

ANC INFORMATION SESSION FOR NEW CANNABIS LAWS



PRESENTER



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AGENDA

- Agency and Program Overview
- Key Provisions
- Business License, Endorsement Types
- Open Application Period Schedule
- Public Comment and Settlement Agreements
- Enforcement
- Rulemaking
- Q&A

AGENCY AND PROGRAM OVERVIEW



AGENCY, PROGRAM OVERVIEW

- The **Alcoholic Beverage and Cannabis Administration (ABCA)** is an independent agency within DC Government charged with supporting the public's health, safety, and welfare through the control and regulation of the sale and distribution of alcohol and medical cannabis. ABCA operates under the authority of the **Alcoholic Beverage and Cannabis (ABC) Board**.
- DC's medical cannabis program permits persons with a valid medical cannabis patient registration issued by ABCA or a US state or territory extended reciprocity to purchase cannabis from a licensed Retailer for medical purposes. Patients may purchase up to 8-ounces within a 30-day rolling period.
- ABCA is responsible for issuing patient and caregiver registrations and medical cannabis business licenses, tracking medical cannabis products from seed to sale, and enforcing DC alcohol and medical cannabis laws and regulations.

ACT KEY PROVISIONS



KEY PROVISIONS

The ***Medical Cannabis Amendment Act (Act) of 2022*** signed by Mayor Muriel Bowser, took effect on March 22, 2023. Key provisions include:

- Name change for the agency, Board
- Introduction of new medical cannabis license, endorsement types
- Elimination of medical cannabis facility caps, competitive scoring
- Increased ANC public comment period for medical cannabis facility applications
- Allows ANCs to file protests, reach Settlement Agreements with medical cannabis business applicants
- Inclusion of social equity initiatives, pathway for unlicensed operators to become licensed
- Increased enforcement authority, introduction of civil penalties
- Introduction of annual medical cannabis sales tax holiday

BUSINESS LICENSE, ENDORSEMENT TYPES



LICENSE TYPES

Six (6) permanent medical cannabis license types are available. Licenses are valid for up to three (3) years. Licenses of the same type expire on the same date. Available license types include:

1. **Courier**—Permits the third-party delivery of medical cannabis, medical cannabis products, and paraphernalia on behalf of licensed Retailers and Internet Retailers to eligible patients and their caregivers. *(NEW)*
2. **Cultivation Center**—Permits the growing of cannabis for sale to licensed Retailers in DC for resale to eligible patients and their caregivers.
3. **Internet Retailer**—Permits businesses that do not have physical location open to the public to sell cannabis and paraphernalia online and by mobile application for delivery to eligible patients. *(NEW)*
4. **Retailer**—Permits the dispensing of medical cannabis and medical cannabis products to eligible patients and caregivers. *(RENAMED, PREVIOUSLY DISPENSARY)*
5. **Testing Laboratory**—Permits the testing of medical cannabis and medical cannabis products and provides testing results to licensed cultivation centers and manufacturers.
6. **Manufacturer**—Permits the manufacturing of medical cannabis products for resale to retailers and internet retailers. *(NEW)*

LICENSE TYPES

- A Conditional License Application may be filed by both standard and social equity applicants for all medical cannabis business license types, except a Testing Laboratory, that do not currently have a proposed location during open application periods.
- If approved, restrictions apply including being unable to distribute, purchase, possess, cultivate, manufacture, or sell medical cannabis or medical cannabis products.
- Conditional license holders have one (1) year from the date of issuance to provide ABCA the required documentation including but not limited to a lease, Certificate of Occupancy, security plan, and a permanent license application.

ENDORSEMENT TYPES

Endorsements extend additional operating privileges to licensees for the duration of the license period. Endorsements can be requested in the initial application or any time after issuance. Four (4) medical cannabis license endorsements are available to Retailers only. They include:

- 1. Delivery**—Permits medical cannabis and medical cannabis products to be delivered to eligible patients and their caregivers at residential and commercial properties in DC and picked up curbside at the licensed premises. Delivery privileges are automatically extended to Courier and Internet Retailer licensees.
- 2. Education Tasting**—Permits the offering of cooking and how-to classes and demonstrations, and tastings for educational purposes.
- 3. Safe-Use Treatment Facility**—Permits the on-premises consumption of medical cannabis and medical cannabis products purchased on-site at the retailer within designated areas.
- 4. Summer Garden**—Permits the sale, service, and on-premises consumption of medical cannabis and medical cannabis products within a private outdoor space. A Safe-Use Treatment Facility endorsement is required for a Summer Garden endorsement.

OPEN APPLICATION, FEE SCHEDULE



OPEN APPLICATION, FEE SCHEDULE

Medical cannabis business applications and request forms are only accepted during open periods, except for Testing Laboratory (all parties) and Endorsement (Licensed Retailers) Applications which are accepted on an ongoing basis.

At least 50% of all new cultivation center, manufacturer, internet retailer, retailer, and courier licenses are required to be set aside for social equity applicants.

Filing and annual license fees apply for all available license and endorsement applications/licenses. Social equity applicants are entitled to a 75% fee reduction on application and licensing fees for the first three (3) years. The fee reduction does not apply to endorsement application and license fees.

Open application and fee schedules are available at abca.dc.gov.

OPEN APPLICATION, FEE SCHEDULE

START/END DATES	LICENSE TYPES	ELIGIBILITY
April 13, 2023- May 1, 2024	Manufacturer	Licensed Cultivation Centers
May 1, 2023- May 1, 2024	Cultivation Center, Manufacturer, Retailer	Licensed Operators—All
May 1, 2023- June 30, 2023	Courier, Cultivation Center, Manufacturer	Social Equity Applicants
August 29, 2023- October 30, 2023	Courier, Cultivation Centers, Manufacturers	Non-Social Equity Applicants
November 1, 2023- January 29, 2024	Cultivation Center, Internet Retailer, and Retailer	Unlicensed Operators
March 1, 2024- April 30, 2024	Internet Retailer, Retailer	Social Equity Applicants
July 1, 2024- August 29, 2024	Internet Retailer, Retailer	Non-Social Equity Applicants

OPEN APPLICATION, FEE SCHEDULE

- Licensed Operators—Operators currently licensed by ABCA as a medical cannabis cultivation center or dispensary.
- Unlicensed Operators—Operators of businesses that sell, exchange as part of a commercial transaction, or deliver cannabis and cannabis products from a specific location in the District and are unlicensed by ABCA.
- Social Equity Applicants—Applicants that meet at least two (2) of the below:
 - Has at least one owner who is a District resident, individually or collectively owns at least 50% of the business, and is a returning citizen
 - Has at least one owner who is a District resident, individually or collectively owns at least 50% of the business, and is married to or in a civil union, has a child, or is the child of a person or has a non-parent legal guardian who is or has been incarcerated in the District or in any other jurisdiction for a cannabis or drug-related offense
 - Has at least one owner who is a District resident, individually or collectively owns at least 50% of the business and has an income that does not exceed 150% of the median family income as set forth by the United States Department of Housing and Urban Development, adjusted for household size, at the time the applicant submits the application.

QUALIFICATIONS FOR LICENSURE, DISTANCE REQUIREMENTS



QUALIFICATIONS FOR LICENSURE

- Applicants may not have had any felony conviction for a crime of violence, a gun offense, tax evasion, fraud, or credit card fraud within the three (3) years preceding the date the application is filed with ABCA unless the Applicant demonstrates rehabilitation and fitness for licensure in accordance with D.C. Official Code § 7-1671.06.

DISTANCE REQUIREMENTS

- A medical cannabis business, except for a courier license, shall not locate within three hundred feet (300 ft.) of a preschool, primary or secondary school, or recreation center unless the main entrance to the preschool, primary or secondary school, or recreation center, or the nearest property line of the school or recreation center, is actually on or occupies ground zoned commercial or industrial according to the official atlases of the Zoning Commission of the District of Columbia.
- No new retailer license shall be issued if located within four hundred feet (400 ft.) of another retailer.

PUBLIC COMMENT, PROTESTS



PUBLIC COMMENT, PROTESTS

- Applications are subject to a 45-day public comment period.
- Protests may only be submitted by an ANC located in the Ward the establishment is in or is requesting to operate in.
- Applicants and ANCs may enter into Settlement Agreements but they must be approved by the ABC Board to be enforceable.

PUBLIC COMMENT, PROTESTS

- Resolutions submitted by an ANC must address concerns or support regarding the proposed location, including but not limited to:
 - The effect of the establishment on real property values
 - The effect of the establishment on peace, order, and quiet
 - The effect of the establishment upon residential parking needs and vehicular and pedestrian safety
 - The proximity of the establishment to schools, recreation centers, day care centers, public libraries, or other similar facilities (new and transfer to new location applicants)
 - The effect of the establishment on the operation and clientele of schools, recreation centers, day care centers, public libraries, or other similar facilities (new and transfer to new location applicants)
 - Whether school-age children using facilities in proximity to the establishment will be unduly attracted to the establishment while present at, or going to or from, the school, recreation center, day care center, public library, or similar facility at issue (new and transfer to new location applicants)
 - Whether issuance of the license would create or contribute to an overconcentration of licensed medical cannabis establishments of the same type which is likely to affect adversely the locality, section, or portion in which the establishment is located (new and transfer to new location applicants)

PROTEST FILING

- ANCs must submit a written letter to ABRA's Legal Division by the protest petition deadline stated on the notice of public hearing and include:
 - At least one appropriateness standard explaining the negative impact of the establishment on the neighborhood
 - Information about the duly noticed meeting held, including the date and the vote count.
 - A designated representative who will represent the party in all hearings if granted standing
 - Signature of an ANC Officer
- Late and incomplete filings will not be granted standing without exception.

PROTEST STAGES

- After filing a protest letter, subsequent steps include:
 - **Roll Call Hearing** | Proceeding where the ABC Board's agent grants standing to the parties and states the ground(s) for the protest.
 - **Mediation** | The ABC Board's mediator works with parties to settle the case if a middle ground is found.
 - **Status Hearing** | Proceeding held by the ABC Board where the parties provide an update on their progress towards reaching a resolution.
 - **Protest Hearing** | Adjudicatory proceeding where the ABC Board receives evidence and testimony on the appropriateness of the licensing action. Must be held within 120 days of a timely filed protest letter.
- A protest may be dropped or resolved, or an application withdrawn at any point throughout the process.

SETTLEMENT AGREEMENTS

- ANCs that enter into a Settlement Agreement are expected to maintain ready access to them and review them on an annual basis.
- Licensees may request an amendment or the termination of a Settlement Agreement—without the consent of the ANC—if the agreement has been in effect for at least four (4) years from the date it was approved by the ABC Board. The application must be submitted with renewal paperwork by the renewal deadline.
- Requests for the termination of or amendments to active Settlement Agreements are placarded and subject to ANC protest.
- Unless an eligible licensee requests to amend or terminate their Settlement Agreement, agreements survive the renewal period and transfer of ownership. They do not automatically sunset unless specified.

PERMISSABLE PROVISIONS

- Settlement agreements **may** include the following:
 - Provisions allowing or prohibiting background or recorded music or other amplified sounds, restricting the location of music and sound equipment, and the hours recorded or background music may be provided;
 - Provisions requiring specific methods to mitigate sound or noise disturbances, including, but not limited to, specific architectural features; requiring doors and windows to remain closed except in the case of ingress and egress; sound barriers and other sound proofing elements; the use of sound limiters and other equipment; and the placement of sound equipment;
 - Provisions requiring cleanliness, odor control and litter and trash control inside and in the immediate area surrounding the premises, including, but not limited to, the frequency the immediate area is cleaned; trash removal times; efforts to limit rat and vermin infestation, the use of odor control technology, and trash and recycling management;
 - Provisions requiring specific parking arrangements;

PERMISSABLE PROVISIONS

- Provisions requiring the use of validated or valet parking so long as the required valet service is properly approved and has all licenses, permits, and other approvals required by law;
- Requirements that the applicant or existing licensee use and maintain an incident log and that the incident log be made available to ABCA and the Board, upon request;
- Provisions requiring the filing and compliance with a security plan in accordance with the Act and regulations;
- Notice to cure provisions;
- Provisions restricting the indoor and outdoor hours of operation, and hours of medical cannabis sales and delivery;
- Provisions prohibiting or restricting the utilization of floors and outdoor areas, or the occupancy of all or a portion of the premises;

PERMISSABLE PROVISIONS

- Provisions requiring the use security cameras, minimum identification checking procedures, minimum security personnel staffing, the use of various doors as exits and entrances except in the case of an emergency, restricting the consumption of cannabis and cannabis products, and other safety and security policies and procedures unless otherwise required by law or the Board;
- Provisions requiring minimum training for managers and staff;
- Provisions requiring the posting of signage or information on the establishment's website; and
- Provisions that mandate that the establishment comply with existing District law and all licenses, permits, and other privileges granted by the District.

UNENFORCEABLE PROVISIONS

- Settlement agreements **may not** include the following:
 - Provisions that require approval from a signatory or third party to file an application or request with the Board;
 - Provisions that require additional or specific notice to a signatory or third party outside of the notice required by law;
 - Provisions that restrict the sale or transfer of the business to new or different owners or require or restrict a change in the type of license;
 - Provisions that prohibit the act of filing of an application or request with the District. This section does not prevent the settlement agreement from allowing, restricting, or prohibiting various activities of the business or the use of various privileges;

UNENFORCEABLE PROVISIONS

- Provisions that require the licensee or their agents to attend ANC or community meetings, events, or otherwise require them to appear or communicate with the signatories or third parties;
- Provisions that require the establishment to provide money; buy specific goods or services; provide financial or other benefits to the community or its agents; provide discounts, free goods and service; or offer specific promotions;
- Provisions requiring the provision of contracts, incident logs, and other documents to the signatories or third parties except to ABCA or the Board;
- Provisions that require a minimum or maximum level of food, non-alcoholic beverage, or cannabis sales to the public;
- Provisions that require future negotiation or create probationary periods that may alter the terms of the license, the settlement agreement, or the operation of the business after approval of the agreement; and

UNENFORCEABLE PROVISIONS

- Provisions that mandate the purchase, service, or sale of specific types of food, non-alcoholic beverages, and medical cannabis; mandate the type of cuisine; mandate the use of brands or types of medical cannabis and other products; or mandate any or all prices set by the business;
- Provisions restricting customers based on age, gender, national origin, status as a student, or other criteria prohibited by the D.C. Human Rights Act (D.C. Official Code § 2-1401.11);
- Provisions requiring the use of specific businesses; require the joining of any group; or requiring the hiring of any specific person or local individuals;
- Provisions that create additional administrative procedures in addition to those required by ABCA or the District, alter the penalties of existing laws, or otherwise restricts prosecutorial or Board discretion;
- Provisions that create a plant limit or restrict the products that may manufactured, dispensed, or sold by the licensee.

COMPLIANCE



COMPLIANCE

- The public may submit complaints about licensed and unlicensed medical cannabis businesses to ABCA by phone or online form. All complaints will be investigated.
- The ABC Board may now issue fines for primary and secondary tier violations with fines increasing for subsequent violations. Additionally, ABCA investigators may issue citations for select primary and secondary tier violations.

UNLICENSED ESTABLISHMENTS

- Unlicensed operators that submit a complete application with ABCA during the 90-day open application period for a cultivation center, retailer, or internet retailer will not be subject to compliance with the Act while their application is being considered.
 - One exception: applicants may receive cease and desist orders if the applicant is found to be selling cannabis products or using advertising or packaging that may be especially appealing to children.
- Approved licensees will be notified in writing at least 15 days prior to being issued a license by the ABC Board. All unlicensed activity must cease within this time period.

UNLICENSED ESTABLISHMENTS

- If the ABC Board denies a license application, the decision will be made in writing to the applicant stating the reasons for denial.
- The applicant may submit a written appeal to the Board within 15 calendar days to reconsider the denial decision, including any relevant documentation or evidence that contests the denial.
 - The Board will hold a hearing and render a decision within 30 days of receiving a written appeal.
- Upon denial of the application, or denial of the appeal, the unlicensed establishment must close within 30 days of receiving the written decision.

EXAMPLES OF VIOLATIONS

- No license owner or manager on duty during the hours of sales and service
- The use of a facility for an unlawful purpose; including incidences of assault, sexual assault, or violence
- Sales to an individual who is not a qualifying patient or caregiver
- Sales to an individual under the age of 18 without a parent or guardian
- Allowing persons to leave the premises with an open container of cannabis
- Selling adulterated medical cannabis
- Using improper packaging
- Violation of ABC Board approved hours
- Violation of a settlement agreement

HOW TO FILE A COMPLAINT

- ABCA only responds to complaints involving establishments holding a medical cannabis license. ABCARA investigators must be able to personally substantiate a reported violation to cite a license.
- Complaints may be submitted by:
 - **Phone** | (202) 329-6347, 7:00 p.m. – 4:00 a.m., daily
 - **Online** | abca.dc.gov/service/complaint

EMERGENCY, PROPOSED RULEMAKING



EMERGENCY, PROPOSED RULEMAKING

- The ABC Board adopted the Emergency and Proposed Rulemaking on April 12, 2023, and the rules became effective immediately on that date.
- The emergency rules will expire one hundred twenty (120) days from the date of adoption, or on August 10, 2023, unless superseded.
- A public hearing on the emergency and proposed rulemaking has been scheduled for Wednesday, June 7, 2023, at 10:30 a.m. All persons desiring to comment on the proposed rulemaking must submit their written comments no later than 30 days after the rulemaking is published in the *D.C. Register* to Martha Jenkins, General Counsel, Alcoholic Beverage and Cannabis Administration, at 2000 14th Street, N.W., 4th Floor, Washington, D.C. 20009 or martha.jenkins@dc.gov.

Q&A

