF APPLICATIONS

### 900 DENIAL OF APPLICATIONS FOR PATIENT AND CAREGIVER REGISTRATIONS

900.1 The Department 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 Department;
- (b) The Department determines after further inquiry or investigation that the information provided was false, misleading, forged, or altered; or
- (c) The Department determines that the caregiver has a disqualifying conviction.

900.2 Denial by the Department of an application or renewal application for a qualifying patient or caregiver registration identification card shall be deemed a final Department action.

900.3 An applicant or renewal applicant for a qualifying patient or caregiver registration identification card may request a hearing at the District of Columbia Office of Administrative Hearings (OAH) to review any decision of the Department denying an application or renewal application. The hearing request shall be filed with OAH within thirty (30) days after service of the notice of denial (receipt required for proof of delivery).

900.4 The decision rendered by the Office of Administrative Hearings shall be the Final Order in this matter, and that either party may seek review of OAH's decision by the District of Columbia Court of Appeals in accordance with the District of Columbia Administrative Procedures Act, D.C. Official Code §§ 2-501- 2-511

<sup>22</sup> Pending publication of final rulemaking for authorized practitioners, published in the DC Register for public comment period on 8/11/17 at 64 DCR 7951.

<sup>23</sup> Pending publication of final rulemaking for authorized practitioners, published in the DC Register for public comment period on 8/11/17 at 64 DCR 7951.

(2011 Repl.).

## CHAPTER 10 ENFORCEMENT ACTIONS

### 1000<sup>24</sup> COMPLAINTS AGAINST PATIENTS, CAREGIVERS, OR RECOMMENDING AUTHORIZED PRACTITIONERS

- 1000.1 <sup>25</sup>The Department 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 the Department 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 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 Department or orally to any Department investigator. Anonymous complaints shall be investigated to the best of the Department's ability, but may result in no action being taken if the anonymous complainant fails to provide the Department or the investigator with adequate information.
- 1000.3 Nothing in this chapter shall preclude the Department from initiating an investigation *sua sponte* 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 Department may, in its discretion, request that the patient or caregiver complained of answer the complaint within ten (10) days of receipt of the complaint. The Department shall attach a copy of the complaint to the request or shall describe the acts alleged in the complaint. The patient or caregiver may respond either personally or through a legal representative.

<sup>24</sup> Pending publication of final rulemaking for authorized practitioners, published in the DC Register for public comment period on 8/11/17 at 64 DCR 7951.

<sup>25</sup> Pending publication of final rulemaking for authorized practitioners, published in the DC Register for public comment period on 8/11/17 at 64 DCR 7951.

- 1000.5<sup>26</sup> **Complaints against recommending authorized practitioners shall be forwarded to the relevant licensing board for disposition.**
- 1000.6 If the Department receives a written response from a 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 Department.
- 1000.7 At any point during the course of the investigation or inquiry into the complaint, the Department may determine that there is not and will not be sufficient evidence to warrant further proceedings. In such event, the Department shall dismiss the complaint.
- 1000.8 If the Department 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 Department 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 §1001.1, which identify the complainant by name and address, shall be acknowledged in writing by the Department within thirty (30) days of receipt of the complaint. At the conclusion of the matter, the Department shall advise the complainant of the action that the Department has taken on the matter.
- 1000.10 The Department shall maintain records documenting complaints received and the action taken in response to the complaint.

## **1001 NOTICE OF POTENTIAL JEOPARDY**

- 1001.1 Participation in the District's medical marijuana program by a qualifying patient or caregiver does not relieve the qualifying patient or caregiver from:
- (a) Criminal prosecution or civil penalties for activities not authorized by the Act or this chapter, including but not limited to:
    - (1) Possession of marijuana in any location other than:
      - (A) The qualifying patient's registered dispensary;
      - (B) The qualifying patient's residence, if permitted; or
      - (C) A medical treatment facility when receiving medical care for a qualifying medical condition, if permitted by

<sup>26</sup> Pending publication of final rulemaking for authorized practitioners, published in the DC Register for public comment period on 8/11/17 at 64 DCR 7951.

the medical facility;

- (2) Possession, distribution or transfer of marijuana or use of marijuana:
  - (A) In a school bus;
  - (B) On school grounds or property;
  - (C) At the qualifying patient's or caregiver's place of employment;
  - (D) At a public park, recreation center, youth center or other public place;
  - (E) To a person not approved by the Department pursuant to this chapter;
  - (F) Outside the District of Columbia; or
  - (G) That exceeds the allotted amount of medical marijuana authorized in § 300.9 of this subtitle;
- (3) Transporting or attempting to transport marijuana:
  - (A) To or from any place other than directly between the dispensary and the patient's residence or a medical facility where the patient is permitted to use marijuana;
  - (B) In a container other than that prescribed by § 300.3 of this subtitle; or
  - (C) Into or out of the District of Columbia;
- (b) Liability for damages or criminal prosecution for acts committed or omitted while under the influence of marijuana; or
- (c) For violation of any District of Columbia law or regulation that was not expressly repealed or limited by the provisions of the Act or this subtitle.

## **1002 REVOCATION, SUSPENSION, OR FINES- GENERAL PROVISIONS**

1002.1 The Department 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 approved medical facility.

- 1002.2 The Department of Health (Department) may impose sanctions and civil fines under the Civil Infractions Act for any infraction under this subtitle, not to exceed two thousand (\$2,000.00) per first offense violation.
- 1002.3 Except in the case of a summary suspension action, the Department 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 Department may, at the discretion of the Director, require the patient to designate a Department-approved caregiver to ensure compliance with the terms and conditions imposed by the Department.
- 1002.6 If the Department 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 Department 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.

### **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, the Director shall give a registrant written notice and an opportunity to have a hearing before the Office of Administrative hearings 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 statement that the registrant may request a hearing before the Office of Administrative Hearings (OAH) to contest the proposed action by delivering, within thirty (30) days of service of the notice, a certified letter addressed to OAH containing a request for a hearing or hand delivery of same to OAH (receipt required for proof of delivery);
- (e) A statement that the decision rendered by the Office of Administrative Hearings shall be the Final Order in this matter, and that either party may seek review of OAH's decision by the District of Columbia Court of Appeals in accordance with the District of Columbia Administrative Procedures Act, D.C. Official Code §§ 2-501- 2-511 (2011 Repl.); and
- (f) A statement that if the registrant does not request a hearing within thirty (30) days after service of the notice of the proposed action, the Director may take the proposed action without further notice, and the suspension or revocation shall be final without a hearing.

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

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

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

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

- (a) Written acknowledgement by the party or other person served in accordance with § 1003.5 or by the party's counsel;

- (b) The certificate of the serving party or that party's counsel; or
  - (c) A return receipt if service is made by certified mail.
- 1003.7 If service is by personal delivery, it shall be deemed to have been served at the time when delivery is made to the party or other person served in accordance with § 1003.5.
- 1003.8 If service is by certified mail, it shall be deemed to have been made on the date shown on the return receipt showing delivery of the notice to the party or refusal of the party to accept delivery.
- 1003.9 If the party is no longer at the last known address as shown by the records of the Director, 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 Director.
- 1003.10 A registrant that has received a notice of intent to take action to suspend or revoke, may request a hearing before the Office of Administrative Hearings (OAH) for the purpose of review of such action. The registrant shall file the request with OAH within thirty (30) calendar days after service of the notice of contemplated action (receipt required for proof of delivery).
- 1003.11 Unless otherwise authorized by the Director, any notice from or to the Director shall be made by personal delivery or sent by certified mail, return receipt requested.
- 1003.12 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.
- 1003.13 If the registrant does not mail or submit a written request for a hearing within the time and in the manner specified in the notice, the Director may, without a hearing, take the action contemplated in the notice, and shall notify the registrant in writing of the final action taken.
- 1003.14 If a hearing is timely requested, the proceedings shall thereafter be conducted pursuant to the Office of Administrative Hearings Act, and all further correspondences and notices shall be communicated directly between the Office of Administrative Hearings and the registrant, including notice of the date, time and location of the hearing and the name of the hearing officer.



- 1003.15 Nothing in this subtitle shall be deemed to supersede the service, procedural rules, or other proceedings of a matter that has been filed with and is pending before the Office of Administrative Hearings.
- 1003.16 The decision rendered by the Office of Administrative Hearings shall be the Final Order in this matter. Either party may seek review of OAH's decision by the District of Columbia Court of Appeals in accordance with the District of Columbia Administrative Procedures Act, D.C. Official Code §§ 2-501- 2-511 (2011 Repl.).

#### **1004 NOTICE OF SUMMARY SUSPENSION ACTION AND HEARING**

- 1004.1 Violation of the Act or this subtitle may result in the summary suspension of a qualifying patient or caregiver's registration.
- 1004.2 If the Department 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 Department may summarily suspend, or restrict, without a hearing, the registration of the qualifying patient or caregiver.
- 1004.3 A notice of summary suspension 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 Director 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 OAH for the purpose of determining whether the suspension shall continue. The registrant shall file the request with OAH within seventy-two (72) hours after service of the notice (receipt required for proof of delivery). The hearing shall be held within seventy-two (72) hours after receiving the request unless otherwise agreed by the parties to be held at a later date; and

- (f) A statement that the decision rendered by the Office of Administrative Hearings shall be the Final Order in this matter, and that either party may seek review of OAH's decision by the District of Columbia Court of Appeals in accordance with the District of Columbia Administrative Procedures Act, D.C. Official Code §§ 2-501- 2-511 (2011 Repl.).
- 1004.4 A notice, order, decision, or pleading required by this chapter to be served upon a party shall be served upon the party or upon the representative designated by the party or by law to receive service of papers. If a party has appeared through counsel, service may be made upon the counsel of record.
- 1004.5 Service on a registrant shall be directed to the last known address of the registrant on file with the Director or the registrant's resident agent or attorney, and shall be completed by one (1) of the following methods:
- (a) Personal delivery;
  - (b) Leaving it at the party's usual place of residence with a person of suitable discretion sixteen (16) years of age or older residing there; or
  - (c) Certified mail, return receipt requested.
- 1004.6 Proof of service, stating the name and address of the person on who service is made and the manner and date of service, may be shown by one (1) of the following methods:
- (a) Written acknowledgement by the party or other person served in accordance with § 1004.5 or by the party's counsel; or
  - (b) The certificate of the serving party or that party's counsel; or
  - (c) A return receipt if service is made by certified mail.
- 1004.7 If service is by personal delivery, it shall be deemed to have been served at the time when delivery is made to the party or other person served in accordance with § 1004.5.
- 1004.8 If service is by certified mail, it shall be deemed to have been made on the date shown on the return receipt showing delivery of the notice to the party or refusal of the party to accept delivery.
- 1004.9 If the party is no longer at the last known address as shown by the records of the Director, 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 Director.

- 1004.10 A registrant whose registration has been summarily suspended may request an immediate hearing before OAH for the purpose of determining whether the suspension shall continue. The registrant shall file the request with OAH within seventy-two (72) hours after service of the notice (receipt required for proof of delivery). The hearing shall be held within seventy-two (72) hours after receiving the request unless otherwise agreed by the parties to be held at a later date.
- 1004.11 Unless otherwise authorized by the Director, any notice from or to the Director shall be made by personal delivery or sent by certified mail, return receipt requested.
- 1004.12 A request for a hearing under this chapter shall include the following:
- (a) A statement of the facts relevant to the review of the action;
  - (b) A statement of the arguments that the respondent considers relevant to the review of the action; and
  - (c) Any other evidence considered relevant.
- 1004.13 If the registrant fails to request a hearing within the time and in the manner specified in the notice, the summary suspension shall continue until after a finding by the Department 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 the Office of Administrative Hearings Act, and all further correspondences and notices shall be communicated directly between the Office of Administrative Hearings and the registrant, including notice of the date, time and location of the hearing and the name of the hearing officer.
- 1004.15 Nothing in this subchapter shall be deemed to supersede the service, procedural rules, or other proceedings of a matter that has been filed with and is pending before the Office of Administrative Hearings.
- 1004.16 The decision rendered by the Office of Administrative Hearings shall be the Final Order in this matter. Either party may seek review of OAH's decision by the District of Columbia Court of Appeals in accordance with the District of Columbia Administrative Procedures Act, D.C. Official Code §§ 2-501- 2-511 (2011 Repl.).

## **CHAPTER 11 CONFIDENTIALITY OF RECORDS**

### **1100 MEDICAL MARIJUANA PROGRAM RECORDS**

- 1100.1 Applications and supporting information submitted by qualifying patients and caregivers shall be confidential and subject to the protections of the federal Health Insurance Portability and Accountability Act (HIPAA) of 1996, as amended, and other applicable privacy laws and privileges.
- 1100.2 The Department shall maintain a confidential list of the persons to whom the Department has issued registration identification cards.
- 1100.3 Individual names and other personally identifying information on the list:
- (a) Shall be confidential and not be considered a public record; and
  - (b) Shall not subject to disclosure, except to authorized employees of the Department as necessary to perform official duties of the Department.
- 1100.4 The Department shall verify to law enforcement personnel whether a registry identification card is valid by confirming the information that is printed on the registration identification card.
- 1100.5 The Department may notify law enforcement personnel about falsified or fraudulent information submitted to the Department.

## **CHAPTER 12 INVESTIGATIONS AND INSPECTIONS**

### **1200 ANNOUNCED AND UNANNOUNCED INVESTIGATIONS AND INSPECTIONS**

- 1200.1 The Department may conduct announced and unannounced investigations and inspections of cultivation centers and dispensaries, as related to the Department'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 its regulations by any registered cultivation center or dispensary.
- 1200.2 During an inspection or investigation of a dispensary, the Department may review the dispensary's confidential records, including its dispensing records and information which contains the names and addresses of qualifying patients, caregivers, and recommending physicians.
- 1200.3 During an inspection or investigation of a cultivation center, the Department may review the cultivation center's confidential records, as necessary and appropriate to the Department's purview and authority, to determine compliance with the Act and its regulations.
- 1200.4 All qualifying patients and caregivers shall provide the Department or the

Department's agent with immediate access to any material and information necessary for determining compliance with the Act and this chapter.

1200.5 Failure by a qualifying patient or caregiver to provide the Department with immediate access to any requested material or information to determine compliance with the Act or this subtitle, may result in sanctions against the qualifying patient or caregiver up to and including revocation of registration and referral to local law enforcement.

1200.6 Failure by a dispensary or cultivation center to provide the Department with immediate access to any requested material or information as part of an inspection or investigation under the Act and this chapter, may result in the imposition of a civil fine as well as referral to the Board for further sanctions.

### **CHAPTER 13 FEES**

#### **1300 REGISTRATION, RENEWAL, AND REPLACEMENT FEES**

1300.1 The registration, renewal and replacement fees are as follows:

- |     |   |               |
|-----|---|---------------|
| (a) | Initial registration fee for a qualifying patient | \$100.00;     |
| (b) | Initial registration fee for a caregiver          | \$100.00;     |
| (c) | Renewal fee for a qualifying patient              | \$100.00;     |
| (d) | Renewal fee for a caregiver                       | \$100.00; and |
| (e) | Replacement card fee                              | \$90.00       |

1300.2 The initial registration fees for a qualifying patient or caregiver whose income is equal to or less than two hundred percent (200%) of the federal poverty level shall be twenty-five percent (25%) of the published standard qualifying patient or caregiver registration fee, and are set forth as follows:

- |     |   |              |
|-----|---|--------------|
| (a) | Initial registration fee for a qualifying patient | \$25.00;     |
| (b) | Initial registration fee for a caregiver          | \$25.00;     |
| (c) | Renewal fee for a qualifying patient              | \$25.00;     |
| (d) | Renewal fee for a caregiver                       | \$25.00; and |
| (e) | Replacement card fee                              | \$20.00      |

- 1300.3 A qualifying patient or caregiver whose income is equal to or less than two hundred percent (200%) of the federal poverty level may apply for registration at a rate that is twenty-five percent (25%) of the published standard registration fee by submitting proof, to the satisfaction of the Director, of the following:
- (a) That he or she is a current Medicaid or DC Alliance recipient; or
  - (b) Documentation verifying that his or her total gross income, including child support payments, alimony and rent payments received, and any other income received on a regular basis, is equal to or less than two hundred percent (200%) of the federal poverty level, as defined by the U.S. Department of Health and Human Services.
- 1300.4 In verifying income for the purposes of this chapter, an individual may submit the following:
- (a) Earnings statements received within the previous thirty (30) days;
  - (b) District of Columbia or Federal tax filing returns for the most recent tax year;
  - (c) For newly employed applicants, a verifiable copy of an offer of employment that states the amount of salary to be paid;
  - (d) A copy of a Social Security or worker's compensation benefit statement;
  - (e) Proof of child support or alimony received;
  - (f) Any other unearned income or assets, including but not limited to, stocks, bonds, annuities, private pension and retirement accounts; or
  - (g) Any other item(s) of proof deemed by the Director or the Director's agent reasonably calculated to demonstrate a person's current income.
- 1300.5 An individual shall submit the required verifying information set forth in § 1300.4 for each renewal or request for a replacement card in order to receive the reduced fee.
- 1300.6 A qualifying patient who establishes pursuant to § 1300.4 of this chapter that his or her income is equal to or less than two hundred percent (200%) of the federal poverty level, shall be entitled to purchase medical marijuana directly, or through a caregiver, on a sliding scale from a registered dispensary in the District of Columbia.

**CHAPTER 14 MEDICAL MARIJUANA ADVISORY COMMITTEE**

**1400 COMPOSITION OF ADVISORY COMMITTEE**

- 1400.1 The Advisory Committee (“Committee”) shall consist of seven (7) members, which shall be appointed as follows: The Director of the Department of Consumer and Regulatory Affairs, the Chief of the Metropolitan Police Department, and the City Administrator shall each appoint one member, who shall be either himself or herself or a subordinate designee; the Director of the Department of Health shall appoint four (4) members, one of which shall be the Director himself or herself or a subordinate designee, and the other three (3) of which shall be residents of the District of Columbia that possess either medical or scientific expertise that the Director of the Department of Health deems would be useful to the Committee.
- 1400.2 The Director of the Department of Health (“Director”), or his or her subordinate designee, shall act as the chair of the Committee.
- 1400.3 All actions of the Committee shall be taken pursuant to a vote of a majority of the members of the Committee. For purposes of determining the existence of a quorum, a quorum shall be deemed to mean a majority of the appointed members.
- 1400.4 The chairperson shall only vote in cases of a tie among Committee members.
- 1400.5 Each member of the Committee shall serve at the pleasure of the Mayor or of the appointing agency director or City Administrator. Public members of the Committee shall serve a maximum term of nine (9) years from the date of appointment.
- 1400.6 Members of the Committee shall not be compensated for time expended in the performance of his or her Committee duties.

**1401 DUTIES AND RESPONSIBILITIES OF THE ADVISORY COMMITTEE**

- 1401.1 The Advisory Committee shall convene at least twice (2) per year to:
- (a) Accept and review petitions for the approval of additional qualifying medical conditions and qualifying medical treatments, and to recommend in favor or against approval to the Director;
  - (b) Monitor best practices in other states, monitor scientific research on the use of medical marijuana, monitor the effectiveness of the District’s medical marijuana program, and make recommendations to the Mayor, the Council, the Director, and when asked to consult by other agencies;
  - (c) Issue recommendations to the Director of the quantities of cannabis, not to exceed four (4) ounces per month, that are necessary to constitute an adequate supply for qualified patients and designated caregivers; and

- (d) Issue a report to the Mayor and Council recommending whether the District should allow qualifying patients and caregivers to cultivate medical marijuana, how to implement and regulate cultivation of medical marijuana by qualifying patients and caregivers, and any other comments the Committee believes to be of importance.

1401.2 The Committee shall conduct a fair and impartial proceeding, assure that the facts are fully elicited, and avoid delay. The chairperson shall have authority to take all measures necessary for the maintenance of order and for the efficient, fair and impartial resolution of issues that arise during public hearing proceedings or any public meeting in which a quorum of the Committee are present.

## **1402 PETITION REQUIREMENTS**

1402.1 On a biannual basis, notice of which shall be published in the *D.C. Register*, the Committee may accept and review petitions from any individual or association of individuals requesting the addition of a new qualifying medical condition or qualifying medical treatment for the purpose of participating in the medical marijuana program and all lawful privileges under the act.

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

- (a) All documents, except exhibits, shall be submitted on a form provided by the Department of Health (“Department”). The petitioner shall include in the petition documents a narrative address to the advisory board, which includes:
  - (1) The petition caption stating the name, address and telephone number of the petitioner and the medical condition, medical treatment or disease sought to be added to the existing debilitating medical conditions;
  - (2) An introductory narrative of the individual or association of individuals requesting the inclusion of a new medical condition, medical treatment or disease to include the individual or association of individuals' relationship or interest for the request whether that interest is professional or as a concerned citizen;
  - (3) The proposed benefits from the medical use of cannabis specific to



the medical condition, medical treatment or disease sought to be added to the existing debilitating medical conditions listed under the act; and

- (4) Any additional supporting medical, testimonial, or scientific documentation.
- (b) If the petitioner wishes to present technical evidence at the hearing the petition shall include a statement of intent. The statement of intent to present technical evidence shall include:
- (1) The name of the person filing the statement;
  - (2) The name and curriculum vitae for each witness;
  - (3) An estimate of the length of the direct testimony of each witness;
  - (4) A list of exhibits, if any, to be offered into evidence at the hearing; and
  - (5) A summary or outline of the anticipated direct testimony of each witness.
- (c) If the petitioner is submitting their requests as a potential qualified patient applicant, the petitioner shall include a signed, written statement from the patient's District of Columbia licensed physician, which includes the following information:
- (1) The name, address, telephone number and DC license number of the physician;
  - (2) The petitioner's name, address, and debilitating medical condition;
  - (3) The medical justification for practitioner's statement that would benefit from the medical use of cannabis;
  - (4) The length of time the petitioner has been under the care of the practitioner providing the medical provider certification for patient eligibility;
  - (5) The practitioner's notarized and dated signature;
- (d) The petitioner's signature and date; and
- (e) A signed consent for release of medical information to the Committee, if applicable.

- 1402.3 The Department shall maintain a confidential file containing the names and addresses of the persons who have submitted a petition. Individual names and contact information on the list shall be confidential and not subject to disclosure, except:
- (a) To authorized employees or agents of the Department and members of the Committee as necessary to perform the duties of the Department pursuant to the provisions of the act or this part;
  - (b) As provided in the federal Health Insurance Portability and Accountability Act of 1996.
- 1402.4 A petitioner may withdraw a petition at any time prior to a decision by the Committee by filing a notice of withdrawal with the Director.

**1403 MEDICAL MARIJUANA ADVISORY COMMITTEE HEARING ON PETITIONS**

- 1403.1 The Committee shall convene by public hearing twice (2) per year to accept and review petitions requesting the inclusion of additional qualifying medical conditions and qualifying medical treatments for the purpose of participating in the medical marijuana program and all lawful privileges under the act.
- 1403.2 Any meeting consisting of a quorum of the Committee members held for the purpose of evaluating, discussing or otherwise formulating specific opinions concerning the recommendation of a petition filed pursuant to this rule, shall be declared a public hearing open to the public at all times.
- 1403.3 A notice of public hearing setting forth the date, time and location of the hearing, shall be published in the *D.C. Register*. The Committee chairperson shall conduct the public hearing so as to provide a reasonable opportunity for all interested persons to be heard without making the hearing unreasonably lengthy or cumbersome or burdening the record with unnecessary repetition.
- 1403.5 The petitioner or by representative may present evidence to the Committee. Except as provided in § 1403.6, the Committee shall consider only the findings of fact or scientific conclusions of medical evidence presented by the petitioner or by representative to the Committee prior to or contemporaneously with the public hearing.
- 1403.6 Nothing in this chapter shall be deemed as preventing the Committee from making its own independent inquiries or conducting its own research to verify the evidence and testimony presented.
- 1403.7 The Committee may provide for a public comment period. Public comment may be by written comment, verbal or both.

- 1403.8 Any individual or association of individuals may submit written comment to the Committee either in opposition or support of the inclusion of additional qualifying medical conditions and qualifying medical treatments.
- 1403.9 Any member of the general public may testify at the public hearing. No prior notification is required to present general non-technical statements in support of or in opposition to the petition. Any such member may also offer exhibits in connection with his or her testimony, so long as the exhibit is non-technical in nature and not unduly repetitious of the testimony.
- 1403.10 Where more than one petition is submitted requesting the inclusion of the same additional qualifying medical condition or qualifying medical treatments for the purpose of participating in the medical marijuana program and all lawful privileges under the act, the Committee may consolidate the hearings.
- 1403.11 The Committee shall keep minutes of all its public hearings. The minutes shall include at a minimum the date, time and place of the public hearing, the names of Committee members in attendance and those absent, the substance of the petition considered and a record of any decisions and votes taken that show how each member voted. Any person, other than the Committee, desiring a copy of the minutes shall order a copy from the Department and pay all applicable copy fees.
- 1403.12 Upon final determination, the Committee shall provide a recommendation to the Director, for either the approval or denial of the petitioner's request. The recommendation shall include a medical justification for the recommendation based upon the individual or collective expertise of the Committee membership. The medical justification shall delineate between the findings of fact made by the Committee and scientific conclusions of credible medical evidence.
- 1403.13 The Department shall notify the petitioner by certified mail within sixty (60) days of the Department's determination. A denial by the Department regarding the inclusion of a medical condition or medical treatment to the existing list of qualifying medical conditions and qualifying medical treatments under the act shall not represent a permanent denial by the Department. Any individual or association of individuals may upon good cause re-petition the Committee during the next open period for receipt of petitions, subject to the requirement that the repetition shall present new supporting findings of fact, or scientific conclusions of credible medical evidence not previously examined by the Committee. The Committee shall not accept any petition that does not on its face clearly show that this requirement has been met.

**Chapters 15-49 [RESERVED]**

**CHAPTER 50 REGISTRATION, LICENSING, AND  
ENFORCEMENT OF CULTIVATION CENTERS  
AND DISPENSARIES**

**5000 MEASURING DISTANCES**

- 5000.1 In establishing the distance between one (1) or more places, (such as the actual distance of a cultivation center or dispensary from a school or recreation center, as defined in the Act), the distance shall be measured linearly by the Department and shall be the shortest distance between the property lines of the places.
- 5000.2 If a boundary line measured by the Department touches upon any portion of a parcel or lot, the parcel or lot shall be within the area being identified by the Department.

**5001 COMPUTATION OF TIME**

- 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 the Department's offices are 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 the Department's offices are not closed.

**5002 PERMISSIBLE ACTIVITIES AND LIMITATIONS ON CULTIVATION CENTERS AND DISPENSARIES**

- 5002.1 A dispensary registered to operate in the District may:
- (a) Possesses and sell medical marijuana to registered qualified patients and caregivers; and
  - (b) Manufacture, purchase, possess, and distribute paraphernalia and cigarette rolling papers to registered qualified patients and caregivers.
- 5002.2 A cultivation center registered to operate in the District may:
- (a) Possess, manufacture, grow, cultivate, and distribute medical marijuana for sale to registered dispensaries; and
  - (b) Manufacture, purchase, possess, and distribute paraphernalia and cigarette rolling papers to registered dispensaries.

**5003 NON-TRANSFERABILITY OF LOCATIONS AND OWNERSHIP**

- 5003.1 An application for a dispensary or cultivation center registration shall identify the proposed location of the dispensary or cultivation center 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 or cultivation center after the application has been submitted.

- 5003.2 A registration for a dispensary or cultivation center 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 A dispensary or cultivation center registration is not transferable to a new location.
- 5003.4 An application for a dispensary or cultivation center registration shall clearly identify the individual applicant, partnership or limited liability company applicant, or corporate applicant as required under these regulations. An applicant shall not be permitted to change the proposed ownership or controlling interest of the entity after the application has been submitted.
- 5003.5 A registration for a dispensary or cultivation center, and the authorization to apply for the registration upon approval by the Department, shall be issued for the specific individual applicant, partnership or limited liability company applicant, or corporate applicant as identified in the application and shall not be transferable in whole or in part.
- 5003.6 A dispensary or cultivation center registration is not transferable to a new owner.
- 5003.7 A dispensary or cultivation center registration shall not be leased, or subcontracted, in whole or in part.

## **CHAPTER 51 REGISTRATION AND PERMIT CATEGORIES**

### **5100 REGISTRATION PERIODS**

- 5100.1 Each registration issued by the Department shall be valid for one (1) year, except in the following circumstances:
- (a) When suspended or revoked; and
  - (b) When the registration takes effect on a date in between the dates established by the Department for the regular renewal registration period, in which case the registration shall be valid only until the end of the registration period.

### **5101 RENEWAL PERIODS**

<sup>27</sup>5101.1 Effective as of August 28, 2017, the registration period and renewal period for each registration type listed below shall occur annually between the following dates:

Registration Type	Registration Period	Renewal Period
Cultivation Center	January 1 to December 31	November 1 to December 31
Dispensary	January 1 to December 31	November 1 to December 31
Testing Laboratory	January 1 to December 31	November 1 to December 31

5101.2 <sup>28</sup>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, 2017, unless suspended or revoked by the Department for cause.

5101.3 In addition to the initial application, the Mayor shall provide all Advisory Neighborhood Commissions (ANCs) located in the affected ward thirty (30) days for public comment once every three (3) years on an applicant for a dispensary or cultivation center’s third renewal. The first renewal notice shall be provided by the Department to ANCs located in the affected ward in 2015.

5101.4 The notice to the ANCs set forth in § 5101.2 on a third year renewal application shall be provided to the ANCs not later than ninety (90) days before a registration is renewed. The Department shall renew the registration or inform the applicant in writing of his intent not to renew the registration within sixty (60) days following the conclusion of the ANC thirty (30) day comment period.

**5102 EXTENSION OF EXPIRATION DATES OF PROTESTED REGISTRATIONS**

5102.1 Unless a registration is otherwise summarily suspended under this subtitle, the registration of a cultivation center or dispensary that has received written notice of the Department’s intent not to renew the registration shall continue in effect until such time as the Department 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 Department has taken final action on the registration.

5102.3 A registration that is continued under this chapter shall be continued in effect only for purposes of the original location. No operations shall take place at a new location until a new registration has been issued for that location.

<sup>27</sup> Effective August 28, 2017 pursuant to Emergency and Proposed Rulemaking published in the DC Register for public comment on October 20, 2017.

<sup>28</sup> Effective August 28, 2017 pursuant to Emergency and Proposed Rulemaking published in the DC Register for public comment on October 20, 2017.

**<sup>29</sup>5103 APPLICATION, REGISTRATION, AND PERMIT FEES**

- 5103.1 All application, registration, and permit fees shall be paid by cashier's check, certified check, or money order payable to the DC Treasurer. Applicants shall pay the fees specified by the Department at the time an application is filed. All fees are nonrefundable.
- 5103.2 The Department 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 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 Department may suspend a previously approved registration until the renewal fee is paid. A cultivation center or dispensary that has not timely renewed its registration shall not be permitted to sell medical marijuana with an expired registration.
- 5103.3 The Department may suspend a registration or permit where payment was made by the applicant with a check returned unpaid. The applicant, in addition to any late fees imposed by the Department pursuant to § 5103.2, shall also be charged with a one hundred dollar (\$100) returned check fee.
- 5103.4 The fee for the filing of an initial application for a medical marijuana dispensary shall be eight thousand dollars (\$8,000).
- 5103.5 The annual renewal fee and renewal application fee for a medical marijuana dispensary registration shall be sixteen thousand dollars (\$16,000). This fee shall also cover any audit and inspection costs incurred by the Department.
- 5103.6 The fee for the filing of an initial application for a medical marijuana cultivation center shall be eight thousand dollars (\$8,000).
- 5103.7 The annual renewal fee and renewal application fee for a cultivation center registration shall be eleven thousand dollars (\$11,000). This fee shall also cover any audit and inspection costs incurred by the Department.
- 5103.8 The fee for the filing of an initial application for a testing laboratory shall be three thousand five hundred dollars (\$3,500).
- 5103.9 The annual renewal fee and renewal application fee for a testing laboratory shall be seven thousand five hundred dollars (\$7,500). This fee shall also cover any audit and inspection costs incurred by the Department.
- 5103.6 The annual fee for each director, officer, member, incorporator, or agent

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<sup>29</sup> Effective August 28, 2017 pursuant to Emergency and Proposed Rulemaking published in the DC Register for public comment on October 20, 2017.

registration shall be two hundred dollars (\$200).

- 5103.7 The annual fee for an employee registration shall be seventy-five dollars (\$75).
- 5103.8 The fee for the filing of an initial medical marijuana certification provider permit shall be one hundred dollars (\$100).
- 5103.9 The annual renewal fee and renewal application fee for a medical marijuana certification provider permit shall be three hundred dollars (\$300).
- 5103.10 The annual fee for a Manager's registration shall be one hundred fifty dollars (\$150).
- 5103.11 The annual fee for a transport permit shall be twenty-five dollars (\$25).
- 5103.12 The fee for a duplicate registration or replacement of a lost registration shall be twenty-five dollars (\$25).
- 5103.13 The fee for a duplicate permit or replacement of a lost permit shall be twenty-five dollars (\$25).
- 5103.14 The fee for a change of director, officer, member, incorporator, or agent shall be one hundred dollars (\$100).
- 5103.15 The fee for a corporate or trade name change shall be one hundred dollars (\$100).
- 5103.16 The fee for the transfer of a dispensary, cultivation center, or testing laboratory registration to a new owner shall be two thousand five hundred dollars (\$2,500).
- 5103.17 The fee for the transfer of a dispensary, cultivation center, or testing laboratory registration to a new location shall be five thousand dollars (\$5,000). This fee shall also cover any audit and inspection costs incurred by the Department.

<sup>30</sup>**5104 REPEALED**

**5105 MEDICAL MARIJUANA CERTIFICATION PROVIDER PERMIT**

- 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 Department to conduct a medical marijuana and education training program as set

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<sup>30</sup> Effective August 28, 2017 pursuant to Emergency and Proposed Rulemaking published in the DC Register for public comment on October 20, 2017.



forth in § 5105.2. A medical marijuana provider permit shall be valid for three (3) years.

- 5105.2 A medical marijuana certification provider shall include the following subjects in its education training program; which shall be submitted to the Department for approval:
- (a) The effect medical marijuana use has on the body and behavior, especially as to driving ability, and that driving under the influence of marijuana is prohibited under the Act;
  - (b) Procedures for the proper handling and dispensing of medical marijuana to qualified patients and caregivers;
  - (c) Methods of recognizing and communicating with underage qualifying patients and caregivers;
  - (d) Prevention techniques involving effective identification and carding procedures;
  - (e) Explanation of the Legalization of Marijuana for Medical Treatment Amendment Act of 2010 and Federal law relating to marijuana and ensuring compliance with this title and District law;
  - (f) Advertising, promotion, and marketing of medical marijuana; and
  - (g) Security and theft prevention.
- 5105.3 An application for a medical marijuana certification provider permit shall:
- (a) Be completed on a form provided by the Department;
  - (b) Include a copy of the proposed training materials, curriculum, and examinations; and
  - (c) Include payment of the annual fee for the entire three (3)-year permit period.
- 5105.4 The Department 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 meeting with the applicant prior to issuing its decision.
- 5105.5 Approval of a medical marijuana training and education program shall expire after three (3) years from the date of the course obtaining approval. The applicant shall resubmit a program to the Department for approval as part of its application to renew its medical marijuana certification provider permit.

**5106 MANAGER CERTIFICATION**

- 5106.1 An applicant for a manager's registration shall submit a copy of his or her certificate showing completion of a medical marijuana training and education program from a Department approved medical marijuana certification provider with his or her Manager's registration application.
- 5106.2 An applicant for a manager's registration, who has been selected by a cultivation center or dispensary to serve as a registered manager but who has not completed a medical marijuana training and education program may be issued a temporary Manager's registration by the Department for a period not to exceed thirty (30) days upon the submission of a signed written statement on a form provided by the Department from the applicant attesting that he or she will complete a medical marijuana training and education program and submit a copy of his or her certificate within the thirty (30)-day period. The medical marijuana training and education certificate requirement shall not take effect until sixty (60) days after the effective date of these regulations.

**5107 NOTICE TO ADVISORY NEIGHBORHOOD COMMISSIONS**

- 5107.1 Upon the initial selection of a completed application by a six (6) member panel, or a third year renewal for a dispensary or cultivation center, or an application to transfer the dispensary or cultivation center to a new location, the Director shall give written notice through the mail of the registration application to all ANCs in the affected ward. Notice shall be given by the Director to all ANCs in the affected ward at least ninety (90) days prior to the approval of a location for a dispensary or cultivation center, and shall state that the ANCs must submit their comments to the Director not later than thirty (30) days after receiving the notice.
- 5107 .2 The written notice shall contain the legal name and trade name of the applicant, the street address of the establishment for which registration is sought, the type of registration sought, and a description of the nature of the operation the applicant has proposed. The description shall include the proposed hours of operation for the dispensary or cultivation center.
- 5107.3 The notice shall also state the final day that comments must be received by the Director from the ANCs in the affected ward.
- 5107.4 The Director shall give notice to each ANC in the affected ward by first-class mail, and addressed to the following persons:
- (a) The ANC office, with a copy for each ANC member;
  - (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 Director to each ANC office, ANC Chairperson, and ANC single member district Commissioner, shall be sent to the ANC address on file with the Board of Elections and Ethics.

5107.6 The Director shall publish the notices required under this section in the *District of Columbia Register*.

## **5108 POSTED NOTICE TO PUBLIC**

5108.1 The Director shall post two (2) notices indicating that an application for a cultivation center or dispensary registration has been filed in conspicuous places on the outside of the establishment for the duration of the ANCs thirty (30) day comment period.

5108.2 The notices shall state:

- (a) The information contained in § 5107.2;
- (b) The final day of the ANC's comment period;
- (c) The contact information for the ANC where the establishment is located; and
- (d) The telephone number and mailing address of the Department.

5108.3 An applicant who fails to maintain the posted notices continuously during the ANC comment period shall be guilty of a violation of this chapter.

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

## **5109 COMMENTS FROM ANCS LOCATED IN THE AFFECTED WARD**

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;

- (b) An overconcentration or lack of cultivation centers or dispensaries in the affected ward; and
- (c) Its proximity to substance abuse treatment centers, day care centers, and halfway houses.

## **5110 NON-TRANSFERABLE REGISTRATION CARDS**

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

## **CHAPTER 52 REGISTRATION LIMITATIONS**

### **5200 LIMITATION ON THE NUMBER OF DISPENSARIES AND CULTIVATION CENTERS**

- 5200.1 The number of dispensaries registered to operate in the District of Columbia shall not exceed seven (7). To ensure that qualifying patients have adequate access to medical marijuana, the sixth (6<sup>th</sup>) and seventh (7<sup>th</sup>) registrations shall be issued in Ward 7 and Ward 8.
- 5200.2 The number of cultivation centers registered to operate in the District of Columbia shall not exceed ten (10).
- 5200.3 Nothing in this subtitle or the Act shall require the Department to issue all of the available registrations to operate a dispensary or cultivation center.

### **5201 REGISTRATION APPLICATIONS NEAR SCHOOLS AND RECREATION CENTERS**

- 5201.1 A dispensary or cultivation center shall not locate within three hundred feet (300 ft) of a preschool, primary or secondary school, or recreation center.

5201.2 The three hundred foot (300 ft.) distance shall be measured in accordance with the provisions of § 5000 of this subtitle.

## **CHAPTER 53 GENERAL REGISTRATION REQUIREMENTS**

### **5300 DENIAL OF REGISTRATION FOR VIOLATIONS OF LAW**

5300.1 The Director may deny registration to an applicant if evidence shows that the applicant has permitted conduct at the cultivation center or dispensary which is in violation of this subtitle.

### **5301 CERTIFICATE OF OCCUPANCY AND PERMITS**

5301.1 A registration may not be issued for a cultivation center or dispensary unless the applicant obtains a valid certificate of occupancy for the premises in which the business for which the registration is sought is located, and is also the holder of all other licenses and permits required by law or regulation for that business. A registration for a cultivation center or dispensary shall not be issued for any premises located within a residentially zoned district.

### **5302 REGISTRATION APPROVAL BEFORE ISSUANCE OF CERTIFICATE OF OCCUPANCY**

5302.1 The Director is authorized, in its discretion, to approve the granting of a registration for a cultivation center or dispensary, subject to all other requirements of the Act or this title, 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 Director finds to his or her satisfaction the following:

- (a) That an applicant for registration has entered into a bona fide agreement with the owner of a building proposed to be constructed or remodeled;
- (b) That, under the bona fide agreement, the applicant has agreed to lease, purchase, or otherwise occupy all or a portion of the building for the applicant's use in carrying on the business which would be authorized by the registration;
- (c) That the agreement provides that so much of the proposed building to be occupied for business purposes registered under this chapter is to be constructed or remodeled in accordance with specifications set forth in the agreement;
- (d) That the agreement describes the quarters as reasonably adequate and appropriate for the business to be carried on under the authority of the

registration;

- (e) A zoning determination letter issued by DCRA, which reflects that the zoning of the premises to be registered will allow the issuance of the registration; and
- (f) That the applicant shall not engage in the purchase or sale of medical marijuana unless and until a certificate of occupancy and all other business licenses have been issued for the business.

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

- (a) The street address of the establishment to be registered or, in the case of new construction, the lot and square numbers of the ground upon which the establishment will be located; and
- (b) The date on which the applicant plans to open the establishment.

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

- (a) A certificate of occupancy for the registered premises;
- (b) Copies of all necessary business licenses for the premises;
- (c) Copies of all tax registration documents for the business;
- (d) Copies of an executed lease or deed for the registered premises, provided, however, that the business terms of the lease including the rent may be redacted by the applicant; and
- (e) All necessary approvals required under this title from Metropolitan Police Department (MPD), DCRA, and the Department.

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

### **5303 FAILURE TO OPEN OR OPERATE**

5303.1 A registration for a dispensary or cultivation center shall be returned to the Director if the dispensary or cultivation center fails to open for business within

one hundred twenty (120) days after the registration has been issued, except that the Director may grant an extension at his or her discretion for good cause shown.

- 5303.2 A registration for a dispensary or cultivation center shall be returned to the Director if the dispensary or cultivation center fails to operate for any reason for more than one hundred twenty (120) consecutive days after it has opened for business.

## **CHAPTER 54 REGISTRATION APPLICATIONS**

### **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 Director shall determine that the applicant meets all of the following criteria:

- (a) The applicant is of good character and generally fit for the responsibilities of registration;
- (b) The applicant is at least twenty-one (21) years of age;
- (c) The applicant has not been convicted of any felony before filing the application;
- (d) The applicant has not been convicted of a misdemeanor for a drug-related offense before filing the application;
- (e) The applicant has paid the annual fee;
- (f) The applicant is not a licensed physician making patient recommendations;
- (g) The applicant is not a person whose authority to be a caregiver or qualified patient has been revoked by the Department; and
- (h) The applicant has complied with all the requirements of the Act and this title.

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

**5401 OPEN APPLICATION PERIOD AND REQUIRED LETTER OF INTENT**

- 5401.1 Applications for new cultivation center or dispensary registrations shall only be accepted by the Director during the open application period as specified by the Director by publishing a Notice in the *D.C. Register*, such period shall not be extended.
- 5401.2 Prior to the submission of a formal application for a new cultivation center or dispensary registration, the prospective applicant shall submit a Letter of Intent to the Director or a designee. The Director shall only accept Letters of Intent during the time period specified by the Director by Notice in the *D.C. Register*, such period shall not be extended.
- 5401.3 The purpose of the Letter of Intent is to formally notify the Director that an application for a cultivation center or dispensary registration will be forthcoming.
- 5401.4 The Letter of Intent shall include at least the following:
- (a) The individual's name, or the organization, corporation, company name of the prospective applicant, including the full name and title, with respect to the organization, of the primary contact;
  - (b) The mailing address, which shall not be a post office box number, daytime telephone number, and email address of the applicant or primary contact person if not the same person;
  - (c) The type of registration the prospective applicant may apply for;
  - (d) A statement, not to exceed one hundred (100) words, defining the prospective applicant's intent to submit an application for a cultivation center or dispensary; and
  - (e) The dated signature of the prospective applicant.
- 5401.5 At the start of each open application period for new cultivation center or dispensary registrations, the Director shall publish a notice in the DC Register setting forth the process for submission of applications for cultivation center and dispensary registrations, which shall include:
- (a) The opening and ending dates for the submission of Letters of Intent to the Director by all individuals and entities who intend to apply for cultivation or dispensary registrations;
  - (b) The opening and ending dates for the submission of applications for a cultivation or dispensary registration by those individuals and entities that



have timely submitted Letters of Intent to the Director, meeting the requirements set forth in § 5401.4 of this chapter;

- (c) A statement that only the individuals and entities that timely submit Letters of Intent to the Director, meeting the requirements set forth in § 5401.4 of this chapter, shall be permitted to submit an application for a cultivation or dispensary registration;
- (d) The address for submission to the Director; and
- (e) The process for obtaining application materials from the Director.

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

5401.7 Applicants may apply for both a cultivation center and dispensary registration, but must file a separate Letter of Intent and a separate application for each registration sought.

5401.8 An applicant may apply for more than one (1) cultivation center registration but may apply for only one (1) dispensary registration.

5401.9 Only the individuals and entities that timely submitted Letters of Intent to the Director, and received a letter of acceptance from the Department, shall be permitted to submit an application for a cultivation or dispensary registration.

## **5402 SELECTION PROCESS**

5402.1 A six (6) member panel shall be convened consisting of one (1) representative from the Department, District Department of the Environment (DDOE), Office of the Attorney General (OAG), Department of Real Estate Services Protective Services Division (PSD), DCRA, and a consumer representative or patient advocate, selected by the Director, to evaluate and score each application. Each panel member shall score each application on a two hundred and fifty (250) point 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 four (4) remaining scores, and dividing that total by four (4). A dispensary applicant may also submit an educational materials plan, which shall be worth up to twenty (20) additional bonus points. A cultivation center applicant may also submit an environmental plan, which shall be worth up to twenty (20) additional bonus points. The maximum points for each criterion are indicated in section 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.

- 5402.2 Prior to seeking ANC review, the panel shall calculate a provisional score based upon the then available points and bonus points. The provisional score will be calculated by discarding the highest and lowest panel member scores, adding up the four (4) remaining scores, and dividing that total by four (4). The provisional scores shall be ranked from highest to lowest and the Panel shall provisionally select not more than the twenty (20) highest ranking cultivation center applicants, and not more than the ten (10) highest ranking dispensary applicants, for ANC review. The provisional selection decision shall be made in writing to the successful applicants. Notice shall also be provided by the Director to applicants that are not selected.
- 5402.3 The applications provisionally selected by the panel shall be placarded by the Director with notice given to each ANC in the affected Ward, and shall state that the ANCs must submit their comments to the Director not later than thirty (30) days after receiving the notice.
- 5402.4 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. The ANC comments shall be worth up to fifty (50) points of the total scoring for each provisionally selected applicant.
- 5402.5 The panel shall prepare a report of its final proposed selections and then submit it to the Director. The report shall assign the 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, and shall include not more than the ten (10) highest scoring cultivation center applicants and not more than the five (5) highest scoring dispensary applicants.
- 5402.6 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 received 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.
- 5402.7 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 received 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.
- 5402.8 In the event that a selected cultivation center or dispensary application is subsequently denied by the Director, the applicant who received the next highest ranking from the panel who was not initially accepted shall be selected.

5402.9 An applicant submitting a cultivation center or dispensary registration application shall be required to submit the eight thousand dollar (\$8,000) nonrefundable application fee at the time the cultivation center or dispensary application is filed with the Director.

### **5403 SELECTION CRITERIA**

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

- (a) Dispensary Criteria:
  - (1) Suitability of the Proposed facility (Up to fifty (50) 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 twenty-five (25) 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-five (25) 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 regarding the applicant's knowledge of federal law relating to medical marijuana. The applicant shall also submit a notarized written statement on a form provided by the Mayor indicating that they have read the Act and this title and have knowledge of District and federal law relating to marijuana. (up to 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 Department enforcement. Specifically, it shall evidence compliance with all items in § 5405.2 and § 5610, and include all submittals required under that section. (up to thirty (30) 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 (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 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 five (5) points);

(4) Inventory Plan (Up to twenty (20) points):

- (A) Measure 1: The applicant shall describe its plan for

maintaining an inventory of medical marijuana sufficient to ensure that it will be able to serve the needs of all registered qualifying patients who have made the applicant's facility their designated dispensary;

- (5) Product Safety and Labeling Plan (Up to forty (40) 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 twenty (20) points); and
  - (B) Measure 2: The applicant shall describe its plan for testing or verifying medical marijuana received from a cultivation center and ensuring that all medical marijuana is free of contaminants. (up to twenty (20) points);
- (6) Applicant's business plan, marketing plan and services to be offered (Up to twenty (20) 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 ten (10) 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);
- (7) Advisory Neighborhood Commission comments (Up to fifty (50) points):

- (A) Measure 1: The ANCs' concerns or support regarding the potential adverse impact of the proposed location to the neighborhood. (Up to twenty (20) points);
  - (B) Measure 2: The ANCs' concerns or support regarding an overconcentration or lack of cultivation centers or dispensaries in the affected ward. (up to ten (10) points); and
  - (C) Measure 3: The ANCs' concerns or support regarding the proposed location's proximity to substance abuse treatment centers, day care centers, and halfway houses. (up to twenty (20) points);
- (8) Educational Materials Plan (Up to twenty (20) bonus 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 ten (10) bonus points); and
  - (B) Measure 2: The applicant shall describe its proposed plan for providing training for its staff regarding the administration of marijuana. (up to ten (10) bonus points);

\*Pursuant to the Medical Marijuana Certified Business Enterprise Preference Temporary Amendment Act of 2017, effective September 6, 2017 (D.C. Law 22-18), Any application for registration of a dispensary, cultivation center, or testing laboratory submitted by a certified business enterprise shall be awarded a preference equal to 20 points or 7.5% of the available points, whichever is more. For purposes of this paragraph, the term "certified business enterprise" shall have the meaning as provided in section 2302(1D) of the Small and Certified Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-22; D.C. Official Code § 2-218.02 (1D))."

(b) Cultivation Center Criteria:

- (1) Suitability of the Proposed facility (Up to fifty (50) 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-five (25) points); and

- (B) Measure 2: The applicant demonstrates the ability to continue to meet qualifying patient demand by expanding the cultivation facility in a quick and efficient manner with minimal impact on the environment and the surrounding community. (up to twenty-five (25) 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 regarding the applicant's knowledge of federal law relating to medical marijuana. The applicant shall also submit a notarized written statement on a form provided by the Mayor indicating that they have read the Act and this title and have knowledge of District and federal law relating to marijuana. (up to ten (10) points);
- (3) Security Plan (Up to fifty (50) 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 Department enforcement. Specifically, it shall evidence compliance with all items in § 5406.2 and § 5610, and include all submittals required under that section. (up to thirty (30) points);
- (B) Measure 2: The applicant demonstrates that its plan for record keeping, tracking and monitoring inventory, quality control and security and other policies and procedures will discourage unlawful activity. It also describes the applicant's plan to coordinate with and dispose of unused or surplus medical marijuana with MPD. (up to five (5) points);

- (C) Measure 3: The applicant's security plan shall describe the enclosed, locked facility that will be used to secure or store medical marijuana, including when the location is closed for business, and its security measures, and the steps taken to ensure that medical marijuana is not visible to the public. (up to ten (10) points); and
  - (D) Measure 4: The applicant shall describe its transportation plan regarding how the cultivation center intends to safely and securely deliver medical marijuana to registered dispensaries. (up to five (5) points);
- (4) Cultivation Plan (Up to thirty (30) points):
- (A) Measure 1: The applicant shall describe its plan to provide a steady supply of medical marijuana to registered dispensaries. (up to ten (10) 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 twenty (20) 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 ten (10) 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 fifty (50) points);
- (A) Measure 1: The ANCs' concerns or support regarding the potential adverse impact of the proposed location to the neighborhood. (up to twenty (20) points);
- (B) Measure 2: The ANCs' concerns or support regarding an overconcentration or lack of cultivation centers or dispensaries in the affected ward. (up to ten (10) points); and
- (C) Measure 3: The ANCs' concerns or support regarding the proposed location's proximity to substance abuse treatment centers, day care centers, and halfway houses. (up to twenty (20) points); and
- (8) Environmental Plan (Up to twenty (20) bonus points):
- (A) Measure 1: The applicant demonstrates an environmental plan of action to minimize the carbon footprint, environmental impact, and resource needs for the production of medical marijuana. (up to ten (10) bonus points); and
- (B) The applicant describes any plans for: (1) the use of alternative energy; (2) the treatment of waste water and runoff; (3) scrubbing or treatment of exchanged air; and (4)

the co-location of growing facilities and/or the means of packaging or production. (Up to ten (10) bonus points)

\*Pursuant to the Medical Marijuana Certified Business Enterprise Preference Temporary Amendment Act of 2017, effective September 6, 2017 (D.C. Law 22-18), Any application for registration of a dispensary, cultivation center, or testing laboratory submitted by a certified business enterprise shall be awarded a preference equal to 20 points or 7.5% of the available points, whichever is more. For purposes of this paragraph, the term “certified business enterprise” shall have the meaning as provided in section 2302(1D) of the Small and Certified Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-22; D.C. Official Code § 2-218.02 (1D)).”

5403.2 A registration application for a cultivation center or dispensary 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 or dispensary 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 or dispensary shall not be approved for any location that also sells alcoholic beverages.

5403.5 A registration application for a cultivation center or dispensary 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.

#### **5404 APPLICATION FORMAT AND CONTENTS**

5404.1 The business application of a person applying for a cultivation center or dispensary registration shall include:

- (a) In the case of an individual applicant, the trade name of the business, if applicable, and the name and address of the individual; in the case of a partnership or limited liability company applicant, the trade name of the business, if applicable, and the names and addresses of each member of the partnership or limited liability company; and in the case of a corporate applicant, the legal name, trade name, place of incorporation, principal place of business, and the names and addresses of each of the corporation's principal officers, directors, and shareholders holding, directly or beneficially, one percent (1%) or more of its common stock;

- (b) The name and address of the owner of the establishment for which the registration is sought and the premises where it is located;
- (c) Whether registration is sought for a cultivation center or dispensary;
- (d) A certified surveyor's report setting forth the proximity of the cultivation center or dispensary to the nearest public or private, preschool, primary or secondary school or recreation center, and the name of the school or recreation center;
- (e) The size and design of the cultivation center or dispensary;
- (f) A detailed description of the nature of the proposed operation, including the following:
  - (1) The location of all restricted access areas; and
  - (2) The hours during which the cultivation center or dispensary plans to operate;
- (g) An affidavit that complies with D.C. Official Code § 47-2863(b)(2011 Supp.);
- (h) Documents or other written statements or evidence establishing to the satisfaction of the Director that the person applying for the registration meets all of the qualifications set forth in § 5400.1;
- (i) The applicant shall sign a written statement on a form provided by the Director attesting that the applicant assumes any and all risk or liability that may result under District of Columbia and federal laws from the operation of a medical marijuana cultivation center or dispensary. The applicant shall further acknowledge that it 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 that the District of Columbia shall not be liable as a result of these changes;
- (j) A notarized affidavit attesting to the fact that the applicant is the true and actual owner of the business for which the registration is sought; the applicant intends to carry on the business for the entity identified in the application and not as the agent of any other individual, partnership, association, or corporation not identified in the application; and the registered establishment will be managed by the applicant in person or by a registered manager approved by the Director;
- (k) The applicant shall sign a written statement on a form provided by the Director attesting that the applicant understands and is aware that a

cultivation center's or dispensary's registration may be revoked at any time for the convenience of the District pursuant to § 6103 of this subtitle; and

- (l) The applicant shall submit a written and detailed plan for closure of its cultivation center or dispensary.

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 Department 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 Director, 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 (2001).

5404.3 An applicant for a dispensary or cultivation center registration shall advise the Department, in the application, as to the source of the funds used to acquire or develop the business for which the registration is sought, and shall provide independent documentation concerning the source of such funds and copies of closing documents in connection with the purchase of a registered business upon request of the Department.

5404.4 Repealed.

5404.5 An applicant for a cultivation center or dispensary shall also file with the Department plans and specifications for the interior of the building if the building to be occupied is in existence at the time. If the building is not in existence, the applicant shall file a plot plan and a detailed sketch for the interior and the architect's drawing of the building to be constructed.

5404.6 The applications for an operator of either a cultivation center or a dispensary registration shall specifically recite verbatim each of the following notices:

- (a) **Limitation of Liability** – The District of Columbia shall not be liable to 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;

- (b) **Indemnification, Hold Harmless and Defense Obligations** – Registrant hereby indemnifies and holds the District of Columbia, its officers, directors, employees, affiliates and agents ("**Indemnified Parties**") harmless and shall defend the Indemnified Parties (with counsel satisfactory to District of Columbia) from and against any and all losses, costs, damages, liabilities, expenses, claims and judgments (including, without limitation, attorneys fees and court costs) suffered by or claimed against the Indemnified Parties, directly or indirectly, based on, arising out of or resulting from:
- (1) Registrant's establishment and operation of a cultivation center and/or dispensary in the District's medical marijuana program;
  - (2) The negligence or willful misconduct of registrant or its employees, contractors, agents, licensees, guests or invitees;
  - (3) Any breach or default by registrant in the performance or observance of its covenants or obligations under this registration;  
or
  - (4) Any violations of law by of registrant or its employees, contractors, agents, licensees, guests or invitees; and
- (c) **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.

5404.7 As part of the registration process, every applicant for either a cultivation center or a dispensary registration shall sign a written statement attesting to the following:

- (a) The applicant acknowledges receipt and advisement of the notices set forth in § 5404.6;
- (b) The applicant agrees to and accepts the limitation of liability against the District, and the requirement to indemnify, hold harmless, and defend the District, as set forth in § 5404.6;

- (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.

5404.8 Execution of the attestation set forth in § 5404.7 shall be a required element of each application for a cultivation center or dispensary registration.

5404.9 The Director shall not permit any applicant for a cultivation center or dispensary to make any additions, changes, alterations, amendments, modifications, corrections, or deletions to the application package once it has been submitted to the Department; however, an applicant may be permitted to modify the location of the premises identified on the application pursuant to Subsection 6001.10 of this chapter.

#### **5405 DISPENSARY REGISTRATION APPLICATION REQUIREMENTS**

5405.1 In addition to the requirements in § 5404, an application for a dispensary shall also contain the following:

- (a) A proposed staffing plan;
- (b) A proposed security plan containing the criteria set forth in § 5405.2;
- (c) A product safety and labeling plan that covers the information contained in § 5607;
- (d) A written statement regarding the suitability of the proposed facility; and
- (e) 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 relating to marijuana.

5405.2 An applicant for a dispensary registration shall file a written security plan with the Department. The written security plan shall address, at a minimum, the following elements:

- (a) Evidence that the space will comply with all security system requirements set forth in § 5610 of this subtitle;

- (b) A site plan showing the entire structure the dispensary is house in, including the street(s), parking lot(s), other tenants within the facility, and any other entities that physically border the dispensary;
- (c) A floor plan of the dispensary detailing the location of the following:
  - (1) All entrances and exits to the dispensary;
  - (2) The location of any windows, skylights, and roof hatches;
  - (3) The location of all cameras, and their field of view;
  - (4) The location of all alarm inputs (door contacts, motion detectors, duress/hold up devices) and alarm sirens;
  - (5) The location of the digital video recorder and alarm control panel; and
  - (6) Restricted and public areas;
- (d) The type of security training provided for, and completed by, establishment personnel, including:
  - (1) Conflict resolution training and other security training to be provided by staff; and
  - (2) Procedures for handling violent incidents, other emergencies, and calling the Metropolitan Police Department;
- (e) The applicant's procedures for preventing unregistered individuals from purchasing marijuana;
- (f) The establishment's procedures for documenting medical marijuana transactions;
- (g) How the applicant intends to use and maintain an incident log;
- (h) The establishment's procedures for preventing the use of medical marijuana on the registered premises;
- (i) The number and location of cameras used by the establishment;
- (j) Security measures taken by the applicant to prevent individuals from entering the limited access area portion of the registered premises;

- (k) The applicant's closing procedures after the cessation of business each day;
- (l) The applicant's plan to prevent theft or the diversion of medical marijuana, including maintaining all medical marijuana in a secure, locked room that is accessible only to authorized persons;
- (m) The type of alarm system and outdoor lighting to be used by the applicant; and
- (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.

5405.3 Upon receipt of a written security plan for an initial dispensary 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 Director. The Department 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 Department.

5405.4 After completion of the MPD or the designee assessment, the entire application package shall be submitted to the panel.

5405.5 For purposes of this subsection, the Chief of Police may select a designee from outside of the agency.

## **5406 CULTIVATION CENTER REGISTRATION REQUIREMENTS**

5406.1 In addition to the requirements in § 5404, an application for a cultivation center shall also contain the following:

- (a) A proposed staffing plan;
- (b) A proposed security plan containing the criteria set forth in § 5406.2;
- (c) A cultivation plan that covers where medical marijuana will be cultivated and stored;
- (d) A product safety and labeling plan that covers the information contained in § 5607;
- (e) A written statement regarding the suitability of the proposed facility; and
- (f) A notarized written statement from the applicant that they have read the



Act and this subtitle and has knowledge of the District and federal laws relating to marijuana.

- 5406.2 An applicant for a cultivation center shall file a written security plan with the Department. The written security plan shall address, at a minimum, the following elements:
- (a) Evidence that the space will comply with all security system requirements set forth in § 5610 of this subtitle;
  - (b) A site plan showing the entire structure the cultivation center is house in, including the street(s), parking lot(s), other tenants within the facility, and any other entities that physically border the cultivation center;
  - (c) A floor plan of the cultivation center detailing the location of the following:
    - (1) All entrances and exits to the cultivation center;
    - (2) The location of any windows, skylights, and roof hatches;
    - (3) The location of all cameras, and their field of view;
    - (4) The location of all alarm inputs (door contacts, motion detectors, duress/hold up devices) and alarm sirens;
    - (5) The location of the digital video recorder and alarm control panel; and
    - (6) Restricted and public areas;
  - (d) The type of security training provided for, and completed by, establishment personnel, including:
    - (1) Conflict resolution training and other security training to be provided to staff; and
    - (2) Procedures for handling violent incidents, other emergencies, and calling the Metropolitan Police Department;
  - (e) The establishment's procedures for documenting medical marijuana transactions;
  - (f) The establishment's procedures for preventing unregistered businesses from purchasing medical marijuana;

- (g) How the applicant intends to use and maintain an incident log;
- (h) The establishment's procedures for preventing the use of medical marijuana on the registered premises;
- (i) The number and location of cameras used by the establishment;
- (j) Security measures taken by the applicant to prevent individuals from entering the limited access area portion of the registered premises;
- (k) The applicant's closing procedures after the cessation of business each day;
- (l) The applicant's plan to prevent theft or the diversion of medical marijuana, including maintaining all medical marijuana in a secure, locked room that is accessible only to authorized persons;
- (m) The type of alarm system and outdoor lighting to be used by the applicant; and
- (n) The applicant's transportation plan for delivering medical marijuana from the cultivation center to dispensaries.

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 Director. The Department 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 Mayor.

5406.4 After completion of the MPD or the designee assessment, the entire application package shall be submitted to the panel.

5406.5 For purposes of this subsection, the Chief of Police may select a designee from outside of the agency.

#### **5407 CULTIVATION CENTER AND DISPENSARY REGISTRATION ISSUANCE**

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

#### **5408 DIRECTOR, OFFICER, MEMBER, INCORPORATOR, AND AGENT**

**REGISTRATION REQUIREMENTS**

5408.1 The application for a director, officer, member, incorporator, or agent registration shall include:

- (a) Written statements or evidence establishing to the satisfaction of the Department that the applicant meets all of the registration qualifications; and
- (b) A copy of the applicant's medical marijuana training and education certificate. The medical marijuana and education certificate requirement shall not take effect until sixty (60) days after the effective date of these regulations. An individual who has been approved by the Department as a director, officer, member, incorporator, or agent shall not also be required to register as an employee or manager.

5408.2 An applicant for a non-profit or for-profit corporation, partnership, or limited liability company shall identify all of its directors, officers, members, or incorporators on its registration application. An applicant for a dispensary or cultivation center may submit simultaneously registration applications for individual directors, officers, members, incorporators and agents at the time its dispensary or cultivation center registration application is filed.

**5409 EMPLOYEE REGISTRATION REQUIREMENTS**

5409.1 The application for an employee registration shall include:

- (a) Written statements or evidence establishing to the satisfaction of the Department that the applicant meets all of the registration qualifications; and
- (b) A copy of the applicant's medical marijuana training and education certificate. The medical marijuana and education certificate requirement shall not take effect until sixty (60) days after the effective date of these regulations.

**5410 MANAGER'S REGISTRATION REQUIREMENTS**

5410.1 The application for a manager registration shall include:

- (a) A notarized written statement from the applicant that they have read the Act and this title and have knowledge of District and federal law relating to marijuana;

- (b) Written statements or evidence establishing to the satisfaction of the Department that the applicant meets all of the registration qualifications; and
- (c) A copy of the applicant's medical marijuana training and education certificate.

5410.2 The medical marijuana and education certificate requirement shall not take effect until sixty (60) days after the effective date of these regulations. An individual who has been approved by the Department as a manager shall not also be required to register as an employee.

## **5411 CRIMINAL BACKGROUND CHECKS**

5411.1 Each applicant required to be registered under the Act and this title shall be required to undergo a criminal background check conducted by MPD 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.

5411.2 <sup>31</sup>No director, officer, member, incorporator, agent, manager, or employee of a dispensary or cultivation center who has access to the medical marijuana at the dispensary or cultivation center shall have a felony conviction; provided, that the Mayor shall not disqualify any of the forgoing individuals solely for a felony conviction of possession with intent to distribute marijuana that occurred before July 17, 2014.

## **5412 REGISTRATION PROHIBITED IN RESIDENTIAL USE DISTRICT**

5412.1 No registration shall be issued to a cultivation center or dispensary located in a residential-use district as defined in the Zoning Regulations and shown in the official atlases of the Zoning Commission for the District.

## **5413 RESTRICTIONS ON HOLDING A CONFLICT OF INTEREST**

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

5413.2 No individual, partnership, corporation, entity, or organization shall directly or indirectly hold more than twenty percent (20%) of the cultivation center

<sup>31</sup> Effective February 18, 2017, pursuant to the Medical Marijuana Omnibus Amendment Act of 2016, DC Law 21-209.

registrations, which are permissible to be granted under the law and this subtitle at the time of issuance of the registrations.

#### **5414 RENEWAL PROCESS**

5414.1 The Director shall provide all ANCs in the affected ward with a thirty (30) day comment period prior to renewing a cultivation center and/or dispensary application for a third time. If proper notice has been given to all ANCs in the affected ward, and no objection to the renewal is filed, the Director shall approve the registration application unless the Director finds the applicant's record of compliance warrants denying the renewal application or there is another legal basis for denial.

5414.2 The Director shall consider the applicant's record of compliance with the Act and this subtitle and the regulations promulgated under this title and any conditions placed on the registration during the period of registration by the Department in deciding whether to approve a registration request.

#### **5415 REPEALED**

#### **5416 REPEALED**

#### **5417 DENIED OR WITHDRAWN APPLICATIONS**

5417.1 The fee for processing an application which has not been selected, denied, or withdrawn shall be fifty percent (50%) of the application fee.

#### **5418 LIMITATION ON SUCCESSIVE APPLICATIONS AFTER DENIAL**

5418.1 A second and each subsequent registration application for either a cultivation center or dispensary that has had its registration revoked by the Director shall not be considered for the same person or persons within five (5) years of the Director's revocation.

### **CHAPTER 55 REGISTRATION CHANGES**

#### **5500 TRADE NAMES AND CORPORATE NAMES**

5500.1 No dispensary or cultivation center registered under the Act shall utilize any name other than that of an individual, including a corporate or trade name, without first obtaining approval from the Department for use of the corporate or trade name.

5500.2 A dispensary or cultivation center registered under the Act may file a written request with the Department to add an additional trade name at a location

currently authorized for the sale of medical marijuana. The Department, in its discretion, may approve the use of an additional trade name. Any additional trade name approved by the Department shall appear on the establishment's written registration.

- 5500.3 A dispensary or cultivation center registered under the Act shall not use or display a trade name, corporate name, or sign bearing the words “pharmacy”, “apothecary”, “drug store”, or other phrase that implies that the practice of any health profession occurs on the premises.
- 5500.4 Any trade name requested by an applicant shall not be identical or confusingly similar to one currently used under a previously issued or existing registration.
- 5500.5 The Mayor shall provide written notice to MPD of any Department approved trade name changes. Such notice shall contain both the previous and current Department approved trade name.
- 5500.6 A dispensary shall be required to provide written notice of any trade name change to all of its registered qualified patients and caregivers within ten (10) days of being notified of Department approval. The dispensary, law enforcement personnel, and Department investigators shall recognize the qualifying patient’s or caregiver’s registration containing the previous trade name as valid until the qualified patient or caregiver’s current registration expires or a new registration card is issued by the Department.

**5501 INDIVIDUAL OWNERSHIP, PARTNERSHIP, LIMITED LIABILITY COMPANY OR PARTNERSHIP, AND CORPORATE CHANGES**

- 5501.1 If there is a change in corporate officers, directors, or other persons, owning or controlling one percent (1%) or more, but less than ten percent (10%), of the common stock of a corporate registration, the corporation shall submit to the Department, within fifteen (15) calendar days of the change, the minutes or other instrument giving the names and addresses of any new officer, director, or person owning or controlling one percent (1%) or more, but less than ten percent (10%) of the stock.
- 5501.2 If there is a change in the ownership of an individual ownership, partnership, or limited liability company or partnership, resulting in a change of ownership of one percent (1%) or more, but less than ten percent (10%), of the total ownership interest of the business entity, the individual owner, partnership, or limited liability company or partnership members shall submit to the Department in a timely manner, but no later than fifteen (15) calendar days after the change has occurred, the instruments reflecting the change in ownership interests.
- 5501.3 Within fifteen (15) calendar days of the changes set forth in § 5501.1 and 5501.2, the individual owner, partnership, limited liability company or partnership, or

corporation shall furnish to the Department any data pertaining to the personal and business history of any new officer, director, stockholder, member, general or limited partner, or other person that the Department may require, and each new person shall apply for a registration as required under this subtitle.

5501.4 The fee for a change of officer, director, stockholder, or general or limited partner, or member shall be one hundred dollars (\$100).

5501.5 If there is a change in corporate officers, directors, or other persons, owning or controlling ten percent (10%) or more of the common stock of a corporate registration, the corporations' dispensary or cultivation center registration, or the corporation's authorization to apply for a dispensary or cultivation center registration, shall automatically be deemed void and shall be surrendered to the Department upon demand.

5501.6 If there are changes in the ownership of an individual ownership, partnership, or limited liability company or partnership, resulting in a change of ownership of ten percent (10%) or more of the total ownership of the business entity, the individual owner, partnership or limited liability company members' registration, or authorization to apply for a dispensary or cultivation center registration, shall automatically be deemed void and shall be surrendered to the Department upon demand.

5501.7 This subsection shall not be used to circumvent the prohibition against the transfer of ownership, leasing, or subcontracting, of a dispensary or cultivation center registration. If, after investigation, the Director determines that there is cause to believe that entity has made changes pursuant to this subsection in an attempt to circumvent these prohibitions, the Director shall take action to revoke the dispensary or cultivation center registration, or the authorization to apply for a dispensary or cultivation center registration.

**5502 REPEALED**

## **CHAPTER 56 GENERAL OPERATING REQUIREMENTS**

### **5600 INSTRUCTIONS TO REGISTRANTS**

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

5600.2 Applications shall also be made available on the Department's website. To the extent possible, applications shall be posted on the Department's website in various languages for informational purposes. Applications submitted to the Department shall be completed in English.

**5601 POSTING OF IDENTIFICATION REQUIREMENT BY DISPENSARY**

5601.1 The notice required to be posted by the dispensary shall state that no person shall be sold medical marijuana who does not produce both:

- (a) A valid registration card issued by the Department; and
- (b) A valid government issued photo identification document displaying proof of age that matches the name on the registration card.

**5602 HOURS OF OPERATION AND SALE**

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

5602.2 A registered cultivation center shall not be open to the public. In the event that a registered cultivation center and registered dispensary are located in the same building, the portion of the building occupied by the cultivation center shall be closed to the public. A cultivation center may operate its business twenty-four (24) hours a day. A registered cultivation center or its contracted agent may deliver to medical marijuana dispensaries on any day and at any time except between the hours of 9:00 p.m. and 7:00 a.m. A registered cultivation center shall permit only a registered director, officer, member, incorporator, agent, manager, employee, or government or law enforcement official on the registered premises.

5602.3 The Department may further limit the hours of operation for a cultivation center or dispensary 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 or cultivation center's failure to comply with the Act, or these regulations.

**5603 LOCKING AND SECURING OF MEDICAL MARIJUANA DURING NON-OPERATING HOURS**

5603.1 A registered dispensary or cultivation center shall keep all medical marijuana located on the premises in a separate storage area which is securely closed and locked during all hours when the establishment is prohibited from operating or is closed. The storage area shall have a volumetric intrusion detection device(s) installed and connected to the facility intrusion detection system.

5603.2 A cultivation center or dispensary shall be required to install and use a safe for overnight storage of any processed marijuana, transaction records, and cash on the registered premises. The safe shall be a UL listed burglar-proof safe with a minimum rating of TL-30. Safes weighing less than seven hundred fifty pounds



(750 lb.) shall be installed in a steel clad concrete block or otherwise securely anchored to a fixed part of the facility structure.

#### **5604 MANAGER'S REGISTRATION**

- 5604.1 In the absence of an owner, a cultivation center or dispensary shall have a Department approved manager present at the registered premises during the hours that the cultivation center or dispensary is open.
- 5604.2 An applicant for a Manager's registration shall submit an application to the Department on the prescribed form and pay the required fee.
- 5604.3 If a registered cultivation center or dispensary 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 Department.
- 5604.6 Prior to issuance of a Manager's registration, an applicant shall certify that he or she has obtained and read a copy of the Act and this subtitle.
- 5604.7 A registered cultivation center or dispensary shall notify the Department within seven (7) calendar days of discovering any manager's arrest or conviction for any crime other than minor traffic violations.
- 5604.8 Failure by the applicant to comply with § 5604.7, may, in the discretion of the Department, cause the applicant's registration to be suspended or revoked.
- 5604.9 A registered cultivation center or dispensary may file a written request with the Department 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. The written request 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. Such temporary authority shall cease after thirty (30) days or upon the approval or denial of the Manager's registration application.

#### **5605 DESTRUCTION AND DISPOSAL OF UNUSED OR SURPLUS MEDICAL MARIJUANA AND REPORTING THEFT**

- 5605.1 A cultivation center or dispensary shall destroy or dispose of unused or surplus medical marijuana and its by-products by providing it to MPD for destruction.
- 5605.2 All unused or surplus medical marijuana and its by-products shall be weighed and documented and submitted to MPD on a form provided by MPD prior to being delivered to MPD by the cultivation center or dispensary for destruction.
- 5605.3 A cultivation center or dispensary that has had its registration renewal denied, or revoked, or is going out of business may obtain approval from the Department by submitting a written request to sell and transport medical marijuana to another cultivation center or dispensary. The Department shall notify MPD of such approval prior to any medical marijuana being transported to another cultivation center or dispensary.
- 5605.4 A cultivation center or dispensary shall report any stolen or lost medical marijuana by filing a police report by calling 911 or in person with the Police District where the registered business resides either in person or in writing within twenty-four (24) hours of becoming aware of the theft or loss.
- 5605.5 For purposes of this section, “unused or surplus medical marijuana” shall be defined as any harvested or unharvested marijuana, both processed and unprocessed, which is possessed by a cultivation center or dispensary and includes:
- (a) Any marijuana plants possessed by a cultivation center in excess of the authorized plant limitation;
  - (b) Any marijuana that has spoiled or is unusable for medical purposes;
  - (c) Any marijuana possessed by a dispensary in excess of the amount needed to supply all of the dispensary’s qualified patients for a one (1) month period; and
  - (d) Any marijuana that has or appears to have been tampered with.
- 5605.6 The Department, in its discretion, may allow a dispensary to possess a surplus of medical marijuana for a period of time, if it is shown that there is a likelihood that additional qualifying patients or caregivers will register with the dispensary.
- 5606 NOTICE OF CRIMINAL CONVICTION OF DIRECTOR, OFFICER, MEMBER, INCORPORATOR, AGENT OR EMPLOYEE**
- 5606.1 A registered dispensary or cultivation center shall immediately notify the Department in writing if the registration holder discovers that any director, officer, member, incorporator, agent, or employee has at any time prior to or during his or her employment been convicted of a misdemeanor for a drug-related

offense or a felony. For purposes of this section, "immediately" shall mean notifying the Department within seven (7) days of discovering the criminal conviction.

## **5607 LABELING AND PACKAGING OF MEDICAL MARIJUANA**

5607.1 No medical marijuana shall be dispensed or distributed to a qualifying patient or caregiver unless the container in which it is distributed bears a legible label, firmly affixed, stating:

- (a) The name of the cultivation center where the medical marijuana was produced and the manufacture date;
- (b) The name of the dispensary where the medical marijuana was dispensed;
- (c) The quantity of medical marijuana contained within;
- (d) The cannabinoid profile of the medical marijuana contained within, including the THC level;
- (e) Any other ingredient or ingredients besides medical marijuana contained within;
- (f) The name of the recommending physician;
- (g) The dispensing date that the medical marijuana was transferred to the qualified patient or caregiver;
- (h) The qualifying patient's name and registration card number; and
- (i) A statement that the product is for medical use, not for resale or transfer to another person, containing the following language: "Contains Marijuana. Keep out of the reach of children."

5607.2 All medical marijuana sold or otherwise distributed by a cultivation center shall be packaged and labeled in a manner that advises the purchaser that it contains marijuana, specifies the amount of marijuana in the product, and that the marijuana is intended for medical use solely by the patient to whom it is sold, and that any re-sale or re-distribution of the medical marijuana to a third person is prohibited.

5607.3 The label shall include all ingredients contained in the product, in order from most abundant to least abundant. The label for ingestible items shall identify potential food allergy ingredients, including milk, eggs, fish, shellfish, tree nuts, peanuts, wheat and soybeans. The product shall be packaged in a sealed container that cannot be opened without obvious damage to the packaging.

- 5607.4 The label shall contain the following warning: “There may be health risks associated with the ingestion or use of this product.” Please consult your physician if you have any questions or concerns.
- 5607.5 All medical marijuana shall be labeled with a list of all chemical additives, including but not limited to non-organic and organic pesticides, herbicides and fertilizers that were used in the cultivation and production of the medical marijuana.
- 5607.6 A cultivation center may place a trade or product name on the medical marijuana container prior to transporting it to a dispensary.
- 5607.7 The label shall not contain any of the following information:
- (a) Any false or misleading statement or design; or
  - (b) Any seal, flag, crest, coat of arms, or other insignia likely to mislead the qualified patient to believe that the product has been endorsed, made, or used by the District government.
- 5607.8 A cultivation center or dispensary shall not alter, obliterate, or destroy any label attached to a medical marijuana container.
- 5607.9 A dispensary shall place for transport purposes packaged and labeled medical marijuana in a separate sealed container prior to dispensing medical marijuana to a qualified patient or caregiver. This separate sealed container shall comply with these regulations and include a label containing the following required information contained in § 5607.1:
- (a) The dispensing date the medical marijuana was transferred to the qualifying patient or caregiver; and
  - (b) The qualifying patient’s name and registration card number.
- 5607.10 A cultivation center or dispensary shall not use the word(s) “candy” or “candies” on the product, packaging, or labeling of any medical marijuana product.
- 5607.11 A cultivation center or dispensary shall not place any content, image, or labeling that specifically targets individuals under the age of twenty-one (21), including but not limited to, cartoon characters or similar images, on the product, packaging, or a container holding medical marijuana.
- 5607.12 A cultivation center that produces edible marijuana products or marijuana-infused products shall ensure that all edible marijuana products or marijuana-infused products offered for sale:

- (a) Are labeled clearly and unambiguously as medical marijuana;
- (b) Are not presented in packaging or with labeling that is appealing to children; and
- (c) Have packaging designed or constructed to be significantly difficult for children under five (5) years of age to open, but not normally difficult for adults to use properly.

5607.13 A cultivation center or dispensary shall not use or allow the use of any content, image, or labeling on a medical marijuana product that is offered for sale if the container does not precisely and clearly indicate the nature of the contents or that in any way may deceive a customer as to the nature, composition, quantity, age, or quality of the product.

5607.14 Packaging of edible medical marijuana products or medical marijuana-infused products shall not bear any:

- (a) Resemblance to the trademarked, characteristic or product-specialized packaging of any commercially available candy, snack, baked good or beverage;
- (b) Statement, artwork or design that could reasonably mislead any person to believe that the package contains anything other an edible medical marijuana product or medical marijuana-infused products; or
- (c) Seal, flag, crest, coat of arms, or other insignia that could reasonably mislead any person to believe that the product has been endorsed, manufactured, or used by any state, county or municipality or any agency thereof.

5607.15 The Director may prohibit a cultivation center or dispensary from selling any medical marijuana product upon a finding by the Director that the product is deceptively labeled or branded in a manner which is misleading about its content or that contains injurious or adulterated ingredients.

5607.16 In addition to the other labeling requirements of this section, all edible marijuana products, and marijuana-infused products shall be labeled in accordance with 16 C.F.R. Part 1700 (2016), Poison prevention packaging; 21 C.F.R. Part 101 (2016), Food Labeling, as specified in Section 1102 of the District Food Code Regulations (Title 25-A DCMR).

5607.17 A dispensary shall submit its labeling to the Mayor for approval and record. The Mayor shall transmit the final dispensary labeling designs to MPD.

**5608           INGESTIBLE ITEMS**

- 5608.1           The production of any medical marijuana distributed by a dispensary in an edible form, or other form which is intended to enter the body of a patient, shall be prepared at a cultivation center facility that meets all requirements of a retail food establishment, including any Department licensing and/or certification requirements. The production of any product containing medical marijuana shall comply with all District of Columbia health regulations relating to the production, preparation, and sale of prepared food items.
- 5608.2           Marijuana-infused products that require cooking or baking by the consumer are prohibited.
- 5608.3           Marijuana-infused products that are especially appealing to children are prohibited.
- 5608.4           Marijuana-infused edible products such as, but not limited to, gummy candies, lollipops, cotton candy, or brightly colored products, are prohibited.
- 5608.5           A cultivation center shall not process or transfer a marijuana item:
- (a)           That by its shape, design or flavor is likely to appeal to minors, including but not limited to:
    - (1)           Products that are modeled after non-cannabis products primarily consumed by and marketed to children; or
    - (2)           Products in the shape of an animal, vehicle, person or character;
  - (b)           That is made by applying cannabinoid concentrates or extracts to commercially available candy or snack food items;
  - (c)           That contains dimethyl sulfoxide (DMSO).

**5609           PERMITTED FORMS OF MEDICAL MARIJUANA**

- 5609.1           Dispensaries and cultivation centers may dispense or distribute medical marijuana in any form deemed safe which allows patients to eat, inhale, or otherwise use medical marijuana for medical purposes. Medical marijuana shall be subject to testing for quality assurance and safety purposes.

**5610           ELECTRONIC RECORDING SECURITY AND ALARM SYSTEM**

- 5610.1           A dispensary or cultivation center shall be required to operate and maintain in good working order a twenty-four (24) hour, seven (7) days a week, a closed-circuit television (CCTV) surveillance system on the premises that complies with

the following minimum standards:

- (a) Visually records and monitors all building entrances and exits, all parking lot areas, rear alley areas immediately adjacent to the building, and covers the entire inside of the facility, including all limited access areas, and including all areas where medical marijuana is cultivated, stored, dispensed, or destroyed. Fixed cameras shall be installed to provide a consistent recorded image of these areas. The cultivation center or dispensary shall instruct the company or individuals installing the surveillance cameras to maximize the quality of facial and body images and to avoid backlighting and physical obstructions;
- (b) Cameras installed outdoors and in low-light interior areas shall be day/night cameras with a minimum resolution of six hundred (600) lines per inch (analog) or D1 (IP) and a minimum light factor requirement of seven tenths (0.7) LUX. The installation of additional lighting may be required to increase picture clarity and brightness. Cameras shall be calibrated and focused to maximize the quality of the recorded image;
- (c) The recording device shall be a digital video recorder that meets the following minimum standards:
  - (1) Displays a date and time stamp on all recorded video; and
  - (2) Can produce a video disc (CD/DVD) directly from the DVR unit using an installed media recording drive. The video on the disc shall be viewable on any Windows PC, and include any required player software on the disc;
- (d) A display monitor with a minimum screen size of twelve inches (12 in.) inches shall be connected to the electronic recording security system at all times;
- (e) Electronic recording security systems are required to be maintained in good working order at all times. The owner of a cultivation center or dispensary shall instruct each manager, employee, or agent overseeing the functioning of the video recording security system to immediately report any malfunctioning or technical problems with the system;
- (f) Security recordings shall meet the following minimum requirements:
  - (1) The recorded image resolution shall be at least D1; and
  - (2) The recorded image frame rate shall be at least three (3) frames per second during alarm or motion based recording.

- (g) Security recordings shall be retained by the cultivation center or dispensary for a minimum of thirty (30) days. The recording system for the security cameras must be located in a locked, tamper-proof compartment. A cultivation center or dispensary shall be prohibited from taping over existing security video from the last thirty (30) days; and
- (h) Upon request, the recording shall be turned over to MPD or the Department.

5610.2 A dispensary or cultivation center shall install, maintain, and use a professionally monitored robbery and burglary alarm system; which meet the following requirements:

- (a) The control panel shall be a UL listed burglar alarm control panel;
- (b) The system shall report to a UL listed central monitoring station;
- (c) A test signal shall be transmitted to the central station every twenty-four (24) hours;
- (d) At a minimum, the system shall provide coverage of all facility entrances and exits, rooms with exterior windows, rooms with exterior walls or walls shared with other facility tenants, roof hatches, skylights, and storage room(s) that contain safe(s);
- (e) The system shall include at least one (1) holdup alarm for staff use; and
- (f) The system shall be inspected and all devices tested annually by a qualified alarm vendor.

5610.3 A dispensary or cultivation center shall maintain for a period of three (3) years reports of incidents that triggered an alarm. Such reports shall be made available to the Department during any inspection of the facility. A dispensary or cultivation center shall notify the Department 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.

**5611 [RESERVED]**

**5612 PRODUCTION OF VALID PHOTO IDENTIFICATION REQUIRED**

5612.1 A dispensary shall refuse to sell or deliver medical marijuana to any person who fails to produce both a valid registration card issued by the Department and a



valid government issued photo identification document displaying proof of age that matches the name on the registration card.

### **5613 TEMPORARY SURRENDER OF REGISTRATION—SAFEKEEPING**

5613.1 A registered cultivation center or dispensary that discontinues its operations for any reason shall surrender its registration to the Department for safekeeping within three (3) calendar days of discontinuing its operations. The Department shall hold the registration for one hundred twenty (120) days or until the establishment resumes business whichever occurs first. If the registrant has not initiated proceedings to resume operations within one hundred twenty (120) days, the Department shall deem the registration abandoned and cancel the registration.

5613.2 The Department may extend the period of safekeeping beyond one hundred twenty (120) days only for good cause, such as fire, flood, other natural disaster; rebuilding or reconstruction; or to complete the sale of the establishment, and only if the extension is not likely to adversely affect the District's ability to serve the needs of all registered qualifying patients.

5613.3 This section shall not relieve a registered cultivation center or dispensary from the responsibility for renewing the registration upon its expiration.

5613.4 If a cultivation center or dispensary notifies the Department that the establishment has ceased to do business under the registration or if the Department cancels the registration under this section, the registration shall be marked as "canceled."

5613.5 A registration suspended by the Department under this title shall be stored with the Department.

### **5614 CO-LOCATION AND INTEGRATION**

5614.1 Nothing in this title shall preclude two (2) or more cultivation centers from locating in the same building, provided that they maintain:

- (a) Separate books and records; and
- (b) Their own secure and distinct registered premises that is separated at a minimum by a fixed boundary.

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

**5615 POINT-OF-SALE SYSTEM**

5615.1 The Department may require a dispensary to purchase and participate in a point-of-sale computer system for purposes of:

- (a) Verifying that a qualified patient or caregiver is registered;
- (b) Verifying which dispensary a qualified patient is registered; and
- (c) Tracking the quantity and date of each medical marijuana sale.

**5616 SIGN REQUIREMENTS**

5616.1 A dispensary shall post at its building entrance in a conspicuous place, a sign from the Department which states the following:

- (a) Persons under the age of eighteen (18) are precluded from entering the premises unless they are a qualified 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. Marijuana shall be used only by the qualifying patient in his or her home, the facility where he or she resides, or a medical facility when receiving medical care for a qualifying medical condition, if permitted by the medical facility.

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

- (a) The obligation of the qualified patient or caregiver to produce a valid registration card issued by the Department;
- (b) The obligation of the qualified 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 Department at all areas of ingress and egress to limited access areas, which reads: "Access to this

area is restricted to persons registered with the Department 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.

## **5617 OUTDOOR LIGHTING REQUIREMENTS**

- 5617.1 A cultivation center or dispensary shall be required for security purposes to have sufficient lighting outside of the registered business each day between sunset and sunrise that adequately illuminates the cultivation center or dispensary and its immediate surrounding area, including storage areas, parking lots, entry areas such as the front façade, and any adjoining public sidewalk.
- 5617.2 Outdoor lighting shall be hooded or oriented so as to deflect light away from adjacent properties.

## **5618 MINIMUM STAFFING LEVELS**

- 5618.1 A dispensary shall be staffed with at least two (2) persons during its hours of operation.
- 5618.2 A cultivation center shall be staffed with at least two (2) persons when employees are present inside of the cultivation center.

## **5619 LIMITED ACCESS AREAS**

- 5619.1 Medical marijuana shall only be grown, cultivated, stored, weighed, displayed, packaged, sold, or possessed for sale, only in a limited access area under the control of the cultivation center or dispensary. A cultivation center or dispensary shall permit only those persons registered with the Department to enter the limited access area.
- 5619.2 A limited access area, including all areas of ingress and egress, shall be designated by the cultivation center or dispensary on its application. The limited access area shall be either a building, room, or other contiguous area upon the registered premises.
- 5619.3 A cultivation center or dispensary shall post a sign provided by the Department at all areas of ingress and egress identifying the limited access area.
- 5619.4 Persons registered by the Department shall wear their registration identification

issued by the Mayor at all times while working or entering the limited access area.

5619.5 It shall be a violation of this title for a registered or non-registered person to be located within a limited access area unless the person's registration identification is visibly displayed.

## **5620 MANUFACTURING STANDARDS**

5620.1 In the course of producing and growing medical marijuana, a cultivation center is forbidden from using any of the following substances or techniques:

- (a) Synthetic pesticides (for example defoliants and desiccants, fungicides, insecticides and rodenticides), or wood preservatives (such as arsenate);
- (b) Fertilizer or composted plant and animal material that contains a substance prohibited by this section;
- (c) Sewage sludge, in any form, as a soil amendment;
- (d) Synthetic growth regulators;
- (e) Synthetic allopathic veterinary drugs, including antibiotics and parasiticides;
- (f) Synthetic processing substances, aids and ingredients, and food additives and processing aids including sulphates, nitrates and nitrites;
- (g) Equipment, packaging materials and storage containers, or bins that contain synthetic fungicide, preservative or fumigant;
- (h) Any pesticide, fungicide, fertilizer, rodenticides, or drugs banned by the Department of Agriculture or Food and Drug Administration;
- (i) Any pesticide not in compliance with Subsection 5620.6; or
- (j) Any other substances or techniques deemed unlawful by the Department.

5620.2 In the course of harvesting medical marijuana, a cultivation center shall not harvest medical marijuana before the plant is sixty (60) days old starting from the day the seed or clone is planted.

5620.3 The prohibition on "synthetic growth regulators" shall not preclude a cultivation center from using artificial lighting or lighting equipment.

- 5620.4 A cultivation center shall obtain written approval from the Director before engaging in the use of butane or other explosive gases to extract or separate resin or tetrahydrocannabinol from marijuana or to produce or process any form of marijuana concentrates or marijuana-infused product.
- 5620.5 In reviewing a request for the use of butane or other explosive gases, the Director may consult with subject matter experts in the field, the Department of Fire and Emergency Medical Services, and the Department of Energy and Environment as to the safety and sufficiency of the cultivation center's proposal.
- 5620.6 Pesticides may be legally used on medical marijuana by cultivation centers under the following criteria:
- (a) Any pesticide used in the cultivation of medical marijuana must be registered with the Department of Energy and Environment.
  - (b) The use of any pesticide used in the cultivation of medical marijuana must comply with the regulations promulgated by the Department of Energy and Environment.
  - (c) Any pesticide registered with the Department of Energy and Environment may be used in accordance with its label or labeling directions for the cultivation of medical marijuana in the District of Columbia under the following conditions:
    - (1) For products registered by the Environmental Protection Agency under Section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act:
      - (i) All active ingredients of the pesticide product are exempt from the requirements of a tolerance, as established under 40 CFR Part 180, Subparts D and E;
      - (ii) The pesticide product label allows use on the intended site of application;
      - (iii) The pesticide product label expressly allows use on crops or plants intended for human consumption; and
      - (iv) The active ingredients of the pesticide product are allowed for use on tobacco by the Environmental Protection Agency;
    - (2) Notwithstanding § 5620.6(b) and subject to the authority of the Department of Energy and Environment, the Director of the Department of Health has the authority to permit the use of a

pesticide product that does not expressly allow use on crops intended for human consumption if:

- (i) The active and inert ingredients are exempt under 40 CFR Part 180, Subparts D and E;
  - (ii) The pesticide product label allows use on the intended site of application; and
  - (iii) The active ingredients of the pesticide product are allowed for use on tobacco;
- (3) The pesticide product label specifically allows use on medical marijuana;
  - (4) For 25(b) minimum risk pesticide products as defined in 40 CFR § 152.25(f), the pesticide product label allows use on the intended site of application and allows use on crops or plants intended for human consumption;
  - (5) For pesticide products with a District of Columbia Special Local Need registration, issued under Section 24(c) of the Federal Insecticide, Fungicide and Rodenticide Act, the District of Columbia Special Local Need label allows use on medical marijuana.
- (c) The Director of the Department of Health may prohibit the use of any pesticide product for the cultivation of medical marijuana if the Director of the Department of Health determines that such use poses a significant threat to public health and safety or the environment.

5620.7 The use of any pesticide not specifically tested, labeled and assigned a tolerance for use on medical marijuana is not recommended by the District of Columbia because the health effects on consumers are unknown.

5620.8 To assist medical marijuana cultivation centers, the Department of Health may publish a list of pesticides that it has determined meet these criteria.

## **5621 TRANSPORT OF MEDICAL MARIJUANA**

5621.1 A cultivation center shall obtain from the Department a transport permit to transport within the District of Columbia medical marijuana to registered dispensaries. 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 cultivation center or its contracted agent shall not transport medical marijuana within the District of Columbia without an original transport permit. A cultivation center shall permit only an employee, director, officer, member, incorporator, or agent registered with the Department or its contracted agent to transport medical marijuana to a registered dispensary.

5621.3 Upon demand by an MPD officer or Department investigator, the registered person in charge of the transportation for the cultivation center or its contracted agent shall exhibit to the MPD officer or Department investigator an original transport permit.

## **CHAPTER 57 PROHIBITED AND RESTRICTED ACTIVITIES**

### **5700 SALE AND PURCHASE OF MEDICINAL MARIJUANA BY DISPENSARIES**

5700.1 It shall be unlawful for a registered medical marijuana dispensary to receive or purchase medical marijuana from a source other than a cultivation center registered in the District of Columbia.

5700.2 A dispensary shall not be permitted to offer for sale, sell, or solicit an order for medical marijuana in person except within the registered premises. Nothing in this subsection shall preclude a dispensary from providing (1) educational information regarding medical marijuana to a physician or (2) necessary information to qualifying patients over the telephone or on-line including the availability at the dispensary of particular types of medical marijuana recommended by the qualifying patient's physician.

5700.3 A dispensary shall not be permitted to receive or purchase medical marijuana from a person other than a cultivation center registered in the District.

### **5701 SALE OF MEDICAL MARIJUANA BY CULTIVATION CENTERS**

5701.1 A cultivation center shall not be permitted to sell medical marijuana to qualified patients or caregivers. It shall be a violation of this subtitle for a cultivation center to sell medical marijuana to qualified patients or caregivers.

5701.2 It shall be unlawful for a cultivation center to sell or distribute medical marijuana to a person or entity other than a dispensary registered in the District of Columbia.

5701.3 It shall be unlawful for a cultivation center to sell medical marijuana from plants not grown at a registered location in the District of Columbia.

### **5702 UNSEALED PACKAGES IN COMMERCIAL OR PUBLIC VEHICLES**

5702.1 No driver of a commercial or public vehicle in the District of Columbia shall have

in his or her possession, while in or on the vehicle, any opened or unsealed package containing medical marijuana.

### **5703 DELIVERY OF MEDICAL MARIJUANA**

5703.1 A dispensary shall not be permitted to transport or deliver medical marijuana to a qualified patient or caregiver or from a cultivation center. It shall be a violation of this subtitle for a dispensary to transport or deliver medical marijuana to either a qualified patient or caregiver or from a cultivation center.

5703.2 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.

### **5704 PLANT LIMITATIONS**

5704.1 A cultivation center shall be permitted to possess and cultivate up to ninety-five (95) living marijuana plants at any one (1) time for the sole purpose of producing medical marijuana in a form permitted under this subtitle. 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.

### **5705 PROHIBITION REGARDING ON-PREMISE CONSUMPTION**

5705.1 A cultivation center or dispensary shall not permit the consumption of medical marijuana at the registered premises in any form. The dispensary or cultivation center 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 qualified patients in making informed purchase making decisions.

5705.2 It shall be a violation of this subtitle for a cultivation center or dispensary 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.

### **5706 TIE-IN PURCHASES PROHIBITED**

5706.1 A cultivation center shall not require, directly or indirectly, a dispensary to purchase any type of medical marijuana or other commodity in order to purchase any other medical marijuana product.

### **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 the age of eighteen (18) shall be precluded from purchasing medical marijuana from a dispensary unless he or she is a qualified patient and is in the presence of a parent or guardian.
- 5707.4 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.

## **5708 COMPENSATION OR GIFTS TO PHYSICIANS**

- 5708.1 It shall be a violation of this subtitle for a cultivation center or dispensary, or a director, officer, member, incorporator, agent, or employee of a cultivation center or dispensary to provide financial compensation, an office, or anything of value to a physician who recommends the use of medical marijuana.
- 5708.2 A cultivation center shall not be permitted to hold educational seminars, classes, or discussions regarding medical marijuana for physicians.

## **5709 MEDICAL MARIJUANA AND PARAPHERNALIA RESTRICTIONS**

- 5709.1 A dispensary shall not provide a qualified patient or caregiver more than four (4) ounces of dried medical marijuana, or the equivalent of four (4) ounces of dried medical marijuana in a form other than dried, either at one (1) time or within a thirty (30) day period.
- 5709.2 A dispensary shall dispense medical marijuana and distribute paraphernalia only to a qualifying patient or caregiver, if the qualifying patient is registered to receive medical marijuana from that dispensary.

## **5710 VISIBILITY**

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

## **CHAPTER 58 ADVERTISING**

### **5800 SIGN ADVERTISING**

- 5800.1 Advertisements relating to the prices of medical marijuana shall not be displayed in the window of a registered establishment.
- 5800.2 Advertisements relating to medical marijuana shall not be displayed on the exterior of any window or on the exterior or interior of any door.
- 5800.3 No sign advertising medical marijuana on the exterior or visible from the exterior of any registered establishment or elsewhere in the District shall be illuminated at any time.

## **5801 PROHIBITED STATEMENTS**

- 5801.1 A registered cultivation center or dispensary shall not use any picture or illustration that depicts a child or immature person, or objects (such as toys), suggestive of the presence of a child, and any statement, design, device, picture, or illustration designed to be especially appealing to children or immature persons.
- 5801.2 A statement that is known by the dispensary or cultivation center to be false or misleading with respect to advertised price charged to the qualified patient, ingredients of medical marijuana, source of manufacturer, or statements as to health benefits, shall be prohibited.
- 5801.3 A statement that encourages the use or purchase of medical marijuana without a registration card shall be prohibited.

## **CHAPTER 59 RECORDS AND REPORTS**

### **5900 CULTIVATION CENTER BOOKS AND RECORDS**

- 5900.1 Each registered cultivation center shall keep and maintain upon the registered premises true, complete, legible, and current books and records, including the following:
- (a) The date of each sale to a dispensary;
  - (b) The name, address, and registration number of the dispensary;
  - (c) The quantity of medical marijuana and paraphernalia sold to the dispensary;
  - (d) The price charged and the amount received for the medical marijuana from the dispensary;
  - (e) The quantity and form of medical marijuana maintained at the cultivation center on a daily basis; and

- (f) The amount of plants being grown at the cultivation center on a daily Basis.

5900.2 These books and records shall be maintained by the cultivation center for a period of four (4) years.

## **5901 CULTIVATION CENTER INVOICES**

5901.1 With each sale of medical marijuana, the cultivation center shall cause to be made in duplicate an invoice of the sale showing the following information:

- (a) The date of each sale to a dispensary;
- (b) The name, address, and registration number of the dispensary;
- (c) The form and quantity of medical marijuana and paraphernalia in each sale;
- (d) The price of each item in each sale with the total price; and
- (e) A true, accurate, legible, and complete statement of the terms and conditions on which the sale is made.

5901.2 With each sale, the invoice shall be prepared in duplicate, and shall be consecutively numbered.

5901.3 All invoices and delivery slips shall be systematically filed and maintained for a period of four (4) years from date of delivery.

## **5902 DISPENSARY BOOKS AND RECORDS**

5902.1 Each registered dispensary shall keep and maintain upon the registered premises, true, complete, and current books and records which include invoices that adequately and fully reflect all purchases and sales of medical marijuana made to and by the dispensary.

5902.2 Records shall include and distinctly show the following information:

- (a) The quantity, form, and price of medical marijuana and paraphernalia purchased from a cultivation center in each purchase;
- (b) The date and time of delivery of each purchase from a cultivation center;
- (c) The date and time of each sale to a qualified patient or caregiver;

- (d) The quantity, form, and price of medical marijuana distributed or dispensed to the qualified patient or caregiver;
- (e) The consideration given by the qualified patient or caregiver for the medical marijuana;
- (f) The name, address, and card number of the qualified patient or caregiver of the medical marijuana;
- (g) The name, initials, or employee identification number of the person who dispensed or sold the medical marijuana; and
- (h) The quantity of medical marijuana still available for sale at the dispensary.

5902.3 All invoices and delivery slips shall be systematically filed and maintained for a period of four (4) years from date of delivery and shall show a true, accurate, legible, and complete statement of terms and conditions on which each purchase was made.

### **5903 CULTIVATION CENTER REPORTS**

5903.1 This section shall apply to registered cultivation centers.

5903.2 Registration holders subject to this section shall, on or before the thirtieth (30<sup>th</sup>) day of July and January, furnish to the Department on a form to be prescribed by the Department a statement under oath showing the following information:

- (a) The quantity of each medical marijuana product manufactured by the cultivation center during the preceding six (6) months;
- (b) The quantity of each medical marijuana product sold by the cultivation center during the preceding six (6) months;
- (c) The quantity of paraphernalia manufactured by the cultivation center during the preceding six (6) months;
- (d) The quantity and price of paraphernalia sold by the cultivation center during the preceding six (6) months;
- (e) The amount of medical marijuana destroyed or disposed of during the preceding six (6) months;
- (f) Certification from MPD that medical marijuana that was cultivated was relinquished for destruction or disposal;

- (g) The cultivation's center's total expenditures for manufacturing medical marijuana during the preceding six (6) months;
- (h) The cultivation center's total amount of sales of medical marijuana during the preceding six (6) months;
- (i) The cultivation center's gross revenue based upon its medical marijuana sales during the preceding six (6) months;
- (j) The amount of sales tax reported by the cultivation center to Office of Tax and Revenue (OTR) during the preceding six (6) months;
- (k) The quantity of medical marijuana still available for sale at the cultivation center to a dispensary on the date the report is filed with the Mayor;
- (l) The name, address, home telephone number, and date of birth of each current employee; and
- (m) An affidavit executed by an individual registrant, partner of an applicant partnership, or the appropriate officer of an applicant corporation, attesting to the truth of the submitted report.

5903.3 The making of a false statement on a submitted report, with the knowledge of the registered cultivation center, shall constitute grounds on which the Department may deny the renewal of the registration, or subsequently revoke the registration, when the renewal of the registration is based wholly or in part on the contents of the false statement.

## **5904 DISPENSARY REPORTS**

5904.1 This section shall apply to registered dispensaries.

5904.2 On or before the thirtieth (30<sup>th</sup>) day of July and January, furnish to the Department on a form to be prescribed by the Department a statement under oath showing the following information:

- (a) The quantity and price of medical marijuana distributed or dispensed to qualified patients and caregivers during the preceding six (6) months;
- (b) The dispensary's total expenditures for distributing or dispensing medical marijuana during the preceding six (6) months;
- (c) The dispensary's total amount of receipts for the sale of medical marijuana;
- (d) The quantity of paraphernalia sold by the dispensary during the preceding

six (6) months;

- (e) The dispensary's gross revenue based upon its medical marijuana and paraphernalia sales during the preceding six (6) months;
- (f) The amount of sales tax reported by the dispensary to OTR during the preceding six (6) months;
- (g) The amount of medical marijuana that was destroyed or disposed of during the preceding six (6) months;
- (h) Certification from MPD that the medical marijuana was relinquished for destruction or disposal;
- (i) The quantity of medical marijuana still available for sale at the dispensary on the date the report is filed with the Mayor;
- (j) The name, address, home telephone number, and date of birth of each current employee; and
- (k) An affidavit executed by an individual registrant, partner of an applicant partnership, or the appropriate officer of an applicant corporation, attesting to the truth of the submitted report.

5904.3 The making of a false statement on a submitted report, with the knowledge of the registered dispensary, shall constitute grounds on which the Department may deny the renewal of the registration, or subsequently revoke the registration, when the renewal of the registration is based wholly or in part on the contents of the false statement.

**5905 [RESERVED]**

**5906 RETENTION AND INSPECTION OF BOOKS AND RECORDS**

5906.1 The books and records referred to in this chapter, including the original and duplicate invoices, shall be open to inspection by the Department or its designated agent, and the OTR, during the establishment's approved hours of operation.

5906.2 A cultivation center shall keep and maintain all books and records referred to in this chapter on the registered premises for a period of four (4) years after the latest transaction recorded in those books and records.

5906.3 A dispensary shall keep and maintain all book and records referred to in this chapter on the registered premises for a period of four (4) years after the latest transaction recorded in those books and records.

**5907 REPORTING DIRECTOR, OFFICER, MEMBER, INCORPORATOR, AGENT, EMPLOYEE, AND MANAGER CHANGES**

5907.1 A cultivation center or dispensary shall notify the Mayor within ten (10) days after a registered director, officer, member, incorporator, agent, employee, or manager ceases to work at, manage, own, or otherwise be associated with the operation. The director, officer, member, incorporator, agent, employee, or manager shall surrender his or her identification card to the Mayor within ten (10) days of ceasing to work at, manage, own, or otherwise be associated with the operation.

**CHAPTER 60 DIRECTOR APPROVAL PROCEDURES**

**6000 DIRECTOR REVIEW OF REGISTRATION APPLICATIONS**

6000.1 No registration application shall be approved until the Director 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 Department shall also have considered, in the case of a third renewal for a cultivation center or dispensary, any timely comments filed by an ANC located in the affected ward.

6000.2 The Director 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 Department that either:

- (a) The applicant does not meet the requirements or has failed to comply with any of the provisions of the Act or this subtitle;
- (b) The registered premises has been operated in a manner that adversely affects the public health or welfare of the neighborhood in which the establishment is located; or
- (c) In the case of a third year renewal, timely comments received from an ANC located in the affected ward regarding the proposed or current location warrant denying the application.

6000.3 Within sixty (60) days of receiving the final proposed selections from the panel, the Director shall notify the applicant and the ANCs located in the affected ward of the approval or denial of the application.

**6001 DIRECTOR FINAL DECISIONS AND JUDICIAL REVIEW**

6001.1 Denial by the Director of an application or renewal application for any

registration under this subtitle shall be deemed a final Department action.

- 6001.2 An initial applicant for registration of a dispensary or cultivation center may seek review of the Director's final decision in the Superior Court of the District of Columbia within thirty (30) days after receipt of the notice if the applicant:
- (a) Submitted a Letter of Intent that was not accepted by the Department;
  - (b) Submitted an application that was determined to be non-responsive;
  - (c) Received a score of less than one hundred fifty (150) by the panel prior to the ANC review; or
  - (d) Received a score of one hundred fifty (150) or more by the panel prior to the ANC review and was denied registration.
- 6001.3 The petition for review shall include a clear and concise statement of the legal and factual grounds for which the applicant is seeking review, including copies of relevant documents, citations to statutes, or regulations claimed to be violated.
- 6001.4 Judicial review shall be an on the record review of the decision, and not a de novo review. Judicial review shall be conducted with deference to the agency's factual findings, and such findings shall be final and conclusive unless the decision is fraudulent, arbitrary, capricious, not supported by substantial evidence, or so grossly erroneous as to necessarily imply bad faith.
- 6001.5 The Department record on judicial review shall include, where relevant:
- (a) Applicant's letter of intent to file an application for a cultivation center or dispensary registration with the Medical Marijuana Program;
  - (b) The application submitted by the applicant;
  - (c) Scoring sheets, provisional score report, scoring tabulations for ANC comments, and the final score and ranking report prepared by the panel for the applicant's application;
  - (d) The review of applicant's proposed security systems, as prepared by the Metropolitan Police Department;
  - (e) Notices and correspondence between the Department and the applicant pertaining to the application for registration; and
  - (f) Any other document or exhibits that are relevant to the scoring of applicant's application and are not proprietary or protected by confidentiality or privilege.



- 6001.6 A document or exhibit containing the confidential, proprietary, or privileged information of another applicant or a registered cultivation center or dispensary may be ordered under review by the Court, but shall be sealed and reviewable by the Court via *in camera* review, only. For purposes of this chapter, confidential, proprietary, or privileged information or documents shall include but not be limited to:
- (a) Security plans;
  - (b) Business plans;
  - (c) Cultivation plans;
  - (d) Operation plans;
  - (e) Marijuana transportation plans;
  - (f) Marijuana disposal plans; and
  - (g) Facility floor plans.
- 6001.7 The scoring of an application's criteria or individual criterion without comments from all panel members is not by itself arbitrary or capricious, provided that the panel as a whole provides comments that address each major criteria category.
- 6001.8 If the reviewing court rules in favor of the applicant, the case shall be remanded to the Department to rescore and rank the applicant's application according to the scoring process in § 5402 of this chapter.
- 6001.9 In the event that after a rescoring and ranking of the applicant's application the applicant has become eligible for registration, but issuing the applicant a registration would result in surpassing the number of dispensaries or cultivation centers permitted to operate in a single election ward under D.C. Official Code § 7-1671.06 (2012 Repl.), the applicant shall be permitted to modify the location of the premises identified on the application within one hundred eighty (180) days of notice from the Department without negatively affecting the current status of the application or registration.
- 6001.10 In the event that after the rescoring and ranking the applicant has become eligible for a registration, but issuing the registration would result in surpassing the number of dispensaries or cultivation centers permitted in the District under § 5200 of this chapter, the Department may, for the convenience of the District, revoke the registration of the dispensary or cultivation center that was awarded a registration in lieu of the applicant, pursuant to § 6002 of this chapter.
- 6001.11 In the event that after the rescoring and ranking of its application an applicant is

not eligible for a registration, the Director shall notify the applicant of the outcome of the rescoring process and that the applicant's application remains denied. Notification by the Director that an applicant is not eligible for a registration after the completion of a rescoring process shall be deemed a final Department action and the applicant may seek review of the Department action in the Superior Court of the District of Columbia.

- 6001.12 A registrant that has been denied the renewal of a registration for a dispensary or cultivation center may file a request for a hearing with OAH within thirty (30) days after service of the notice of denial by delivering, within thirty (30) days of service of the notice, a certified letter addressed to OAH containing a request for a hearing or hand delivery of same to OAH (receipt required for proof of delivery);
- 6001.13 The decision rendered by the Office of Administrative Hearings in a matter filed pursuant to § 6001.12 shall be the Final Order in the matter, and that either party may seek review of OAH's decision by the District of Columbia Court of Appeals in accordance with the District of Columbia Administrative Procedures Act, D.C. Official Code §§ 2-501- 2-511 (2012 Repl.).
- 6001.14 Any party may appeal a decision by the Superior Court of the District of Columbia to the District of Columbia Court of Appeals.
- 6001.15 The timely filing of a petition for review in the Superior Court of the District of Columbia or a petition for review to the District of Columbia Court of Appeals shall not stay the decision of the Director or prohibit the Director from issuing registrations to the selected applicants.

## **6002 REVOCATION OF REGISTRATION FOR CONVENIENCE OF THE DISTRICT**

- 6002.1 If the Department determines a revocation is in the District's interest, the Department may revoke a registrant's registration. Revocation pursuant to this section may occur only if there are no further cultivation center or dispensary 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 notice of the action in the Superior Court of the District of Columbia which places the registrant's registration in jeopardy, and be provided an opportunity to intervene in the matter pursuant to § 6002.3. If after receiving notice of the action, the registrant fails to intervene in the matter within the allotted time period, the registrant shall have no further right of appeal of the Department's final action which results in the revocation or non-issuance of his or her registration.
- 6002.3 The registrant whose registration is in jeopardy of revocation pursuant to § 6002.1

may, at the registrant's option, seek to be joined as a party pursuant to the rules of the Superior Court of the District of Columbia.

- 6002.4 The Department shall terminate a cultivation center's or dispensary'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.
- 6002.5 Upon receipt of a Notice of Revocation, a cultivation center or dispensary 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 Department within twenty-four (24) hours after receipt of the Notice of Revocation, or after the cultivation center or dispensary has transferred all medical marijuana from its premises, whichever comes first; and
  - (d) Notify the Department, the DCRA, and the MPD of the completion of the transfers and closure of the cultivation center and dispensary pursuant to its closure plan.
- 6002.6 A cultivation center's or dispensary's registration does not create a contractual relationship with the District of Columbia government.

## **CHAPTER 61            MANDATORY REVOCATION AND MANDATORY SUSPENSION**

### **6100            MANDATORY REVOCATION OR SUSPENSION OF REGISTRATION**

- 6100.1 The Department shall revoke or suspend the registration of any registration holder who is found by the Department or a District or Federal Court, to have willfully violated any provision specifically contained in the Act to be in violation of this subtitle.
- 6100.2 The Department shall 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 has been convicted in a court of law of one (1) or more violations of the Act or the regulations issued under this subtitle and

the penalties set forth in chapter 61 of this subtitle require revocation;

- (b) Except for the sale of medical marijuana or drug paraphernalia related to the sale of medical marijuana, the registration holder has knowingly engaged, permitted, or condoned inside or outside of the establishment:
  - (1) The illegal sale, or negotiations for sale, or the use, of any controlled substance identified in the District of Columbia Controlled Substances Act; or
  - (2) The possession or sale, or negotiations for sale, of drug paraphernalia in violation of the Controlled Substances Act or chapter 11 of title 48 of the District of Columbia Code. Successive sales, or negotiations for sale, over a continuous period of time shall be deemed evidence of knowledge; or
- (c) The registration holder has been convicted of a felony, or any drug-related offense.

6100.4 A cultivation center may request that a Department investigator put on protective gear prior to entering a cultivation center.

6100.5 The Department shall mandatorily suspend the registration of a cultivation center or dispensary upon a finding that a director, officer, member, incorporator, agent manager or employee of a cultivation center or dispensary has willfully violated any provision specifically contained in the Act. The Department shall remove the suspension once the Department is satisfied that the director, officer, member, incorporator, agent, manager or employee is no longer affiliated or employed with the cultivation center or dispensary.

## **CHAPTER 62 ENFORCEMENT PROCEEDINGS AND HEARINGS**

### **6200 COMPLAINTS AGAINST DISPENSARIES, CULTIVATION CENTERS, AND AFFILIATED EMPLOYEES OR OFFICERS**

6200.1 The Department 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 or dispensary, or employee, officer or affiliate thereof. Complaints shall be in writing and set forth enough information to allow the Department 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 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 Department or orally to any Department investigator. Anonymous complaints shall be investigated to the best of the Department's ability, but may result in no action being taken if the anonymous complainant fails to provide the Department or the investigator with adequate information.
- 6200.3 Nothing in this chapter shall preclude the Department from initiating an investigation *sua sponte* 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 Department may, in its discretion, request that the cultivation center or dispensary complained of answer the complaint within ten (10) days of receipt of the complaint. The Department shall attach a copy of the complaint to the request or shall describe the acts alleged in the complaint. The cultivation center or dispensary may respond either personally or through a legal representative.
- 6200.5 If the Department receives a written response from a cultivation center or dispensary, 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 Department.
- 6200.6 At any point during the course of the investigation or inquiry into the complaint, the Department may determine that there is not and will not be sufficient evidence to warrant further proceedings. In such event, the Department shall dismiss the complaint.
- 6200.7 If the Department determines, after investigation, that there is otherwise reason to believe that the acts alleged occurred and constitute a violation of the regulations or the Act, the Department 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 Department within thirty (30) days of receipt of the complaint. At the conclusion of the matter, the

Department shall advise the complainant of the action that the Department has taken on the matter.

6200.9 The Department shall maintain records documenting complaints received and the action taken in response to the complaint.

**6201 REVOCATION, SUSPENSION, OR FINES – GENERAL PROVISIONS**

6201.1 Except in the case of a summary suspension action, the Department 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 Department revokes a registration for a cultivation center or dispensary, 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 Department revokes a manager's registration or a registration for a person other than a cultivation center or dispensary, 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 Department for the convenience of the District.

6201.6 The Department 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 Department, the business for which the registration was issued;
- (d) The registration holder fails or refuses to allow a Department investigator, a designated agent of the Department, 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 Department 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 Department or in any affidavit or application that they submit to the Mayor;
- (d) The registration holder unlawfully interferes or impedes in an inspection of their premises conducted by a Department 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 Department of Health (Department) may impose sanctions and 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.

## **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, director, officer, member, incorporator, agent, employee, or manager.

6202.2 Except in the case of a summary suspension, the Director shall give a registrant written notice and an opportunity to have a hearing before the Office of Administrative hearings prior to taking any final action which would:

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

6202.3 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 statement that the registrant may request a hearing before the Office of Administrative Hearings to contest the proposed action by delivering, within thirty (30) days of service of the notice, a certified letter addressed to OAH containing a request for a hearing or hand delivery of same to OAH (receipt required for proof of delivery);
- (e) A statement that the decision rendered by the Office of Administrative Hearings shall be the Final Order in this matter, and that either party may seek review of OAH's decision by the District of Columbia court of Appeals in accordance with the District of Columbia Administrative Procedures Act, D.C. Code §§ 2-501- 2-511 (2011 Repl.); and
- (f) A statement that if the registrant does not request a hearing within thirty (30) days after service of the notice of the proposed action, the Director may take the proposed action without further notice, and the suspension or revocation shall be final without a 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 Director 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 Director, 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 Director.
- 6202.10 A registrant that has received a notice of intent to take action to suspend or revoke, may request a hearing before the Office of Administrative Hearings to contest the proposed action by delivering, within thirty (30) days of service of the notice, a certified letter addressed to OAH containing a request for a hearing or hand delivery of same to OAH (receipt required for proof of delivery).
- 6202.11 Unless otherwise authorized by the Director, any notice from or to the Director shall be made by personal delivery or sent by certified mail, return receipt requested.
- 6202.12 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.
- 6202.13 If the registrant does not mail or submit a written request for a hearing within the time and in the manner specified in the notice, the Director may, without a hearing, take the action contemplated in the notice, and shall notify the registrant in writing of the final action taken.
- 6202.14 If a hearing is timely requested, the proceedings shall thereafter be conducted pursuant to the Office of Administrative Hearings Act, and all further correspondences and notices shall be communicated directly between the Office of Administrative Hearings and the respondent, including notice of the date, time and location of the hearing and the name of the hearing officer.

6202.15 Nothing in this subchapter shall be deemed to supersede the service, procedural rules, or other proceedings of a matter that has been filed with and is pending before the Office of Administrative Hearings.

6202.16 The decision rendered by the Office of Administrative Hearings shall be the Final Order in this matter. Either party may seek review of OAH's decision by the District of Columbia court of Appeals in accordance with the District of Columbia Administrative Procedures Act, D.C. Official Code §§ 2-501- 2-511 (2011 Repl.).

### **6203 NOTICE OF SUMMARY SUSPENSION ACTION AND HEARING**

6203.1 Violation of the Act or this subtitle may result in the summary suspension of a cultivation center or dispensary's registration.

6203.2 If the Department determines, after investigation, that the operations of a cultivation center or dispensary present an imminent danger to the health and safety of the public, the Department may summarily suspend, or restrict, without a hearing, the registration of the cultivation center or the dispensary.

6203.3 The Department may also summarily suspend or restrict a cultivation center or dispensary registration when:

- (a) The establishment has been the scene of an assault on a police officer, 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 qualified patient or caregiver at the registered premises.

6203.4 A notice of summary suspension 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 or cultivation center must submit to an immediate inventory of all medical marijuana items on the premises by Department inspectors;
- (c) A statement that the dispensary or cultivation center must surrender all

registration cards and permits associated with the dispensary or cultivation center to the Director 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 Office of Administrative Hearings for the purpose of determining whether the suspension shall continue. The registrant shall file the request with the Office of Administrative Hearings within seventy-two (72) hours after service of the notice (receipt required for proof of delivery). The hearing shall be held within seventy-two (72) hours after receiving the request unless otherwise agreed by the parties to be held at a later date; and
- (g) A statement that the decision rendered by the Office of Administrative Hearings shall be the Final Order in this matter, and that either party may seek review of OAH's decision by the District of Columbia court of Appeals in accordance with the District of Columbia Administrative Procedures Act, D.C. Official Code §§ 2-501- 2-511 (2011 Repl.).

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 Director 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 Director, 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 Director.

6203.11 A registrant whose registration has been summarily suspended may request an immediate hearing before the Office of Administrative Hearings for the purpose of determining whether the suspension shall continue. The registrant shall file the request with the Office of Administrative Hearings within seventy-two (72) hours after receiving the notice (receipt required for proof of delivery). The hearing shall be held within seventy-two (72) hours after receiving the request unless otherwise agreed by the parties to be held at a later date.

6203.12 Unless otherwise authorized by the Director, any notice from or to the Director 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 Department 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 the Office of Administrative Hearings Act, and all further correspondences and notices shall be communicated directly between the Office of Administrative Hearings and the respondent, including notice of the date, time and location of the hearing and the name of the hearing officer.
- 6203.16 Nothing in this subchapter shall be deemed to supersede the service, procedural rules, or other proceedings of a matter that has been filed with and is pending before the Office of Administrative Hearings.
- 6203.17 The decision rendered by the Office of Administrative Hearings shall be the Final Order in this matter. Either party may seek review of OAH's decision by the District of Columbia Court of Appeals in accordance with the District of Columbia Administrative Procedures Act, D.C. Official Code §§ 2-501- 2-511 (2011 Repl.).

**6204 REQUEST FOR SUSPENSION OR REVOCATION OF REGISTRATION BY CHIEF OF POLICE**

- 6204.1 The Chief of Police may request the suspension or revocation of a cultivation center or dispensary registration if the Chief of Police determines that there is a correlation between increased incidents of crime within one thousand feet (1,000 ft.) of the establishment and the operation of the establishment. The determination shall be based on objective criteria, including incident reports, arrests, and reported crime, occurring within the preceding eighteen (18) months and within one thousand feet (1,000 ft.) of the establishment.
- 6204.2 The Chief of Police may close a cultivation center or dispensary for up to forty-eight (48) hours or two (2) business days, if he or she finds that:
- (a) There is an imminent danger to the health and welfare of the public by not doing so; and
  - (b) There is no immediately available measure to ameliorate the finding in paragraph (a) of this subsection.
- 6204.3 The Chief of Police shall notify the Director in writing of a closure pursuant to § 6204.2 within twenty-four (24) hours or one (1) business day after taking the action.
- 6204.4 Within twenty-four (24) hours or one (1) business day after receipt of notification from the Chief of Police of a closure, the Department shall review the matter and determine whether the imminent danger no longer exists and the facility may be reopened, or whether the issuance of a summary suspension action is warranted. In the absence of good cause, the Department shall reopen the cultivation center

or dispensary or issue a summary suspension not less than forty-eight (48) hours or two (2) business days following a closure by the Chief of Police.

- 6204.5 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.
- 6204.6 Service on a registrant shall be directed to the last known address of the registrant on file with the Director 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.
- 6204.7 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 § 6204.6 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.
- 6204.8 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 § 6204.6.
- 6204.9 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.
- 6204.10 If the party is no longer at the last known address as shown by the records of the Director, 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 Director.
- 6204.11 A registrant whose cultivation center or dispensary has been closed by the Chief of Police and subsequently summarily suspended by the Department may request an immediate hearing before the Office of Administrative Hearings for the

purpose of determining whether the suspension shall continue. The registrant shall file the request with the Office of Administrative Hearings within seventy-two (72) hours after service of the summary suspension notice (receipt required for delivery). The hearing shall be held within seventy-two (72) hours after receiving the request unless otherwise agreed by the parties to be held at a later date.

- 6204.12 Unless otherwise authorized by the Director, any notice from or to the Director shall be made by personal delivery or sent by certified mail, return receipt requested.
- 6204.13 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 registrant considers relevant to the review of the action; and
  - (c) Any other evidence considered relevant.
- 6204.14 If a hearing is timely requested, the proceedings shall thereafter be conducted pursuant to the Office of Administrative Hearings Act, and all further correspondences and notices shall be communicated directly between the Office of Administrative Hearings and the registrant, including notice of the date, time and location of the hearing and the name of the hearing officer.
- 6204.15 Nothing in this subtitle shall be deemed to supersede the service, procedural rules, or other proceedings of a matter that has been filed with and is pending before the Office of Administrative Hearings.
- 6204.16 The decision rendered by the Office of Administrative Hearings shall be the Final Order in this matter. Either party may seek review of OAH's decision by the District of Columbia Court of Appeals in accordance with the District of Columbia Administrative Procedures Act, D.C. Official Code §§ 2-501- 2-511 (2011 Repl.).
- 6204.17 If the registrant fails to request a hearing, the summary suspension shall continue until the Department finds 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.

## **6205 NOTICE TO DISTRICT AGENCIES**

- 6205.1 The Department shall provide written notice to MPD and DCRA of any decision that results in the suspension or revocation of the cultivation center's or

dispensary's registration.

6205.2 Repealed.

6205.3 Repealed.

## **6206 NOTICE OF SUSPENSION OR REVOCATION TO PUBLIC**

6206.1 If a cultivation center or dispensary registration is revoked or suspended, the Department shall post a notice in a conspicuous place at or near the main street entrance of the outside of the establishment.

6206.2 The posted notice shall state that the registration has been suspended, the period of the suspension, and that the suspension is ordered because of a violation of the Act or this title.

6206.3 Any person willfully removing, obliterating, or defacing the notice shall be guilty of a violation of this chapter.

6206.4 The Department shall notify, in writing, the qualifying patients and caregivers of a registered dispensary that either:

- (a) Has its registration revoked; or
- (b) Is required to serve a suspension of longer than seven (7) calendar days.

## **6207 EXAMINATION OF PREMISES AND BOOKS AND RECORDS**

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

- (a) The premises, including restricted access areas, where medical marijuana is grown, cultivated, stored, displayed, dispensed or sold; and
- (b) The books, records, and video recordings of the cultivation center or dispensary required to be maintained under the Act and this subtitle.

6207.2 In those circumstances where a part of the registered premises consists of a locked area, upon demand to the registration holder, such area shall be made available for inspection without delay.

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



**CHAPTER 63 SLIDING SCALE PROGRAM****6300 SLIDING SCALE PROGRAM**

- 6300.1 A registered dispensary shall devote two percent (2%) of its annual gross revenue to provide medical marijuana on a sliding scale to qualifying patients determined eligible pursuant to § 1300.4 of this subchapter.
- 6300.2 Not later than February 15<sup>th</sup> of each calendar year, each registered dispensary in the District of Columbia shall submit to the Director:
- (a) A statement of its gross revenues for the previous calendar year;
  - (b) A statement detailing how the dispensary devoted two percent (2%) of its annual gross revenue to eligible qualifying patients on a sliding scale, which shall include:
    - (1) The name, patient registration number, and date of dispensing for each patient who received medical marijuana on a sliding scale during the previously calendar year; and
    - (2) The discounted amount provided to patients under this program; and
  - (c) An attestation, made under penalty of perjury, of the accuracy and truthfulness of the statements submitted pursuant to this subsection.
- 6300.3 A qualifying patient who establishes pursuant to § 1300.4 of this subchapter that his or her income is equal to or less than two hundred percent (200%) of the federal poverty level, shall be entitled to purchase medical marijuana directly, or through a caregiver, on a sliding scale from a registered dispensary in the District of Columbia.
- 6300.4 A registered dispensary shall sell medical marijuana to a qualifying patient, who is registered to purchase medical marijuana on a sliding scale, and possesses a registration card denoting such, at a discount of not less than twenty (20%) of its regular retail price.
- 6300.5 Not later than April 15<sup>th</sup> of each calendar year, the Department shall review the sliding scale program. As part of its review, the Department may adjust the percentage required to be devoted by dispensaries and the required discount to qualifying patients.
- 6300.6 The gross revenue amount to be devoted by each dispensary to the sliding scale program shall be subject to audit by the Department.

- 6300.7 In addition to any other applicable sanctions, any dispensary that fails to comply with the provisions of this chapter shall be subject to a civil fine under the Civil Infractions Act of two thousand dollars (\$2,000.00) per offense, and each day of violation shall constitute a separate offense.
- 6300.8 Notwithstanding Subsection 6300.7 of this chapter, the Director may revoke the registration of a dispensary that commits egregious or multiple violations of this chapter; that uses fraud to conceal its annual gross revenue; or that submits false or misleading reports to the Director.

## CHAPTER 99 DEFINITIONS

### 9900 DEFINITIONS

- 9900.1 When used in this subtitle, the following terms and phrases shall have the meanings ascribed:

**Act** – means the Legalization of Marijuana for Medical Treatment Initiative of 1999 (Act), effective, effective July 27, 2010 (D.C. Law 18-210; D.C. Official Code §§ 7-1671.01, *et seq.*(2011 Supp.)).

**Administer or Administration** – means the direct introduction of medical marijuana, whether by inhalation, ingestion, or any other means, into the body of a person.

**ANC** – means Advisory Neighborhood Commission.

**<sup>32</sup>Authorized practitioner-** a physician, advanced practice registered nurse, physician assistant, dentist, or naturopathic physician who is licensed and in good standing to practice under District law.

**<sup>33</sup>Bona fide relationship with a qualifying patient-** a relationship between an authorized practitioner and qualifying patient for which the authorized practitioner:

- (a) Has completed a full assessment of the patient’s medical or dental history and current medical or dental condition, including a personal physical or dental examination; and

<sup>32</sup> Effective February 18, 2017, pursuant to the Medical Marijuana Omnibus Amendment Act of 2016, DC Law 21-209. Pending addition to the regulations via publication of final rulemaking for authorized practitioners, published in the DC Register for public comment period on 8/11/17 at 64 DCR 7951.

<sup>33</sup> Effective February 18, 2017, pursuant to the Medical Marijuana Omnibus Amendment Act of 2016, DC Law 21-209. Pending addition to the regulations via publication of final rulemaking for authorized practitioners, published in the DC Register for public comment period on 8/11/17 at 64 DCR 7951..

- (b) Has responsibility for the ongoing care and treatment of the patient.

**Business applicant** – means a person who has made an application to register a cultivation center, dispensary, or medical marijuana certification provider permit and who has an application pending before the Department.

<sup>34</sup>**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 Department 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 18 years of age.

**Civil Infractions Act**- means Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code §§ 2-1801.01, *et seq.* (2007 Repl. & 2011 Supp.))

**Commercially manufactured food**- means food prepared and/or processed in a licensed food facility.

**Concentrate**- means products consisting wholly or in part of the resin extracted from any part of the plant Cannabis and having a THC concentration greater than ten percent, or a substance obtained by separating cannabinoids from marijuana by:

- (A) A mechanical extraction process;
- (B) A chemical extraction process using a nonhydrocarbon-based solvent, such as vegetable glycerin, vegetable oils, animal fats, isopropyl alcohol or ethanol; or

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<sup>34</sup> Effective February 18, 2017, pursuant to the Medical Marijuana Omnibus Amendment Act of 2016, DC Law 21-209. Pending addition to the regulations via publication of final rulemaking for authorized practitioners, published in the DC Register for public comment period on 8/11/17 at 64 DCR 7951.

- (C) A chemical extraction process using the hydrocarbon-based solvent carbon dioxide, provided that the process does not involve the use of high heat or pressure.

**Controlled Substances Act** – means the District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Official Code §§ 48-901.02, *et seq.* (2009 Repl. & 2011 Supp.)).

**Cultivation Center**- means a facility operated by an organization or business registered with the Mayor 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.

**Day** – means calendar day unless specifically stated otherwise.

**DCRA** – means the Department of Consumer and Regulatory Affairs

<sup>35</sup>**Dentist**- an individual who is licensed and in good standing to practice dentistry under District law, but does not include an individual who only holds a dental teaching license.

**Department** – means the Department of Health.

**Director**- means the Director of the Department of Health or his or her designee or designees.

**Dispensary**- means a facility operated by an organization or business registered with the Mayor 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.

**Dispense** – means to distribute medical marijuana to a qualifying patient or caregiver pursuant to the Act and the rules issued pursuant to section 14 of the Act.

**Distribute** – means the actual, constructive, or attempted transfer from one person to another.

**Drug-related offense**- means any conviction occurring in the District of Columbia, or in any State or Territory for the possession, use, sale, transfer, manufacture, or distribution of a controlled substance or drug paraphernalia.

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<sup>35</sup> Effective February 18, 2017, pursuant to the Medical Marijuana Omnibus Amendment Act of 2016, DC Law 21-209. Pending addition to the regulations via publication of final rulemaking for authorized practitioners, published in the DC Register for public comment period on 8/11/17 at 64 DCR 7951.

**Edible medical marijuana products-** means a food or potable liquid into which a cannabinoid concentrate, cannabinoid extract or dried marijuana leaves or flowers have been incorporated, but does not include a tincture or a cannabinoid product intended to be placed under the tongue or in the mouth using a dropper or spray delivery method, such as but not limited, to a sublingual spray.

**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 Department application forms for individuals seeking to become qualifying patients.

**Federal Poverty Level-** means the income level, which varies by household size, under which families in the continental United States are formally considered to be in poverty. The Secretary for the U.S. Department of Health and Human Services publishes a revised poverty level each year in the Federal Register.

**Human consumption** - means the consumption of medical marijuana by a person through oral ingestion, absorption through the skin, inhalation through smoking, vaporization or other means.

**Individual Applicant** – means 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 Department.

**Letter of information** – means a written request from the Department for further factual information in response to a request for an advisory opinion.

**Location** – means a particular parcel of land that is defined by an address or other descriptive means.

**Manager** – means an individual who has obtained a manager’s registration from the Department and who is designated by the cultivation center or dispensary to manage the registered premises in the absence of a registered owner.

**Manufacture** – means the production, preparation, propagation, compounding, conversion, or processing of marijuana, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or re-labeling of its container.

**Marijuana**- shall have the same meaning as provided in section 102(3)(A) of the Controlled Substances Act.

**Medical Marijuana**- means marijuana cultivated, manufactured, possessed, distributed, dispensed, obtained, or administered in accordance with the Act and the rules issued pursuant to section 14 of the Act.

**Medical marijuana-infused products**- means products that contain marijuana or marijuana extracts, are intended for human use, are derived from marijuana, and have a THC concentration no greater than ten percent. The term “marijuana-infused products” does not include either useable medical marijuana or marijuana concentrates. The term “marijuana-infused products” does include tinctures and topicals.

**Minor**- means any person under eighteen (18) years of age, but does not include an emancipated minor.

**MPD** – means the Metropolitan Police Department.

**OAG** – means the Office of the Attorney General.

**OAH**- means the Office of Administrative Hearings.

**OTR** – means the Office of Tax and Revenue.

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

**Paraphernalia** – means:

- (a) Objects used, intended for use, or designated for use in preparing, storing, ingesting, inhaling, or otherwise introducing medical marijuana into the human body; and
- (b) Kits, objects, devices, or equipment used, intended for use, or designated for use in planting, propagating, manufacturing, cultivation, growing, harvesting, processing, or preparing medical marijuana.

**Person** – means a natural person, partnership, association, company, corporation, limited liability company, or organization, or a manager, agent, owner, director, officer, or employee thereof.

**Physician** – means an individual who is licensed and in good standing to practice medicine or osteopathy under District law.

**Placards** – means a written notices posted at an establishment for the purpose of notifying the public of action involving a registration application for either a cultivation center or dispensary.

**Premises** – means a distinct and definite location, which may include a building, a part of a building, a room, or any other definite contiguous area.

**Program**- means the medical marijuana program established by section 6 of the Act.

**Qualifying medical or dental condition**- any condition for which treatment with medical marijuana would be beneficial, as determined by the patient’s authorized practitioner.<sup>36</sup>

<sup>37</sup>**Qualifying medical or dental treatment**- means:

- (a) Chemotherapy;
- (b) The use of azidothymidine or protease inhibitors;
- (c) Radiotherapy; or
- (d) Any other treatment, as determined by rulemaking, whose side effects require treatment through the administration of medical marijuana in the same manner as a qualifying medical or dental condition.

<sup>38</sup>**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 Department determines that there is a shortage of medical marijuana or the real-time electronic records system referenced in the Act is inactive.

**Quorum**- a majority of the appointment members of the Committee being

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<sup>36</sup> Effective February 18, 2017, pursuant to the Medical Marijuana Omnibus Amendment Act of 2016, DC Law 21-209. Pending addition to the regulations via publication of final rulemaking for authorized practitioners, published in the DC Register for public comment period on 8/11/17 at 64 DCR 7951.

<sup>37</sup> Effective February 18, 2017, pursuant to the Medical Marijuana Omnibus Amendment Act of 2016, DC Law 21-209. Pending addition to the regulations via publication of final rulemaking for authorized practitioners, published in the DC Register for public comment period on 8/11/17 at 64 DCR 7951.

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<sup>39</sup>**Real-time electronic records-** a records system that is able to track the amount of medical marijuana that District residents and patients from another jurisdiction purchase in real-time.

**Registration period** – means the period of time between the authorized beginning and expiration dates for each registration.

**Residence-** means a dwelling or dwelling unit in which a person lives in a particular locality with the intent to make it a fixed and permanent home.

**Site** - means any location or medical marijuana to which pesticide is applied.

**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 Department to test medical marijuana and medical marijuana products that are to be sold under the Act.<sup>40</sup>

**Tincture-** means a solution of alcohol, cannabinoid concentrate, or extract, which may or may not include other ingredients intended for human consumption or ingestion.

**Tolerance** - means a level of pesticide residue in or on food that the Environmental Protection Agency has determined with reasonable certainty will not pose a hazard to public health when used in accordance with label directions.

**Topical-** means a cannabinoid product intended to be applied to skin or hair.

**Useable medical marijuana** – means the dried leaves and flowers of the marijuana plant, and any mixture of preparation thereof, and does not include seeds, stems, stalks or roots of the plant.

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<sup>39</sup> Effective February 18, 2017, pursuant to the Medical Marijuana Omnibus Amendment Act of 2016, DC Law 21-209.

<sup>40</sup> Effective February 18, 2017, pursuant to the Medical Marijuana Omnibus Amendment Act of 2016, DC Law 21-209. Pending addition to the regulations via publication of final rulemaking for authorized practitioners, published in the DC Register for public comment period on 8/11/17 at 64 DCR 7951.