ALCOHOLIC BEVERAGE AND CANNABIS BOARD
ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION

NOTICE OF SEVENTH EMERGENCY RULEMAKING

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

I. PROCEDURAL HISTORY

On July 28, 2020, the Council of the District of Columbia (Council) passed legislation that transitioned the District's Medical Marijuana Program (Program) from the District of Columbia Department of Health (Department of Health) to the Board. *See* Medical Marijuana Program Administration Amendment Act of 2020, effective December 3, 2020 (D.C. Law 23-149; 67 DCR 10493).

On January 30, 2023, Mayor Muriel Bowser signed the Medical Cannabis Amendment Act of 2022, effective March 22, 2023 (D.C. Law 24-332; D.C Official Code § 7-1761.01 *et seq*.) (Act). Among other changes, the legislation allows qualifying patients to self-certify to participate in the Medical Cannabis Program (Program), provides a mechanism for unlicensed cannabis businesses to obtain medical cannabis facility licenses, creates new license categories and endorsements, creates various benefits for qualified social equity applicants and medical cannabis certified business enterprises, reforms the license application process, allows for Advisory Neighborhood Commissions to protest the issuance of cultivation center, manufacturer, retailer, and internet retailer licenses, and permits the Board to enforce section 1761 of Title 7 of the D.C. Official Code and Title 22-C of the DCMR.

On April 12, 2023, the Board, by a vote of five (5) to one (1), approved emergency rules, which were set to expire on August 10, 2023. As part of its approval, the Board further gave notice to adopt the same rules as proposed rules pursuant to D.C. Official Code § 7-1671.13(b), for submission to the Council for review.

On June 7, 2023, the Board held a public hearing and received extensive testimony on the emergency and proposed rules. On August 9, 2023, the Board, by a vote of five (5) to zero (0), enacted the notice of second emergency and proposed rulemaking in response to the numerous comments that were received.

The notice of second emergency and proposed rulemaking also included changes resulting from the Medical Cannabis Clarification and Non-Resident Patient Access Emergency Amendment Act of 2023 (Clarification Act), which took effect on July 31, 2023; and superseded by the Medical Cannabis Clarification and Non-Resident Patient Access Temporary Amendment Act of 2023, which took effect on November 28, 2023. The Clarification Act makes temporary patient

cards available to non-residents for periods other than 30 days, expands the definition of a social equity applicant to include arrests and convictions of qualifying family members related to drug-related offenses, and adds siblings and grandparents to the list of eligible family members. The legislation clarifies that the 50 percent set aside requirement does not include medical cannabis cultivation center, manufacturer, or retailer license applications that are statutorily permitted to be filed with ABCA outside of an open application period. The legislation further clarifies that the five cultivation center applicants that scored 150 points or more during the prior open application period are automatically eligible to receive a manufacturer's license provided they register with the Board and pay the annual fee. Finally, the legislation permits the waiver of the application fee for testing laboratories, allows the issuance of conditional licenses to testing laboratories, allows testing laboratories to test products submitted by qualifying patients and caregivers, and allows testing for the purposes of quality assurance and research and development.

The Notice of Third Emergency and Proposed Rulemaking further complied with the Medical Cannabis Patient Access Clarification Emergency Amendment Act of 2023, effective October 30, 2023, (D.C. Act 25-276; 70 DCR 14480), and the Medical Cannabis Patient Access Clarification Temporary Amendment Act of 2023, effective January 23, 2024 (D.C. Law 25-103; 70 DCR 15444). It also included changes resulting from comments that were received regarding employee training requirements and caregiver patient limits.

On April 3, 2024, the Board voted unanimously to approve the Notice of Fourth Emergency and Proposed Rulemaking mostly maintained the same rules as the prior rules. On April 11, 2024, an amended version of the rule was adopted by unanimous vote of the Board to further clarify rules related to the documents non-District residents must submit to retailers to qualify to purchase medical cannabis.

The rulemakings were posted to the agency's website, while the rulemaking underwent legal sufficiency review. The initial emergency rules were published on the agency's website on April 12, 2023; the second emergency rulemaking was published on the agency's website on August 11, 2023; the third emergency rulemaking was published on the agency's website on December 11, 2023; the original fourth emergency rulemaking was published on the agency's website on April 3, 2024; and the amended fourth emergency rulemaking was published on the agency's website on April 11, 2024. The fifth emergency rulemaking was published on the agency's website on July 31, 2024. The sixth emergency and proposed rulemaking was published on the agency website on November 20, 2024.

The first Notice of Emergency and Proposed Rulemaking was published on December 27, 2024 at 71 DCR 016357. The Notice of Second Emergency and Proposed Rulemaking was published on July 26, 2024 at 71 DCR 009417. The Notice of Third Emergency and Proposed Rulemaking was published on April 12, 2024 at 71 DCR 004238. The Notice of Fourth Emergency and Proposed Rulemaking was published on June 14, 2024 at 71 DCR 007099. The Notice of The Notice of Fifth Emergency and Proposed Rulemaking was published on December 13, 2024 at 71 DCR 015088.

II. PUBLIC COMMENTS

The Board has reviewed and duly considered the comments it received at the public hearing and in writing. Below is a summary of those comments and the Board's response in italics. The Board notes that many commentators broadly supported the emergency and proposed regulations, and only took issue with a few aspects of the proposed rules. The Board's responses, while largely the same during the prior rulemakings, have been revised in light of changes as part of this emergency and proposed rulemaking.

Kinner & McGowan PLLC, the Generational Equity Movement, and other commentators requested that the Board revise the rules to modify the social equity criteria; eliminate consideration of unlicensed establishment applications on a first come, first serve basis; refrain from applying the 50 percent set aside to unlicensed establishments or delay implementation of the set aside until a later date. Other commentators requested that the Board lower the purchase limit of medical cannabis to an amount lower than 8 ounces. ANC Commissioner Gwendolyn Lohse, ANC Commissioner Zach Adams, and other commentators urged the agency to increase the minimum distance from schools to 400 feet as required by the District's alcohol laws, rather than 300 feet, as noted in the regulations. Antoine Pritchett, II, commented that the regulations unfairly prevent employees of licensees from consuming medical cannabis on-site even though such consumption would be for medical purposes. ANC Commissioner Jeffrey Rueckgauer expressed concern that unlike with alcohol licenses, only ANCs have been given the right to protest an application and no other groups have been given standing to protest a license. ANC Commissioner Zach Adams requested that criminal background checks be eliminated for all medical cannabis facility applicants. Jen Brunenkant and Linda Greene suggested that insurance be required to cover medical cannabis use in certain circumstances. Jen Brunenkant indicated that requiring notice to all ANCs in a Ward was excessive.

Response: The revised rulemaking has been amended to modify the social equity criteria based upon recently enacted legislation. The other proposed changes require modification of the statute and are beyond the scope of the Board's authority to change by rulemaking. Of note, D.C. Official Code § 7-1671.06a(e)(1) states that "At least half of all licenses issued to unlicensed establishments shall be issued to social equity applicants."

As to the consideration of applications in the order that they are filed, the statute requires that unlicensed establishment applications be considered on a first in time basis pursuant to D.C. Official Code § 7-1671.06a(d)(2). As a result, the Board is mandated by law to consider the first application filed with the agency and cannot select different criteria.

The Board notes that the minimum distance requirement of 300 feet from schools and recreation centers was placed in the regulations because it is required by D.C. Official Code § 7-1671.06(q) and the Board is not authorized to change the statutory distance requirement by regulation. The Board notes that it is still authorized to consider the appropriateness of an application for a proposed location that is more than 300 feet from a school or recreation center notwithstanding the 300-feet threshold.

On the issue of employee consumption of medical cannabis, the Board notes that permitting employees to consume cannabis at a licensed medical cannabis facility in most cases would require a change to D.C. Official Code § 7-1671.03(b). Nevertheless, if a retailer has a safe-use

treatment facility or summer garden, nothing prevents employees of a licensee from consuming medical cannabis in that location in accordance with the rules of those facilities. The Board reminds licensees that they remain responsible for the behavior of their employees if they are intoxicated while working.

On the issue of standing, the Board is aware that the standing requirement to protest a medical cannabis license is different than the alcohol license process. Nevertheless, the Board has no authority to change statutory standing requirements through rulemaking.

On the issue of criminal background checks, the statute requires some consideration of an applicant's criminal background, and thus cannot be eliminated by regulation (D.C. Code § 7-1671.06(u)). The Board notes that the proposed rules significantly limit the review as described in D.C. Code § 7-1671.06(u).

On the issue of requiring insurance coverage for medical cannabis, the Board notes that imposing such a requirement goes beyond the scope of the Board's authority.

On the issue of requiring notice of an application to all ANCs within a Ward, the Board notes that this requirement is mandated by the statute and cannot be altered by the Board.

Commentators requesting changes and policies that require legislation are advised to forward their concerns to the Council of the District of Columbia for consideration.

Kinner & McGowan PLLC and other commentators asked the Board to modify the open application timeline for unlicensed operators and stated that "ABCA has complete discretion over the open application timeline."

Response: Current law requires the Board to open the open application period for unlicensed establishments no earlier than 180 days after the effective date of the Medical Cannabis Amendment Act of 2022 and mandates that the period be open for 90 days. D.C. Official Code § 7-1671.06a(a)(1). The Board cannot shorten or extend the 90-day application period. The Board further finds that the current start date for this application period is appropriate and best serves the interests of the program and the public.

Kinner & McGowan PLLC requested that the rules address and permit the use of management agreements.

Response: The Board agrees that the medical cannabis industry requires guidance on this common business practice and the matter should be addressed by the rules. The proposed rules have been revised to adopt the current management agreement rulemaking requirements found in Title 25 of the D.C. Official Code.

Advisory Neighborhood Commission (ANC) Commissioner Chander Jayaraman and other commentators suggested that the Board delay the implementation of the safe-use treatment facility and summer garden endorsement privileges based upon concerns regarding potential health and nuisance concerns regarding smoke both inside and outside of the facility and its

impact on neighboring properties. ANC Commissioner Chuck Elkins, ANC 3D, and Laurence J. Schoen requested that the Board include more technical requirements and elicit more information regarding the applicant's plans to abate smoking nuisances in safe-use treatment facilities and summer gardens. ANC 3D and ANC 3B further requested the elimination of the requirement that windows and doors be closed and ANC 3B specifically requested that smoking be banned in summer garden spaces. Jen Brunenkant commented that it was unreasonable to mandate that summer garden holders prevent odor, smoke, and smells from entering private indoor space.

Response: The Board is not authorized to further delay the issuance of summer garden permits and must faithfully enact the law passed by the Council that permits retailers to apply for a summer garden. In writing the law, the Council can select the start date of when specific privileges become available to the public and the choice not to do so implies that the privilege is intended to be available immediately or as soon as practicable.

Moreover, regarding potential impact on neighboring properties, a recent court case related to cannabis smoke puts medical cannabis businesses on notice that their impact on neighboring properties may subject them to injunction and liability and it is their responsibility to ensure that they do not create a private nuisance. Josefa Ippolito-Shepherd v. Angella Farserotu, Case No. 2020 CA 004616 B, 28-34 (D.C. Super. Ct. Jun. 5, 2023). *As a result, medical cannabis businesses already have a legal obligation to ensure that smoke and smells from their business do not invade separately owned indoor private space.*

The Board does not agree that the requirement that windows and doors of the residence remain closed should be eliminated because the requirement ensures that the odor or smoke nuisance is pervasive and not a one-time or infrequent occurrence and that the resident has taken reasonable means to secure their property from outdoor odors. Finally, unlike safe-use treatment facilities, the legislation did not propose a specific standard regarding summer garden smoke emanating into private outdoor space; as a result, the Board is limiting its regulation of odor, smells, and smoke emanating from summer gardens to the nuisance standard set by the Ippolito-Shepard *case, as the appropriateness standard is generally influenced by nuisance law.*

As to banning smoking entirely, as suggested by ANC 3B, the Board is not convinced that such an across-the-board requirement is necessary. The Board notes that an ANC can argue that smoking should be banned in a specific area during a protest and such a restriction could appear in a settlement agreement, as noted in § 5445.11(c). The ANC can also further argue for additional restrictions and conditions related to odor, smoke, and smells, as noted in § 5421.5(d).

The Board is also not persuaded that additional technical requirements related to odor control and smoke emanation need to be expounded in the regulations where D.C. Official Code § 7-1671.06c(c)(3) provides a clear standard for medical cannabis businesses to adhere to and the failure to comply with this standard could subject a licensee to penalties, loss of privileges, and conditions placed on the license. The Board also finds limiting the issuance of safe-use treatment facility and summer garden privileges to a few licensees would be unfair to licensees. Also, any delay to the issuance of such privileges is harmful to the interests of patients who need access to a location to consume medical cannabis necessary for their treatment or condition.

Additionally, summer garden endorsement applications are subject to a 45-day public comment period with notice provided to all ANCs in an affected ward where additional conditions or requirements can be agreed upon with the ANC in a settlement agreement.

Finally, it should be further noted that implementing technical standards could result in a conflict of law and authority between ABCA, the D.C. Department of Buildings, the D.C. Department of Health, and the D.C. Department of Energy and the Environment. Therefore, if technical requirements are warranted, the Board prefers such requirements be undertaken by the appropriate agency that oversees the specific discipline governed by the suggested technical requirement.

Advisory Neighborhood Commission (ANC) Commissioner Chander Jayaraman and other commentators suggested that the renewal period for retailers not coincide with the renewal of on-premises and tavern retail alcohol licenses. ANC Commissioner Jeffrey Rueckgauer requested that the renewal period be two years rather than three years. Jen Brunenkant also asked how existing licensees will be treated under the new renewal schedule.

Response: The revised rules have been amended to address ANC Commissioner Jayaraman's concern by not having the renewal period for medical cannabis retailers coincide with the on-premises renewal period of alcohol retailers. The Board does not agree that the license renewal period should be reduced to two years because two years is an insufficient period to assess the impact of a licensee on the community and will be too burdensome for licensees, ANCs, and the agency. The three-year time frame is also consistent with alcohol license renewals. Finally, existing licensees will be subject to the new renewal calendar based on their license class so that all licenses of the same class are renewed at the same time, similar to how alcohol licenses are renewed.

ANC Commissioner Gwendolyn Lohse, Rabbi James Kahn, and other commentators expressed concerns about the maximum number of medical cannabis businesses that may be permitted. The I-71 Committee and other commentators further expressed concerns about the potential maximum number of licenses and the supply of medical cannabis available to businesses.

Response: The Board notes that the overconcentration of medical cannabis businesses and other negative impacts are addressed through distance limitations between retailers, schools, recreation centers, and protests against problematic licensees, which may consider overconcentration (22-C DCMR § 5421.3). The set-aside requirement acts as a limit on the total number of licenses. Unlike alcohol applications, medical cannabis applications may not be filed at any time but rather only when the Board elects to schedule an open application period. As a result, there are adequate tools in place in the law and regulations to address concerns regarding overconcentration. Moreover, the same rules allowing the limitation of licenses may be activated if supply issues are having a detrimental impact on patients. Finally, the Board finds that setting a limit on retail licensees may discourage cultivation center applicants from applying because potential cultivator applicants may deem the market too small to support their business.

ANC Commissioner Gwendolyn Lohse raised questions about how ABCA will verify

ownership.

Response: This comment did not specify a specific regulation or concern regarding identifying or verifying ownership that the regulations failed to address but rather raises questions about operational issues. The application process is designed to elicit and confirm the ownership of the applicant and the failure to disclose all required information regarding the ownership could result in the denial or revocation of the license, as well as other penalties. The current application process is based upon the same process used for alcohol licenses and no specific concerns regarding that process to elicit appropriate information about the ownership have been brought to the Board's attention to date. It should also be noted that all information submitted by applicants may be subject to verification and investigation. If there is a specific question regarding ownership verification, such as a specific fact scenario, then such questions should be addressed to ABCA or the Board for guidance or an advisory opinion.

It should also be noted that if a third party has a concern regarding a specific ownership's compliance, then that complaint may be forwarded to ABCA's Enforcement Division or the Board for investigation and review. Finally, false statements regarding ownership made in the application may be punishable under the criminal law. See, e.g., D.C. Code § 22-2405 (False Statements).

ANC Commissioner Gwendolyn Lohse and ANC Commissioner Jeffrey Rueckgauer suggest that a licensed medical cannabis business may have a negative impact on traffic and parking due to courier activities and therefore the Board should require a D.C. Department of Transportation (DDOT)-approved traffic control plan.

Response: Commentators did not establish that this requirement is necessary or that DDOT is even mandated or willing to undertake such a requirement in the context of the medical cannabis industry. If commentators are interested in having DDOT engage in traffic control related to pick up and deliveries, then those comments and requests should be addressed to DDOT. Finally, the Board notes that alcohol retailers and other businesses engage in similar pickup and delivery activities related to food and beverage sales; yet, the Board is not aware of similar plans being requested or utilized for those types of businesses. Therefore, there is insufficient evidence in the record that such a plan is warranted at this time.

ANC Commissioner Gwendolyn Lohse requested that the agency develop a verification process related to out of state minor cannabis purchases due to the risk of fraudulent parental permission and to delay this part of the program.

Response: The Board agrees with the commentator that it is critical that medical cannabis businesses avoid providing medical cannabis to unapproved minors. Medical cannabis facilities cannot facilitate the purchase of cannabis by minors except under limited circumstances statutorily approved circumstances and with sufficient safeguards to ensure that the medical cannabis was duly recommended by an authorized practitioner and with knowledge and permission of a parent or guardian. The Board is not aware of any case of a minor forging their parent or guardian's approval to obtain access to the District or another state's medical cannabis program. Furthermore, any patient application filed with the agency is saved and

ABCA can contact any minor's legal guardians to confirm their approval and signatures, conduct its own investigation of an application, and report the issue to law enforcement and child welfare authorities for further investigation.

In addition, it should be noted that even though minors may participate in the program (1) minors are not eligible for self-certification pursuant to D.C. Official Code § 7-1671.02(c)(1)(A), which is limited to persons 21 years of age and older; and (2) a minor may only register in the District's medical cannabis program if approved by their parent or guardian and with the recommendation of an authorized practitioner in accordance with D.C. Official Code § 71671.02(e)(1)-(2) and 22-C DCMR §§ 504.2 and 504.3. Finally, the Board emphasizes that it remains committed to ensuring that licensed medical cannabis businesses do not distribute medical cannabis to unapproved minors and that licensees that violate these rules may face severe sanctions.

Antoine Pritchett, II, indicated that rules related to adulterated cannabis should be amended to remediate adulterated product and that testing occur before the product is in its finished state. He also suggested that the Board look to the remediation rules adopted by Maryland.

Response: The Board is willing to consider allowing for remediation; however, based on the wide range of possible reasons product could fail required testing, the Board requires additional information about possible ways and scenarios where product can be remediated without negatively impacting the health, safety, and welfare of the public. The Board is further concerned that amending the rules to allow for testing before the product is finished creates a gap where contaminants and substances could enter the product without detection.

Antoine Pritchett, II, indicated concerns regarding the disclosure of fertilizers and nutrients to testing facilities, which could threaten the cultivation centers intellectual property and recipes for plant growth. Instead, Mr. Pritchett suggested adopting the nutrient management plan used by the State of Maryland.

Response: Current law requires that testing labs test for the presence and concentration of fertilizers and other nutrients; therefore, the regulations need to obtain this result.

Antoine Pritchett, II, indicated that leaf tissue sampling is too expensive and unnecessary.

Response: 22-C DCMR § 6510.2 does not require a "leaf tissue sample" and also permits other tests that elicit the necessary information; therefore, licensees may elect a different testing method if one is cheaper than a leaf tissue sample.

Antoine Pritchett, II, indicated the regulations permit a cultivation center to "only include the very best and top colas for testing" which may skew the results.

Response: 22-C DCMR § 6503.1 requires that products be divided into "homogenous batches"; therefore, if the actual product selected for testing is not sufficiently homogenous to the other products in the batch, then this may be deemed a violation or an improper test.

Antoine Pritchett, II, suggested that the industry standard for measuring residual solvents should be measured in parts per million (PPM) not milligrams per gram (mg per g).

Response: The microgram per gram standard for measuring residual solvents is used in California, which renders the regulations in accord with one of the largest cannabis markets in the United States on the issue of measuring residual solvents. ABCA will continue to study this issue and may in the future develop alternative testing measures as practices develop. Mr. Pritchett did not provide sufficient evidence that the proposed standard in his comment represents the industry standard. Nevertheless, the Board is willing to consider such evidence if provided.

Antoine Pritchett, II and other commentators indicated that the proposed regulations need to consider that Colorado's cannabis limits are based on daily limits and not monthly limits like the District. Antoine Pritchett, II, expressed concern that the regulations will encourage patients to buy more edibles and disadvantage cultivation centers that primarily sell dried flower. Many commentators expressed concern that the limit on concentrates and maximum THC limit was too low to satisfy patient demand and need as part of managing treatment plans for various conditions. Jen Brunenkant suggested that any problems regarding persons under 21 could be addressed by requiring a practitioner recommendation.

Response: The revised rulemaking has been amended to address this concern regarding the use of Colorado's cannabis purchase limits. The Board is willing to review the purchase limits in the future if the purchase limits are having a negative impact on patients or the industry. The Board will continue to study practices in other states and to review the concerns of patients, regulators, and the medical community regarding this issue.

The Board agrees with public comments that the amount of medical cannabis concentrate that can be possessed and consumed needs to be increased to reflect patient needs over a 30-day period and that the prior limits contained in the first rulemaking did not consider that Colorado's limits, including limits in its medical cannabis program, are daily limits and not monthly limits. The Board also changed the total amount of medical cannabis products that may be purchased or possessed in any form based upon the limits of Colorado's medical cannabis program. The Board notes that the medical cannabis concentrate limits for persons under 21 has been modified to take into account that Colorado's limits are daily limits and not monthly limits. The Board further intends to leave in the medical cannabis concentrate limits for persons under 21 as the Board is persuaded by the reasoning relied upon by Colorado in enacting the

limitation to address the health, safety and welfare of persons under 21.

Antoine Pritchett, II, expressed concern regarding the burden the submission of plans puts on applicants and licensees.

Response: In the prior and current version of the emergency and proposed rules, the Board has eliminated the requirement to file various plans, which were part of the prior competitive application process, except for security plans. In particular, the Board has eliminated the previously required staffing plan, product safety and labeling plan, business plan, educational material plan, environmental plan, cultivation plan, and the laboratory testing plan. The Board further notes that similar to the District's alcohol system, licensees will be permitted to change security plans by submitting them to the Board to replace any existing plan on file.

Antoine Pritchett, II, expressed concern about whether his business is eligible for social equity status.

Response: The Board cannot comment on whether a specific business is eligible for social equity status as part of the rulemaking process. Nevertheless, an existing licensee is welcome to apply to convert their existing license into a social equity license if they otherwise qualify for such status.

Antoine Pritchett, II, suggested that the Board should permit "tamper evident" packaging rather than "tamper proof" packaging, which is cheaper for licensees.

Response: The revised rulemaking has been amended to allow for licensees to utilize either "tamper proof" or "tamper evident" packaging that is difficult for children under 5 years of age to open. The Board notes that tamper evident packaging is permitted in other jurisdictions such as California and Maine. Cal. Bus. & Prof. Code § 26120; Me. Rev. Stat. tit. 22, § 2423-F.

Antoine Pritchett, II, and other commentators support the creation of a social equity advisory panel. Kinner & McGowan PLLC and Linda Greene suggested creating a subcommittee on the Advisory Committee comprised of medical cannabis licensees and industry stakeholders before November 1, 2023.

Response: The goal of the present rulemaking is to implement recently enacted medical cannabis legislation. The Board further notes that based on the timeline set by the legislation, there is insufficient time to convene an advisory panel and adopt any recommendations generated by such a committee. The Board emphasizes that anyone with proposed legislation, rules, and other policy changes are welcome to submit them to ABCA and the Board at any time for review and consideration and the Board appreciates the active involvement of the public in the notice and

comment rulemaking process, following on the robust public involvement in the legislative process.

Rabbi James Kahn and Linda Greene support implementing temporary card changes earlier than the proposed October 2, 2023, date.

Response: The revised rulemaking was amended to implement the temporary card changes for non-residents with an earlier date of Monday, September 25, 2023, during a prior emergency. The current rules maintain this change.

Stephanie Kahn requested that the Board consider a workaround when ABCA is not open to address problems registering new non-resident patients.

Response: The rulemaking significantly addresses this concern by creating non-resident cards that are 90, 180, and 365 days in length. Specifically, issues that have arisen for patients regularly attempting to renew a 30-day non-resident card will be reduced as a result of patients being able to obtain non-resident patient cards that are valid for up to 1 year.

Former Councilmember Yvette Alexander, on behalf of the D.C. Cannabis Trade Association, requested a reduction in fees for temporary patient cards. Other commentators also supported such a change.

Response: The Board's rules, as proposed, reduce the fee for a 30-day temporary non-resident card from $30 to $20. The proposed rules also create a new less expensive 3-day card that is available for $10.

The D.C. Cannabis Trade Association and other commentators advocated for ABCA to conduct a study as to the anticipated supply and demand of medical cannabis in order to inform the licensing process.

Response: The proposed study falls outside the scope of the present rulemaking, but commentators are welcome to submit suggested information and data that the Board should collect and consider in making licensing and other policy decisions.

The D.C. Cannabis Trade Association recommended that internet retailers be limited to businesses with brick-and-mortar locations.

Response: Additionally requiring internet retailers to operate a brick-and-mortar location would require a legislative change as it appears contrary to the Council's decision to create separate license classes for retailer and internet retailer businesses and the statute prohibits an internet

retailer from operating an establishment open to the public. D.C. Official Code § 7-1671.06(a)(4).

The D.C. Cannabis Trade Association requested the elimination of the sliding scale discount report required by the regulations. Norbert Pickett, Linda Greene, and Jen Brunenkant requested the elimination of the sliding scale discount.

Response: The Board agrees to eliminate the sliding scale reporting requirement. Further legislation would be required to eliminate the sliding scale discount program which is required by statute; however, the Board understands that it is having a harmful impact on licensees serving low-income neighborhoods.

Robin Walker Salas asked the Board to support providing additional education resources for patients.

Response: Production of such materials falls outside the scope of the rulemaking to implement the legislation enacted by the Council, but commentators are welcome to suggest topics, data, and information that should be generated or included in educational materials provided to patients or posted on ABCA's website or presented at community events for consideration.

ANC Commissioner Jeffrey Rueckgauer asked whether the 50 percent social equity set aside requirement applied to the system as a whole or to specific areas.

Response: The 50 percent set aside requirement applies to each of the specific retailer, internet retailer, courier, cultivation center, and manufacturer license categories. The 50 percent set aside requirement does not apply to the overall number of medical cannabis business licenses issued as a whole nor is it location dependent.

ANC Commissioner Jeffrey Rueckgauer requested that safe-use treatment facilities be required to have someone on staff certified to provide medical aid present.

Response: The Board considered the request to have staff present with certified medical training in medical cannabis consumption facilities; however, the Board is not aware of any other jurisdiction having such a requirement or evidence that such a costly requirement is necessary for the health, safety, and welfare of patients.

ANC Commissioner Jeffrey Rueckgauer requested that the smoking of cannabis products be prohibited within 25 feet of the property.

Response: The Board considered the request to create a 25 foot no smoking requirement around medical cannabis facilities; however, the Board does not have the authority to issue or enforce

rules governing the behavior of non-licensees in public space. It should be further noted that public consumption of cannabis is already prohibited by law. D.C. Code § 48-911.01.

Barbara Biddle requested that the Board clarify the legality of hemp-derived food products and industrial hemp products and liberalize rules related to hemp derived products. She further suggested that the Board create licenses for cannabidiol (CBD) only businesses.

Response: Modifying the status of hemp derived products and cannabidiol (CBD) requires additional legislation modifying the legal definition of cannabis under District law and cannot be addressed by rulemaking. The Board agrees that this area of the law needs clarification.

Terrance White, Linda Greene, Grace Hyde and other commentators asked that the Board liberalize its advertising and signage rules.

Response: The Board will be exploring this issue further in a future rulemaking after receiving additional feedback from stakeholders.

Jen Brunenkant asked whether the revision to § 503.5 "implies that the internet retailer or retailer does not need to retain a copy of the ABCA issued non-resident card and their government-issued ID."

Response: The amendment to Title 7 creates three categories of patients: (1) a District resident; (2) a non-District resident registered in another state; and (3) a non-resident cardholder. Section 503.5 addresses the internet retailer and retailer's document retention requirement regarding a qualifying patient enrolled in another state's medical cannabis program; therefore, the patient may not have and is not required to have an ABCA issued card under that specific scenario, as they will be able to present their own state-issued documents.

Jen Brunenkant asked to exempt THC syringes sold in 250 mg, 500 mg, and 2,500 mg sizes similarly to how capsules and tinctures are exempted in § 5608.7.

Response: The Board has concerns regarding high THC products. As noted by the National Institute on Drug Abuse (NIDA), high THC products "deliver extremely large amounts of THC to the body, and their use has sent some people to the emergency room." National Institute on Drug Abuse, "Cannabis (Marijuana) DrugFacts," available at https://nida.nih.gov/publications/drugfacts/cannabis-marijuana (last visited Jul. 28, 2023). Furthermore, according to NIDA, high THC products carry a risk of mental health issues, including hallucinations, delusions, and psychosis. Id. These products carry further risks to new and inexperienced patients because if taken in edible form they may "consume more to feel the effects faster, leading to dangerous results." Id. Finally, "Higher THC levels may also mean a greater risk for addiction." Id.

Nevertheless, in the case of non-injectable syringes, which is generally taken orally, the Board will include them in the exemption for capsules and tinctures for two reasons. First, there is no evidence at this time that persons under 21 years of age are abusing this specific category of products or that this specific type of product is leading to harmful outcomes in other

jurisdictions or the District. And second, where it has been shown that these products have been on the market for several years without objection from the Department of Health, the Board finds it appropriate to "grandfather" or carve out an exemption to the regulation's THC limits for this class of products.

Jen Brunenkant suggested that § 504.2 add the word "foreign" to permit "international patients" to participate in the medical cannabis program.

Response: This change is not needed as the term "non-resident cardholder" as defined in D.C. Code § 7-1671.01(13B) now includes the term "foreign country" and "foreign territory."

Jen Brunenkant asked whether § 1001.4 requires the printing out of records if stored electronically.

Response: If a licensee elects to solely use electronic records there is no obligation to create physical records. Electronic records may be transferred digitally or provided through the submission of a digital storage device if required to be submitted to ABCA.

Jen Brunenkant commented that internet and retailer licenses should be limited to one per person to promote ownership diversity.

Response: The combined limit in the proposed rules not allowing a licensee to hold more than 3 retailer and internet retailer licenses is consistent with D.C. Code § 7-1671.06(e)(1)(D), which contains the very same restriction.

Jen Brunenkant asked that the spousal conflict of interest rule found at § 5424 be eliminated in order to prevent spousal control of licenses as a way to collude to avoid the impact of the conflict-of-interest rules.

Response: Section 5424 is adapted from Title 23 of the D.C. Official Code. The Board generally opposes the adoption of rules and requirements that may violate the policy behind the D.C. Human Rights Act. Therefore, the Board opposes prohibiting both spouses from holding separate licenses because such a prohibition is inconsistent with District of Columbia policy as expressed by the D.C. Human's Right Acts prohibition on discrimination based on family relationships and marital status. D.C. Official Code § 2-1501.01 ("Every individual shall have an equal opportunity to participate fully in the economic, cultural and intellectual life of the District and to have an equal opportunity to participate in all aspects of life . . . ."); D.C. Official Code § 2-1402.11. Section 5424 creates clear guidelines for situations when both spouses own separate licenses in order to ensure compliance with existing law, and that without this section there would be no additional requirements whatsoever.

Jen Brunenkant commented that delivery drivers should be permitted to deliver to patients located curbside at their residence.

Response: Section 5624.7 allows for deliveries of medical cannabis to occur anywhere on the resident's property but not on public property, such as the sidewalk or curb. Current law requires delivery to the qualifying patient's address and not "on District government . . . property." D.C. Code § 7-1671.06E(a).

Jen Brunenkant expressed concern that the regulations do not indicate the legal responsibility of a retailer or internet retailer when using a courier.

Response: Retailers and internet retailers may be liable for the violations of a courier when it is shown the retailer engaged in a violation of a specific statute or regulation as part of the delivery transaction. Questions regarding specific scenarios that require clarification should be addressed to ABCA or the Board. The Board notes that in assessing the liability under the statute the Board will consider how the statutory language assigns responsibility and may consider other general legal principles if relevant such as vicarious liability or respondeat superior in administrative enforcement actions on a fact-specific basis, but in general, the licensee is responsible for the acts of its agents. This is especially true in a regulated industry where the Board's powers to ensure compliance are strongest over licensees.

Jen Brunenkant raised concerns regarding the curbside delivery camera requirement.

Response: The Board has eliminated the requirement in § 5703.4(e) for curbside sales to be within view of the retailer's security camera system because the requirement is of limited utility when off-premise delivery is permitted without video recording being required, the sales are still tracked through METRC, and there is a low risk of diversion where illegal cannabis is generally cheaper than product sold through a licensed medical cannabis retailer.

Jen Brunenkant raised concerns regarding the regulation's allowance for the use of a summary suspension in the case of an assault on a government official in or around the establishment.

Response: The requirement in § 6203.2 mirrors a similar and long-standing authority in Title 25 of the D.C. Official Code governing the operation of the alcohol industry. The requirement is necessary because an assault on a government official raises questions about the operation of and the security measures in place at the medical cannabis facility. Furthermore, such a suspension may be warranted to permit an appropriate investigation of the incident. The Board notes that this type of suspension is short term and is subject to the right to an almost immediate hearing and decision on the suspension. Further, this type of authority is also necessary where the on-premises consumption of medical cannabis is now authorized by the additional safe-use treatment facility and summer garden endorsements.

Lauren Berlekemp asked that the Board consider allowing patients to engage in testing at testing labs. She further advocated for the creation of a public private partnership to establish a testing laboratory.

Response: Recent legislation passed by the Council allows for patient and caregiver testing at testing labs and this version of the rulemaking addresses this new privilege enacted by D.C. Official Code § 7-1671.05(11A)(A). Public investment or partnership with a testing laboratory likely would require the enactment of legislation authorizing such activity and appropriate funding that falls outside the scope of the Board's authority.

Phyto Cultivation requested that licensees should be permitted to provide their own training in lieu of providing a Board-certified trainer due to the expense.

Response: Nothing in the current regulations prevents a licensee from creating their own program for their own employees, having it certified by the Board, and then conducting their own in-house training and certification under the program.

Phyto Cultivation requested that the Board adjust the definition of waste to allow for the disposal of green waste.

Response: The matter of waste disposal requires additional study because waste disposal rules are administered by a separate D.C. Government agency and the transportation of medical cannabis waste, even if no THC is present, may create interstate commerce and federal law issues that need to be examined before any rule change to medical cannabis waste disposal can be implemented.

Linda Greene requested that the Board eliminate the sales tax on medical cannabis.

Response: The elimination of the 6% medical cannabis sales tax is outside the authority of the Board and requires a statutory change.

Michael Bobo suggested that caregivers be permitted to assist an unlimited number of patients.

Response: The Board agrees that this limit does not serve the interests of patients, and the Board has removed the previous limit of five (5) patients per caregiver.

Linda Greene, Camille Tindal, and others took issue with current mandatory training requirements and suggested that the mandatory certified training of all employees be eliminated.

Response: The Board agrees with this change in part. The rules have been amended to only require managers to obtain mandatory training once every three-years from a Board-approved certified provider. Medical cannabis licensees are responsible for ensuring that their directors, officers, members, incorporators, agents, and employees have received training on District law, medical cannabis use, security and theft prevention once every three years; however, this training is not required to be from a Board-approved certified provider. These changes will help

to reduce costs on the medical cannabis industry because the mandatory training can be provided in-house. Managers are still being required to obtain training from a Board approved certified provider once every three years because this position requires an additional level of knowledge to ensure compliance with the medical cannabis laws and regulations and mirrors the requirement for alcohol licensees.

III. BOARD ACTION

Based on the public comments and additional legislation enacted by the Council, the Board superseded the emergency and proposed rules and replaced it with the following emergency and proposed rulemaking, which appear in the Notice of Sixth Emergency and Proposed Rulemaking and this Notice of Seventh Emergency Rulemaking. The current emergency and proposed rules provide additional clerical grammatical, style, and other minor changes for the purpose of clarity. In addition, the emergency and proposed rulemaking makes the following notable changes to the medical cannabis program:

1. Adopts and incorporates various laws, regulations, policies, procedures, and interpretations from Title 25 of the D.C. Official Code and Title 23 of the D.C. Municipal Regulations, which are currently administered by the Alcoholic Beverage and Cannabis Administration (ABCA), to promote agency efficiency, create consistency in the regulation of alcohol and medical cannabis, and further the transition of the Program from the Department of Health to ABCA. This includes creating a proposed application process, protest and enforcement hearing process, and the violation and penalty system based upon the District's current alcohol laws and regulations.

2. Changes all references to "Alcoholic Beverage Regulation Administration"; "ABRA"; and the "Alcoholic Beverage Control Board" to the "Alcoholic Beverage and Cannabis Administration"; "ABCA"; and the "Alcoholic Beverage and Cannabis Board," where appropriate, based upon the Act's changes to the agency and the Board's official name.

3. Changes all uses of the term "marijuana" to the term "cannabis" as used in the Act.

4. Changes the term "dispensary" to the term "internet retailer or retailer" as used in the Act where appropriate.

5. Uses the term "medical cannabis business" to refer to all medical cannabis business licenses, such as couriers, cultivation centers, internet retailers, manufacturers, retailers, testing laboratories, and any other license created under the Act or the regulations.

6. Clarifies, in §§ 301 and 5709, patient possession, purchase, and sale limits of medical cannabis and addresses products whose medical cannabis content cannot be accurately expressed in ounces, such as edibles, tinctures, and topical products, and limits the distribution of concentrated cannabis to persons between the ages of 18 and 20. These limits have been modified as a result of public comments received by the Board.

7. Continues to make new and renewed medical cannabis caregiver cards free.

8. Modifies, in § 501.2, the documents that are acceptable for demonstrating residency.

9. Amends the regulations in §§ 503.7 and 503.8 to allow nonresident patients to participate in the Program when their state relies on documents issued by authorized practitioners to demonstrate participation in the state's medical cannabis program. A new question asking for confirmation that a practitioner has determined the necessity of medical cannabis has been added. The language in § 503.7 is amended to provide additional clarity regarding its meaning and intent. These two provisions have been further amended in this rulemaking to allow the internet retailer or retailer to review and accept any valid unexpired government-issued identification card containing a photo of the patient regardless of jurisdiction. Of note, federal identifications with a photo, such as a passport, are also reliable, difficult to counterfeit, and provide accurate information regarding the residence of the purchaser.

10. Creates, in § 504, a temporary non-resident medical cannabis patient card. Section 504.1 was deleted because it expired on September 24, 2023, and is no longer applicable.

11. Creates, in § 505, a self-certification form as required by the Act. A question regarding the medical necessity for medical cannabis has been added to the form and a provision allowing the Board to investigate fraudulent certifications when warranted.

12. Eliminates, in § 601, the requirement of caregivers to obtain criminal background checks and the limit that caregivers register for no more than five (5) patients.

13. Eliminates, in §§ 701.1(f) and 701.2(f), except in the case of a minor, the requirement to provide a physician number, which is no longer necessary due to the addition of self-certification to the program.

14. Restores previously repealed § 801.1(i), in the authorized practitioner form, the requirement for a patient to execute a signed release of medical information, in the interest of protecting patient privacy.

15. Amends § 1002.2 to note that the time period for disclosing an investigative report is stayed pending Board review or other law enforcement investigation is complete.

16. Amends § 1010.1 to clarify when mandatory revocation is warranted based upon multiple violations of the medical cannabis laws and regulations.

17. Establishes, in Chapter 13, a new schedule of filing and annual fees for various licenses, endorsements, permits, and applications made available by ABCA. The standard application fee for a conditional testing laboratory license was reduced to $0 in § 1302.4(d).

18. Modifies, in § 1400.5, the term of service for advisory committee members from 9 years to 3 years.

19. Establishes, in §§ 1304 and 1305, that there shall be several tiers of cultivation center licenses based upon canopy size.

20. Establishes, in § 1305, that there shall be two types of manufacturer licenses based upon whether the business uses hazardous or flammable materials as part of an extraction process.

21. Amends § 1900 to address responses to inquiries regarding complaints filed with the agency and appropriate responses that may be provided by the agency.

22. Establishes, in Chapter 51, that medical cannabis business licenses shall be issued for three-year periods.

23. Establishes, in Chapter 54, the application, protest, and settlement agreement process related to medical cannabis business licenses, conditional licenses, and unlicensed establishments. Eliminates the competitive scoring system in favor of a non-competitive application process largely based on the District's current alcohol licensing process.

24. Adds § 5200.3 to address whether educational programs located in youth detention facilities qualify as schools. The Board deems such facilities to be primarily youth detention facilities, and not schools, because detained youth are not permitted to leave the facility, and the detention of youth is the primary function of the facility.

25. Amends § 5404 to clarify what actions constitute a substantial change that requires additional application to the Board for approval.

26. Adds § 5413.7 to address situations where an individual obtains a license in violation of the conflict-of-interest laws and may merit an opportunity to come into compliance. For example, a person through no fault of their own could obtain a license or business as part of an inheritance or divorce settlement. Likewise, § 5424.1(a) was amended to recognize this possibility.

27. Amends § 5421.3 to clarify that the impact on schools, recreational centers, and overconcentration must relate to the criteria outlined in § 5421.2 and should relate to the appropriateness criteria described in § 5421.2.

28. Amends § 5423.2 to address trial procedures when there are multiple protestants while preserving the right for parties to have their interests represented by their chosen representative.

29. Amends § 5427.1 to limit protests to ANCs within 600 feet of the applicant's proposed location in accordance with D.C. Official Code §§ 7-1671.05(b)(18)(A) through (C), 7-1671.06a(h)(1) and 7-1671.06a(h)(2).

30. Deletes § 5450 regarding stipulated licenses because related legislation has not become law as of the time of this rulemaking. The Board will maintain the section in anticipation of addressing the issue in a future rulemaking.

31. Amends §§ 5602.1 and 5602.8 to address retailer, courier, and internet retailer delivery hours.

32. Eliminates, in § 5607.1(f), the requirement that the package or label contain the authorized practitioner name due to the addition of self-certification to the program.

33. Eliminates, in § 5607.13, confusing language stating that an internet retailer or retailer cannot open original packaging provided by the cultivation center or manufacturer because this contradicts authorization granted by § 5607.15 to repackage products sold in bulk form.

34. Eliminates, in §§ 5408.1(b) and 5409.1(b), the requirement that all persons applying for a personal employment license, except for a manager, obtain a training certificate from a Board-approved provider.

35. Amends § 5608 to apply manufacturing rules to newly created licenses that permit manufacturing besides the cultivation center license. This section has been rewritten to clarify serving size limits.

36. Exempts, in § 5608.7, capsules, tinctures, and non-injectable syringes not greater than 5,000 mg in size from special rules for ingestible items with high tetrahydrocannabinol (THC).

37. Eliminates, in §§ 5608.4 and 5608.6, prohibitions against brightly colored packaging, because the standard created by the rule is too vague and subjective. The rules also eliminate the requirement that medical cannabis chocolates only appear in black and white packaging. The reasoning behind the change is that producers should be permitted to advertise, brand, and differentiate their products from other products on the market and that alcohol products are not subject to the same restrictions.

38. Permits, in § 5614.2, some space sharing between medical cannabis businesses under specific conditions and with the approval of the Board.

39. Deletes §§ 5620.6(c), 5620.7 and 5620.8 related to pesticide use, recommendations, and publishing lists of useable pesticides, because these regulations do not create enforceable standards and only express general policies and potential agency actions that do not need to be stated in the regulations.

40. Clarifies, in § 5615, the process for tracking medical cannabis and using the real-time electronic records system.

41. Establishes, in §§ 5624, 5625, and 5626, a retailer delivery endorsement, safe-use treatment facility endorsement, and a summer garden endorsement.

42. Establishes, in § 5627, mandatory training requirements for directors, officers, members, incorporators, agents, employees, and managers.

43. Moved prohibition on consumer possession and usage of cannabis products in an internet retailer or retailer location to § 5700.2 from the summer garden and safe-use treatment facility sections.

44. Deletes repetitive regulations in other sections that mirror the requirements of § 5703.3.

45. Eliminates the presumption, in § 5703.4, that the dispensing of medical cannabis did not occur if not captured by the establishment's cameras because the benefit, fairness, and utility of such a presumption is unclear and because it potentially makes prosecuting medical cannabis businesses for illegal cannabis sales off camera more difficult.

46. Eliminates the requirement in § 5703.4 that a retailer may only offer curbside pickup if the entire exchange of medical cannabis and medical cannabis products are captured on the retailer's video surveillance system because the requirement is of limited utility when off-premise delivery is permitted without video recording being required, the sales are still tracked through METRC, and there is a low risk of diversion where illegal cannabis is generally cheaper than product sold through a licensed medical cannabis retailer.

47. Amends, in Chapter 59, various books and records requirements to address the addition of new license classes by the Act.

48. Amends § 6409.21 to increase the acceptable total yeast and mold count to 100,000 CFU/g to conform with the standard adopted by Maryland's Cannabis Administration, which is noted in *The Maryland Cannabis Administration's Technical Authority for Cannabis Testing* (Revision 5.0) (see page 9).

49. Adds a new Chapter 65 and Chapter 66 to further specify and clarify testing standards and the prohibition on distributing adulterated cannabis.

50. Adds a new Chapter 67 to address the addition of the courier license by the Act.

51. Adds a new Chapter 96 to address the issuance of medical cannabis business license moratoriums.

52. Modifies the sliding scale discount program in Chapter 98 to eliminate the requirement to dedicate 2 percent of annual gross revenue, require the provision of the discount to all qualifying patients that qualify, eliminate revenue reporting requirements, modify the test to determine if a person is eligible for the sliding scale program, and create an affirmative defense for failing to provide the discount if the provision of medical cannabis would otherwise be in violation of the law.

53. Deletes the definition of pesticide in § 9900.1 because one was provided in the Act.

54. Adds various definitions in § 9900.1, including a definition for a "gun offense"; "fraud"; "locality"; "section"; "portion"; "METRC"; "overconcentration"; "tamper evident"; and "tamper proof." Other definitions are modified and deleted.

A similar emergency and proposed rulemaking was adopted by the Board on April 3, 2024, by a vote of 3 to 0, and became effective immediately on that date, except as otherwise stated, and supersedes and replaces the prior emergency and proposed rules approved by the Board on December 6, 2023. The emergency rules would expire one hundred twenty (120) days from the date of adoption, or on Thursday, August 1, 2024, unless superseded.

The Board reconsidered this vote on April 11, 2024, because it was determined that the original proposed versions of 503.7 and 503.8 failed to consider the ability of persons that recently changed their residence and lack identification from their new state at the time of purchase to participate in the program. The present rules were amended to address this concern for those patients that possess a completed written certification form from an authorized practitioner from the state or jurisdiction that they currently reside. As such, on April 11, 2024, in a 3-0 vote, the Board reconsidered and voted to replace the rules passed on April 3, 2024, with an amended version of the rules. The emergency rules were set to expire one hundred twenty (120) days from the date of adoption, or on Thursday, August 9, 2024, unless superseded.[1] On July 31, 2024, the Board voted 3 to 0, to adopt the Notice of Fifth Emergency and Proposed Rulemaking.

On November 20, 2024, the Board voted 5 to 0, to adopt the Notice of Sixth Emergency and Proposed Rulemaking. This emergency rulemaking was set to expire in one hundred twenty (120) days from the date of adoption, or on Thursday, March 20, 2025, unless superseded.

On March 19, 2025, the Board, in a 5 to 0 vote, adopted the Notice of Seventh Emergency Rulemaking. These rules were adopted on an emergency basis while the previously approved proposed rules undergo publication and Council review before being finally adopted. The Board further adopted these rules on an emergency basis based on the Board's determination that they were "necessary for the immediate preservation of the public peace, health, safety, welfare, or morals," D.C. Official Code § 2-505(c) due to the nature of cannabis being an intoxicating substance that may impact human behavior, harmful to minors and adults if abused, and the potential for the industry to impact the quality of life of residents. As such, the current rules are necessary to immediately maintain (and fine-tune) previously adopted rules that were necessarily both to protect public safety, health, and welfare in this area and to maintain consistency with current law. These emergency rules are set to expire one hundred twenty (120) days from the date of adoption, or on Thursday, July 17, 2025, unless superseded.

The Board further finds that the issuance of this rulemaking is "necessary for the immediate preservation or promotion of the public peace, health, safety, welfare, or morals" in accordance with 1 DCMR § 311.5(d) for various reasons. It is well known that cannabis is potentially an addictive and intoxicating substance and federally illegal; therefore, change to sale limits, patient registration, enforcement, and other matters are necessary to protect the health of consumers. Furthermore, the

[1] The Board notes that the prior adoption of these rules in the Notice of Fourth Emergency and Proposed Rulemaking incorrectly stated that the rules expired on August 1, 2024. This was a typo, and it should have indicated that the rules expired on August 9, 2024.

Board is further aware that medical cannabis is consumed to treat various medical conditions that may be especially damaging to patient health if impurities, pesticides, and other substances are found in medical cannabis; therefore, the changes to the testing rules are necessary to preserve the health of patients. Therefore, the issuance of this rule as an emergency is necessary to protect the health, safety, and welfare of the public.

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

Strike the phrase "Alcoholic Beverage Regulation Administration" wherever it appears and insert the phrase "Alcoholic Beverage and Cannabis Administration" in its place.

Strike the phrase "Alcoholic Beverage Control Board" wherever it appears and insert the phrase "Alcoholic Beverage and Cannabis Board" in its place.

Strike the phrase "ABRA" wherever it appears and insert the phrase "ABCA" in its place.

Strike the word "marijuana" wherever it appears and insert the word "cannabis" in its place.

Strike the phrases "dispensary, cultivation center, or testing laboratory"; "cultivation center, dispensary, or testing laboratory"; "cultivation center, or dispensary or testing laboratory"; "cultivation centers, dispensaries, and testing laboratories"; "cultivation center, dispensary, or testing laboratory"; " registered cultivation center, dispensary, or testing laboratory"; "cultivation center or dispensary"; "dispensary, cultivation center or testing laboratory"; "registered cultivation center or dispensary" wherever they appear and insert the phrase "medical cannabis business" or "a medical cannabis business" in their places and as appropriate.

Strike the words "dispensary" or "a dispensary" where they appear and insert the phrases "internet retailer or retailer" or "an internet retailer or retailer" in their respective places.

Strike the phrase "his or her" wherever it appears and insert the word "their" in its place.

The heading is amended to read as follows:

Subtitle C, MEDICAL CANNABIS

Chapter 1, DEPARTMENT OF HEALTH GENERAL PROVISIONS, is amended as follows:

Section 100, APPLICABILITY, is amended as follows:

Subsections 100.3 and 100.4 are repealed.

A new section 101, SIGNATURE REQUIREMENTS, is added to read as follows:

101 SIGNATURE REQUIREMENTS

101.1 Where the Act or this subtitle requires a signature, the requirement shall be satisfied by a wet ink signature, e-signature, digital signature, clickwrap signature, or any other mark demonstrating an intent to sign unless a specific type of signature is specifically required by the Act or this subtitle.

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

Section 200, GENERAL PROVISIONS, is amended as follows:

Subsection 200.4 is amended to read as follows:

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

(a) **Limitation of Liability** -- To the extent provided by section 12 of the Act (D.C. Official Code § 7-1671.11), 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 a person's participation in the District of Columbia's medical cannabis program, including: any fire, robbery, theft, mysterious disappearance or any other casualty; or injury arising from the use of medical cannabis obtained through the program. 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 cannabis is a controlled substance and has placed cannabis in Schedule I of the Controlled Substance Act. Growing, distributing, and possessing cannabis 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 cannabis program will not excuse any person from any violation of the federal laws governing cannabis or authorize any person to violate federal laws.

Subsection 200.11(a) is amended to read as follows:

(a) Within forty-eight (48) hours after discovery, provide verbal notification to the Board or the Board's designee;

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

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

300 MEDICAL USE OF CANNABIS

300.1 A qualifying patient shall only purchase, possess, and administer medical cannabis, or use paraphernalia, for treatment of a qualifying medical or dental condition or the side effects of a qualifying medical treatment after:

(a) Obtaining a signed, written recommendation from an authorized practitioner within the last two (2) years in accordance with the Act, except for individuals twenty-one (21) years of age and older, who shall be permitted to self-certify on a form provided by ABCA that they are utilizing cannabis for medical purposes as part of the registration process, and registering with ABCA; or

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

300.2 A qualifying patient or caregiver shall only purchase, possess, dispense, use, administer, or assist in the administration of medical cannabis, medical cannabis products, and paraphernalia obtained from an internet retailer or retailer licensed with the Board. A qualifying patient or caregiver may purchase medical cannabis, medical cannabis products, and paraphernalia at any internet retailer or retailer that is licensed with the Board.

300.3 A qualifying patient or caregiver shall only transport medical cannabis and medical cannabis products in a container or sealed package bearing the label received from the internet retailer or retailer.

300.4 A qualifying patient or caregiver shall not use or administer medical cannabis or medical cannabis products at a medical cannabis business, except that a qualifying patient or caregiver may use or administer medical cannabis at a Board-approved safe-use treatment facility, summer garden, or educational activity that occurs at a licensed retailer.

300.5 Medical cannabis shall only be administered by or to a qualifying patient at:

(a) The qualifying patient's residence, if permitted by the property owner;

(b) If permitted by the landlord, the residence of an individual who has given permission to the qualifying patient to administer medical cannabis at their residence;

(c) A medical treatment facility when receiving medical care for a qualifying medical or dental condition or a qualifying medical or dental treatment, if permitted by the medical treatment facility;

(d) A Board-approved safe-use treatment facility, summer garden, or educational activity that occurs at a licensed retailer; or

(e) To the extent consistent with federal law, a school where the qualifying patient is enrolled, if the school has a policy in place for allowing the administration of medication at school and medical cannabis is administered in a non-smokeable form.

300.6 A qualifying patient who is a minor shall only purchase, possess, use, and administer medical cannabis, medical cannabis products, and paraphernalia after receiving: (1) a recommendation from an authorized practitioner and registering with ABCA and (2) a signed, written statement from the minor's parent or legal guardian that is submitted with the minor's ABCA registration. The signed, written statement shall affirm that the parent or legal guardian:

(a) Understands the qualifying medical or dental condition or qualifying medical or dental treatment of the minor;

(b) Understands the potential benefits and adverse effects of the use of medical cannabis in general, and specifically, in the case of the minor;

(c) Consents to the use of medical cannabis for the minor's qualifying medical or dental condition or qualifying medical or dental treatment;

(d) Consents to, or designates another adult to, serve as the caregiver for the minor qualifying patient; and

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

300.7 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 cannabis when doing so would constitute negligence or professional malpractice; or

(b) Operate, navigate, or be in actual physical control of any motor vehicle, scooter, bicycle, e-bike, aircraft, or motorboat while under the influence of medical cannabis.

300.8 No qualifying patient or caregiver shall use butane or other explosive gases to extract or separate resin from cannabis, or tetrahydrocannabinol from cannabis, or in any other manner.

Section 301, BARRING NOTICES, is renumbered section 302 and the subsequent subsections are renumbered accordingly.

A new section 301, MEDICAL CANNABIS POSSESSION AND PURCHASE LIMITS, is added to read as follows:

301 MEDICAL CANNABIS POSSESSION AND PURCHASE LIMITS

301.1 The maximum amount of medical cannabis or medical cannabis products a qualifying patient or caregiver may possess at any time or purchase from a licensed internet retailer or retailer within a 30-day period, whether individually or in combination, is:

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

(b) Two hundred and forty (240) grams of medical cannabis concentrate for a patient twenty-one (21) years old of age or older, or sixty (60) grams of medical cannabis concentrate for a patient between eighteen (18) and twenty (20) years old; or

(c) Medical cannabis products in any form containing a combined total of six hundred thousand milligrams (600,000 mg) of THC.

Chapter 5, QUALIFYING PATIENTS, is amended as follows:

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

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

(c) Have a signed recommendation from an authorized practitioner, or if twenty-one (21) years of age or older, self-certify on a form provided by ABCA, for the use of medical cannabis meeting the requirements of this chapter; and

Section 501, RESIDENCY, is amended as follows:

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

(b) At least one (1) of the following items:

(1) A valid unexpired lease or rental agreement in the name of the applicant on a District of Columbia residential property;

(2) 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;

(3) 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;

(4) A current motor vehicle registration in the name of the applicant evidencing District residency;

(5) A valid unexpired District motor vehicle operator's permit or other official non-driver identification in the name of the applicant;

(6) Bank statements, utility bills, and telephone bills, including cell phone 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

(7) Any other document that, in the judgment of the Board, demonstrates that the applicant is a current resident.

Section 502, QUALIFYING PATIENTS APPLICATION, is amended as follows:

Subsection 502.1(e) is amended to read as follows:

(e) Either a signed and dated authorized practitioner's recommendation for the use of medical cannabis meeting the requirements of this chapter, that is dated not more than two (2) years prior to the application date, or a signed ABCA self-certification form;

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

Subsection 503.1 is amended to read as follows:

503.1 Before dispensing medical cannabis to a nonresident qualifying patient, a registered internet retailer or retailer shall:

(a) Verify the nonresident qualifying patient's identity through comparison of their unexpired government-issued identification card and either their temporary medical cannabis patient card issued by ABCA or a valid, unexpired nonresident patient card or state-issued or U.S. territory-issued document from the jurisdiction that the patient resides; and

(b) Confirm through the real-time electronic records system that the nonresident qualifying patient has not reached the allowable medical cannabis purchase limits for the thirty (30)-day period.

Subsection 503.2 is amended to read as follows:

503.2 An internet retailer or retailer shall not dispense medical cannabis to a nonresident qualifying patient that does not hold either a temporary medical cannabis patient card issued by ABCA or a valid unexpired nonresident patient card or state-issued or U.S. territory-issued document from the jurisdiction that the patient resides.

Subsection 503.3 is repealed.

Subsection 503.4 is amended to read as follows:

503.4 A licensed internet retailer or retailer shall not dispense medical cannabis to a nonresident qualifying patient if ABCA determines that there is a shortage of medical cannabis, or the real-time electronic records system is inactive.

Subsection 503.5 is amended to read as follows:

503.5 In the case of purchase by a nonresident qualifying patient that does not hold a temporary medical cannabis patient card issued by ABCA, the internet retailer or retailer shall retain a copy of both the nonresident patient card or state-issued or U.S. territory-issued document, and a copy of the government-issued identification card.

New subsections 503.7 and 503.8 added to read as follows:

503.7 Notwithstanding § 503.1(a) and § 503.2an internet retailer or retailer may satisfy § 503.1(a) and § 503.2 and dispense medical cannabis and medical cannabis products to a nonresident patient by verifying the nonresident patient's identity through a comparison of:

(a) An unexpired government-issued identification card of the patient;

(b) If required by the issuing jurisdiction, proof of residency in the other Jurisdiction, along with any other document necessary to prove enrollment in the other jurisdiction's program; and

(c) A written certification form issued by the patient's state or jurisdiction of residence that has been completed by an authorized practitioner provided the state or jurisdiction's written certification form contains:

(1) The name, address, and telephone number of the practitioner;

(2) The name of the qualifying patient presenting the written certification form;

(3) The date the certification form was issued by the practitioner;

(4) The signature or electronic signature of the practitioner; and

(5) Confirmation that the authorized practitioner has determined that medical cannabis is appropriate for the treatment of a qualifying medical or dental condition or a side effect of a qualifying medical or dental treatment, that is consistent with the standard of care in that jurisdiction.

503.8 In the case of purchase by a nonresident qualifying patient utilizing a written certification form issued by another state or jurisdiction that has been completed by an authorized practitioner, the internet retailer or retailer shall use the number on the unexpired government issued identification card as the non-resident's patient number.

A new section 504, TEMPORARY NON-RESIDENT MEDICAL CANNABIS PATIENT CARD, is added to read as follows:

504 TEMPORARY NON-RESIDENT MEDICAL CANNABIS PATIENT CARD

504.1 A non-resident qualifying patient visiting the District of Columbia may apply to ABCA to receive a temporary non-resident medical cannabis patient card that is either 3 days, 30 days, 90 days, 180 days or 365 days in length.

504.2 To apply for a temporary non-resident medical cannabis patient card, an applicant shall submit a complete application to ABCA on the required forms, which shall include:

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

(b) One (1) recent passport-type photograph 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 photo ID issued by a U.S. state, U.S. territory, the District of Columbia, or a foreign government-, such as a driver's license or passport, as proof of identity;

(d) A signed and dated written authorized practitioner's recommendation for the use of medical cannabis meeting the requirements of this chapter, that is dated not more than two (2) years prior to the application date, except for individuals twenty-one (21) years of age and older, who shall be permitted to self-certify on a form provided by ABCA that they are utilizing cannabis for medical purposes as part of their application;

(e) Designation of the individual who will serve as the patient's caregiver, if applicable; and

(f) Payment of the required application fee.

504.3 An applicant applying for a temporary non-resident medical cannabis patient card who is a minor shall further provide that the application is completed by the parent or legal guardian of the minor, and includes

(a) All of the information required by section 504.2; and

(b) A signed written statement from the minor's parent or legal guardian attesting to the information set forth in § 300.6.

504.4 A minor shall not be issued a temporary non-resident medical cannabis patient card until a registered caregiver is designated on the application and the caregiver has been issued a medical cannabis caregiver registration card from ABCA.

504.5 After the expiration of a temporary non-resident medical cannabis patient card, the nonresident cardholder may apply to ABCA to be issued another temporary non-resident identification card.

505 SELF-CERTIFICATION FORM

505.1 The ABCA Self-Certification Form shall require the following information:

(a) Name;

(b) Address;

(c) Date of Birth;

(d) Age; and

(e) Whether the applicant has any condition for which treatment with medical cannabis would be beneficial, as determined by an authorized practitioner, or is undertaking a qualifying medical or dental treatment.

505.2 The ABCA Self-Certification Form shall require the qualifying patient to make the certifications required by D.C. Official Code §§ 7–1671.02(c) and 7-1671.05(b)(3).

505.3 Any qualifying patient registration card containing a self-certification form that was issued to a person under the age of twenty-one (21) or who has otherwise falsified information contained in the self-certification form shall be revoked.

505.4 If the Board has cause to believe that a self-certification form is false or otherwise filed in violation of this Title or this subtitle, the Board may require the qualifying

patient to demonstrate through the submission of evidence that the self-certification is valid.

505.5 A qualifying patient required to submit proof of their self-certification shall have 15 calendar days unless extended by the Board to file appropriate documentation of their condition or treatment. If the qualifying patient fails to respond, then the Board may immediately revoke their registration.

Chapter 6, CAREGIVERS, is amended as follows:

Section 601, CAREGIVER QUALIFICATIONS, is amended as follows:

Subsections 601(c) and 601(d) are amended to read as follows:

(c) Not previously had its registration revoked by the Board to serve as a caregiver; and

(d) Be at least eighteen (18) years of age.

Subsection 601.1(e) is repealed.

Section 602, CAREGIVER APPLICATION, is amended as follows:

Subsection 602.1(b) is amended by striking the phrase "Two recent passport type photographs" **and inserting the phrase** "One (1) recent passport-type photograph" **in its place.**

Subsections 602.1(c) and 602.1(d) are amended to read as follows:

(c) One (1) clear photocopy of a photo ID issued by a U.S. state, U.S. territory, the District of Columbia, or a foreign government-, such as a driver's license or passport, as proof of identity; and

(d) The caregiver's residential address, which shall not be a post office box number.

Subsection 602.1(e) is repealed.

Subsection 602.1(f) is repealed.

Subsection 602.2 is repealed.

Section 603, CANNABIS OBTAINED FROM DESIGNATED INTERNET RETAILER OR RETAILER, is amended as follows:

The heading is amended to read as follows:

603 MEDICAL CANNABIS OBTAINED FROM INTERNET RETAILER OR RETAILER

Subsection 603.1(b) is amended to read as follows:

(b) Purchase medical cannabis from unlicensed sources; or

CHAPTER 7, REGISTRATION CARDS, is amended as follows:

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

Subsection 700.2 is amended to read as follows:

700.2 A registration identification card issued pursuant to this chapter shall expire two (2) years after the date of issuance and may be renewed in accordance with the renewal provisions under this chapter. Upon receipt of a complete application, ABCA shall issue the applicant a temporary patient registration card that shall be valid for thirty (30) days.

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

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

(f) The District of Columbia medical license number of the recommending physician, if the qualifying patient is a minor.

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

(f) The District of Columbia medical license number of the recommending physician, if the qualifying patient is a minor.

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

Subsection 702.1(a)(3) is amended to read as follows:

(3) A signed and dated written recommendation from an authorized practitioner for the use of medical cannabis meeting the requirements of this chapter, that is dated not more than two (2) years prior to the application date or, for patients twenty-one (21) years of age and older, a signed ABCA self-certification form; and

Subsection 702.2(c) is amended to read as follows:

(c) A signed and dated written recommendation from an authorized practitioner for the use of medical cannabis meeting the requirements of this chapter, that is dated not more than two (2) years prior to the application date or, for patients twenty-one (21) years of age and older, a signed ABCA self-certification form;

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

The heading is amended to read as follows:

Chapter 8 AUTHORIZED PRACTITIONERS

Section 801, FORM OF RECOMMENDATION, is amended follows:

Section 801.1(h) is amended to read as follows:

The authorized practitioner’s signature and date.

Section 801.1.(i) is amended to read as follows:

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.

Section 803, NO OFFICE AT INTERNET RETAILER OR RETAILER, CULTIVATION CENTER, OR TESTING LABORATORY, is amended as follows:

The heading is amended to read as follows:

803 PROHIBITED OFFICE LOCATIONS

Chapter 10, ENFORCEMENT ACTIONS, is amended as follows:

The heading is amended to read as follows:

Chapter 10 ENFORCEMENT

Section 1000, COMPLAINTS AGAINST PATIENTS, CAREGIVERS OR RECOMMENDING AUTHORIZED PHYSICIANS, is repealed.

Section 1002, REVOCATION, SUSPENSION, OR FINES – GENERAL PROVISIONS, is repealed.

Section 1003, NOTICE OF CONTEMPLATED ACTION AND HEARING, is repealed.

Section 1004, NOTICE OF SUMMARY SUSPENSION OR REVOCATION ACTION AND HEARING, is repealed.

New Sections 1000-1012 are added to read as follows:

A new section 1000, ENFORCEMENT AUTHORITY, is added to read as follows:

1000 ENFORCEMENT AUTHORITY

1000.1 The Board and ABCA shall have the authority to enforce the provisions of the Act and this subtitle with respect to licensees, any premises where an application pursuant to the Act has been filed, and unlicensed establishments.

1000.2 ABCA investigators may issue citations for civil violations of the Act and this subtitle that are set forth in the schedule of civil penalties.

1000.3 A citation for any violation for which the penalty includes the suspension of a license shall be issued under the direct authority of the Board as a result of an investigation carried out by ABCA investigators.

1000.4 Violations committed by an unlicensed person selling cannabis in violation of the provisions of the Act and the regulations may be referred by the Board to the Office of the Attorney General for investigation and prosecution.

1000.5 ABCA investigators may request and check the identification of a patient or caregiver inside of or attempting to enter a licensed medical cannabis facility. ABCA investigators may seize evidence that substantiates a violation under the Act and the regulations, which may include seizing cannabis and cannabis products sold to unregistered minors and unauthorized persons and fake identification documents used by minors and other unauthorized persons to register or be licensed with ABCA.

1000.6 ABCA investigators may seize a medical cannabis license or registration from an establishment or individual if:

(a) The license has been suspended, revoked, or cancelled by the Board;

(b) The license has expired;

(c) The license has been tampered with, altered, belongs to another person, or otherwise used in a fraudulent manner;

(d) The medical cannabis facility is no longer in existence; or

(e) The medical cannabis facility has been closed by another District government agency.

1000.7 ABCA investigators are authorized to conduct announced and unannounced, as well as undercover, inspections and investigations of all licensees and any premises where an application for licensure has been filed.

A new section 1001, EXAMINATION OF PREMISES AND BOOKS AND RECORDS, is added to read as follows:

1001 EXAMINATION OF PREMISES AND BOOKS AND RECORDS

1001.1 An applicant for a license, and each licensee, shall allow an ABCA investigator or any member of ABCA's enforcement division a full opportunity to examine, at any time during business hours:

(a) The premises where medical cannabis or medical cannabis products are cultivated, manufactured, kept, sold, delivered, tested, or consumed for which an application for a license or endorsement has been made or for which a license or endorsement has been issued; and

(b) The books and records of the business for which an application for a license has been made or for which a license has been issued. This shall include the license holder's confidential records, including those related to qualifying patients, nonresident qualifying patients, caregivers, and authorized practitioners.

1001.2 ABCA investigators shall examine the premises and books and records of each licensed medical cannabis facility in the District at least once each year. The investigators shall make reasonable efforts to ensure that the licensee will know in advance the date of the inspection.

1001.3 All books and records required to be maintained by a licensee shall be maintained at the licensed premises unless a separate location in the District is approved by the Board.

1001.4 Notwithstanding § 1001.3, a medical cannabis facility may store its books and records electronically; provided that they provide the ABCA investigator, or another employee of ABCA's enforcement division with access to the electronic records during normal business hours and produce the physical books and records within forty-eight (48) hours of notice of an inspection.

A new section 1002, NOTICE OF INVESTIGATIVE REPORTS, is added to read as follows:

1002 NOTICE OF INVESTIGATIVE REPORTS

1002.1 ABCA shall provide a licensee with an ABCA investigative report that may result in a show-cause civil enforcement hearing by ABCA within 90 days of the date upon which the incident occurred.

1002.2 The requirement in subsection § 1002.1 of this section shall be stayed if the report is referred to another federal, state, or District agency for investigation

and such investigation remains pending.

1002.3 A licensee that has not received an investigative report in compliance with § 1002.1 may petition the Board to obtain a copy of the document.

A new section 1003, AUTHORIZATION TO ISSUE FINES, SUSPEND, AND REVOKE LICENSES, is added to read as follows:

1003 AUTHORIZATION TO ISSUE FINES, SUSPEND, AND REVOKE LICENSES

1003.1 The Board may fine, as set forth in the schedule of civil penalties, and suspend or revoke the license of, any licensee during the license period if the licensee violates any provision of the Act or this subtitle.

A new section 1004, GENERAL VIOLATIONS, is added to read as follows:

1004 GENERAL VIOLATIONS

1004.1 It shall be a violation when:

(a) The licensee violates any of the provisions of the Act or this subtitle;

(b) The licensee fails to superintend in person, or through a manager approved by the Board, the facility for which the license was issued;

(c) The licensee interferes or fails to cooperate with an ABCA investigation;

(d) The licensee fails to follow its settlement agreement;

(e) The licensee fails to follow its security plan or other plan submitted as part of its license application;

(f) The licensee fails to follow a Board order or condition;

(g) The licensee fails to follow the terms of its license approved by the Board;

(h) The licensee purposely or knowingly destroys evidence of a crime;

(i) The licensee directly or indirectly gives, offers, or promises anything of value to an ABCA investigator, or offers or promises any ABCA investigator to give anything of value to any other person or entity, with the intent to:

(1) Influence any official act or investigation;

(2) Influence an ABCA investigator to commit or aid in committing, collude in, or allow any fraud on the Board; or

(3) Induce an ABCA investigator to do or omit to do any act in violation of the lawful duty of the ABCA investigator; or

(j) The licensee knowingly tampers with evidence. For purposes of this paragraph, the term "tampers with evidence" means any action that destroys, alters, conceals, or falsifies any sort of evidence.

A new section 1005, UNLAWFUL AND DISORDERLY PURPOSE VIOLATION, is added to read as follows:

1005 UNLAWFUL AND DISORDERLY PURPOSE VIOLATION

1005.1 It shall be a violation for the licensee to allow the licensed establishment to be used for any unlawful purpose contrary to District law.

1005.2 A single incident of criminal assault as defined in Chapter 4 of Title 22 of the D.C. Official Code, criminal sexual abuse as defined in Chapter 30 of Title 22 of the D.C. Official Code, or crime of violence as defined in D.C. Official Code § 23-1331(4) shall be sufficient to prove a violation of subsection 1005.1 of this section; provided, that the licensee has engaged in a method of operation that is conducive to unlawful or disorderly conduct.

1005.3 A violation of 1005.1 shall not require the showing of a criminal conviction but only substantial evidence that the criminal conduct occurred.

A new section 1006, INFLUENCING THE APPLICATION PROCESS, is added to read as follows:

1006 RESERVED

1006.1 [Reserved].

A new section 1007, PROHIBITION ON UNAUTHORIZED SALES, is added to read as follows:

1007 PROHIBITION ON UNAUTHORIZED SALES

1007.1 A licensee shall not deliver, dispense, give, sell, or serve medical cannabis, medical cannabis products, or paraphernalia to the following persons at the time of purchase:

(a) A person who is not a registered qualifying patient, caregiver, or otherwise authorized to purchase medical cannabis, medical cannabis products, or

paraphernalia; or

(b) A minor unless the person holds a valid and unexpired medical cannabis patient card issued by ABCA or another jurisdiction and is accompanied by a parent or legal guardian.

1007.2 No licensee shall permit the possession or consumption of medical cannabis or medical cannabis products by a minor at the licensed facility unless the minor:

(a) is a qualifying patient at a Board-approved safe-use treatment facility, summer garden, or educational activity;

(b) Holds a valid and unexpired medical cannabis patient card issued by ABCA or another jurisdiction; and

(c) Is accompanied by a parent or legal guardian.

1007.3 Any stayed suspension days imposed by the Board shall activate and be served by the licensee upon a finding by the Board that the licensee has committed another violation of this section within one year of the date that the violation that resulted in the stayed suspension was adjudicated.

1007.4 It shall be an affirmative defense to a charge under this section that the licensee or the licensee's agent was shown and inspected a fake or fraudulent identification document from the patient of such quality, and that lacked any of the indicia of a fake or fraudulent identification document, that a reasonable person would believe that it was valid. For the purposes of this subsection, if at the time of inspection, any of the following were present, the presumption shall be that a reasonable person would not believe that the identification document shown by the patient or the patient's caregiver was valid:

(a) The identification was visibly damaged;

(b) The identification lacked the physical materials or features of the valid identification being imitated;

(c) The photograph contained in the identification that was shown did not match the bearer;

(d) The identification is displayed past the printed expiration date; or

(e) The licensee or their agent knew or had reason to know the person who self-certified to obtain a patient registration card from ABCA was under the age of twenty-one (21).

A new section 1008, ILLEGAL CONSUMPTION, is added to read as follows:

1008 ILLEGAL CONSUMPTION

1008.1 A licensee that does not hold a safe-use treatment facility endorsement, summer garden, or an education tasting endorsement shall not allow any person to consume, inhale, or otherwise use medical cannabis or medical cannabis products on the premises or possess medical cannabis or medical cannabis products on the premises in an open or unsealed container.

A new section 1009, OPEN CONTAINERS, is added to read as follows:

1009 OPEN CONTAINERS

1009.1 No licensee shall knowingly permit a person to leave the premises with an open or unsealed container of medical cannabis or medical cannabis products.

A new section 1010, MANDATORY REVOCATION, is added to read as follows:

1010 MANDATORY REVOCATION

1010.1 The Board shall revoke the license of a licensee as a result of any of the following events during the period for which the license was issued:

(a) The licensee has been convicted of multiple violations of the terms of the Act or this title in accordance with 22-C DCMR § 6301.1(e);

(b) The licensee has knowingly permitted, in the licensed establishment

(1) The illegal sale, or negotiations for sale, or the use, of any controlled substance identified in the Controlled Substances Act; or

(2) The possession, other than for personal use, or sale, or negotiations for sale, of drug paraphernalia in violation of the Controlled Substances Act or the Drug Paraphernalia Act of 1982, effective September 17, 1982 (D.C. Law 4-149; D.C. Official Code § 48-1101 *et* seq.), except for medical cannabis, medical cannabis products, and medical cannabis paraphernalia;

(c) The licensee has been convicted of a felony after the issuance of the license if the felony constitutes a crime of violence, a gun offense, tax evasion, fraud, or credit card fraud; or

(d) The licensee has been convicted of assaulting an ABCA investigator or other District government official while the investigator or other official was conducting an investigation or performing other governmental

functions.

1010.2 For the purposes of this section:

(a) The term “personal use” means the possession of drug paraphernalia in circumstances where there is no evidence of an intent to distribute or manufacture a controlled substance; and

(b) Successive sales or negotiations for sale shall be deemed evidence of knowing permission.

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

Chapter 12 RESERVED

Chapter 13, FEES, is amended as follows:

Section 1300, PATIENT AND CAREGIVER REGISTRATION FEES, is amended to read as follows

1300 PATIENT AND CAREGIVER REGISTRATION FEES

1300.1 The registration, renewal, and replacement fees for a two (2) year patient or caregiver registration or other patient card are as follows:

(a) Initial registration fee for a qualifying patient - $0.00;

(b) Initial registration fee for a caregiver - $0.00;

(c) Renewal fee for a qualifying patient - $0.00;

(d) Renewal fee for a caregiver - $0.00;

(e) Replacement card fee - $10.00;

(f) The fee for a physical patient or caregiver registration card beginning on August 11, 2023 - $10.00;

(g) The fee for a 30-day temporary non-resident medical cannabis patient card shall be $30.00 until September 24, 2023;

(h) Beginning on September 25, 2023, the fees for a temporary non-resident medical cannabis patient card fee are as follows:

(1) Temporary non-resident medical cannabis patient card fee (3 days) - $10.00;

(2) Temporary non-resident medical cannabis patient card fee (30 days) - $20.00;

(3) Temporary non-resident medical cannabis patient card fee (90 days) - $50.00;

(4) Temporary non-resident medical cannabis patient card fee (180 days) - $75.00; and

(5) Temporary non-resident medical cannabis patient card fee (365 days) - $100.00.

1300.2 Notwithstanding the initial or renewal application fees for a qualifying patient set forth in § 1300.1(a)-(d), a qualifying patient who files an initial or renewal application by August 10, 2023, shall receive a two-year registration card at no cost.

1300.3 Beginning on August 11, 2023, ABCA shall only issue a qualifying patient or caregiver a digital registration card. On or after August 11, 2023, a qualifying patient or caregiver may request a physical card from ABCA for a fee of $10.00.

1300.4 A qualifying patient who establishes pursuant to § 1300.5 that their income level is equal to or less than two hundred percent (200%) of the federal poverty level, shall be entitled to purchase medical cannabis directly, or through a caregiver, on a sliding scale from a licensed internet retailer or retailer in the District of Columbia if the qualifying patient satisfies the Board of the following:

(a) That the individual is a current Medicaid or DC Alliance recipient or eligible for Medicaid or to participate in the DC Alliance program; or

(b) Documentation verifying that the individual's total gross income and other financial resources, 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; and

(c) The Board is otherwise satisfied that the qualifying patient lacks sufficient income and existing financial resources to obtain a sufficient supply of medical cannabis.

1300.5 To verify income for the purposes of § 1300.4(b), an individual shall submit an affidavit providing the following, if applicable:

(a) Earning statements received within the previous thirty (30) days;

(b) District of Columbia or Federal tax filings 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) Proof of any other unearned income or assets, including but not limited to, stocks, bonds, annuities, private pension and retirement accounts; and

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

1300.6 An individual shall submit the required verifying information set forth in § 1300.5 for each renewal or request for a replacement card in order to continue to purchase medical cannabis from a licensed internet retailer or retailer on a sliding scale.

A new section 1301, PAYMENT OF MEDICAL CANNABIS FACILITY ANNUAL FEES, is added to read as follows:

1301 PAYMENT OF MEDICAL CANNABIS FACILITY ANNUAL FEES

1301.1 Medical cannabis facility license fees shall be paid annually. The fee for the first year shall be paid within sixty (60) calendar days of Board approval but prior to license issuance. The renewal fee shall be paid on or before the anniversary date of issuance of the license.

1301.2 The applicant shall pay the annual license fee for the first year to the D.C. Treasurer. The applicant's duplicate receipt shall accompany the annual license fee payment.

1301.3 A licensee's failure to timely remit the annual license fee shall be cause for the Board to suspend a previously approved or issued license until the licensee pays the fee and any late fees imposed by the Board for late payment not to exceed the annual cost of the license. If a licensee is delinquent thirty (30) days or more on payment of the annual license fee, the Board shall give notice to the licensee of its intent to cancel the license. The licensee shall have fourteen (14) days to respond to the notice in writing. If the Board thereafter determines that the failure to pay the annual fee and late fee is not for good cause, the Board shall cancel the license.

1301.4 Nothing in this section shall preclude a medical cannabis business from paying in advance the second or third-year annual license fee.

A new section 1302, APPLICATION FEES, is added to read as follows:

1302 APPLICATION FEES

1302.1 The application filing fees for standard medical cannabis business applicants are as follows:

(a) Retailer, Internet Retailer, Cultivation Center - $8,000;

(b) Manufacturer, Courier - $4,000;

(c) Testing Laboratory - $0;

(d) Transfer to New Location - $5,000;

(e) Facility Capacity or Physical Plant Change - $2,000;

(f) Transfer of Ownership Change - $2,000;

(g) Change of Director, Officer, Member, Incorporator, or Agent - $100; and

(h) Corporate or Trade Name Change - $100.

1302.2 The application filing fees for social equity medical cannabis business and substantial change applicants are as follows:

(a) Retailer, Internet Retailer, Cultivation Center - $2,000;

(b) Manufacturer, Courier - $1,000;

(c) Testing Laboratory - $0;

(d) Transfer to New Location - $5,000;

(e) Facility Capacity or Physical Plant Change - $2,000;

(f) Transfer of Ownership Change to Another Social Equity Applicant - $625;

(g) Change of Director, Officer, Member, Incorporator, or Agent - $100; and

(h) Corporate or Trade Name Change - $25.

1302.3 The application filing fees for both standard and social equity applicants for a retailer endorsement or permit are as follows:

(a) Retailer Delivery Endorsement, Summer Garden Endorsement - $ 300;

(b) Safe-Use Treatment Facility Endorsement - $1,000;

(c) Education Tasting Endorsement - $130; and

(i) Certified Training Provider Permit - $100.

1302.4 The application fees for conditional licenses are as follows:

(a) For a standard applicant for a cultivation center, manufacturer, retailer, internet retailer, or courier, the applicant shall pay an application fee of $800 and an additional $1,200 fee if approved;

(b) For a social equity applicant for a cultivation center, manufacturer, retailer, internet retailer, or courier, the applicant shall pay an application fee of $200 and an additional $300 fee if approved;

(c) For either a standard or social equity applicant for a testing laboratory, the applicant shall pay an application fee of $0;

(d) For a standard applicant for a testing laboratory, the applicant shall pay a $0 fee if approved; and

(e) For a social equity applicant for a testing laboratory, the applicant shall pay a $0 fee if approved.

A new section 1303, LICENSE AND ENDORSEMENT FEES, is added to read as follows:

1303 LICENSE AND ENDORSEMENT FEES

1303.1 The annual license fees for standard cultivation center, manufacturer, internet retailer, retailer, courier, and testing laboratory licensees are as follows:

(a) Cultivation Center Tier 1 -$11,000;

(b) Cultivation Center Tier 2 -$16,000;

(c) Cultivation Center Tier 3 -$21,000;

(d) Cultivation Center Tier 4 -$26,000;

(e) Cultivation Center Tier 5 -$31,000;

(f) Cultivation Center Tier 6 -$36,000;

(g) Manufacturer -$4,000;

(h) Manufacturer and Extraction -$8,000;

(i) Retailer -$16,000;

(j) Internet Retailer License -$16,000;

(k) Courier – $8,000; and

(l) Testing Laboratory License -$7,500.

1303.2 The annual license fees for social equity cultivation center, manufacturer, internet retailer, retailer, courier, and testing laboratory licensees for the first three (3) years of operation shall be as follows:

(a) Cultivation Center Tier 1 -$2,750;

(b) Cultivation Center Tier 2 -$4,000;

(c) Cultivation Center Tier 3 -$5,250;

(d) Cultivation Center Tier 4 -$6,500;

(e) Cultivation Center Tier 5 -$7,750;

(f) Cultivation Center Tier 6 -$9,000;

(g) Manufacturer -$1,000;

(h) Manufacturer and Extraction -$2,000;

(i) Retailer -$4,000;

(j) Internet Retailer License -$4,000;

(k) Courier – $2,000; and

(l) Testing Laboratory License -$1,875.

1303.3 The annual endorsement and permit fees for both standard and social equity licensees are as follows:

(a) Retailer Delivery -$300;

(b) Summer Garden - $300;

(c) Education Tasting - $130;

(d) Safe-Use Treatment Facility - $2,000; and

(e) Medical Cannabis Certification Training Permit - $300.

1303.4 The fee for a duplicate, replacement, or lost license, permit, or endorsement shall be $25.

1303.5 The fee for a returned or declined check shall be $100.

1303.6 Late fees for failing to timely renew a license shall be $50 per day, up to a maximum of the fee for the relevant license.

A new section 1304, DETERMINING CULTIVATION CENTER TIER, is added to read as follows:

1304 DETERMINING CULTIVATION CENTER TIER

1304.1 A cultivation center shall be deemed to qualify for a specific Tier for the purposes of assessing fees based upon the following criteria:

(a) Tier 1 - Mature cannabis plant grow canopy area greater than 0 square feet but no more than 10,000 square feet;

(b) Tier 2 - Mature cannabis plant grow canopy area greater than 10,000 square feet but no more than 25,000 square feet;

(c) Tier 3 - Mature cannabis plant grow canopy area greater than 25,000 square feet but no more than 50,000 square feet;

(d) Tier 4 - Mature cannabis plant grow canopy area greater than 50,000 square feet but no more than 75,000 square feet;

(e) Tier 5 - Mature cannabis plant grow canopy area greater than 75,000 square feet but no more than 100,000 square feet; and

(f) Tier 6 - Mature cannabis plant grow canopy area greater than 100,000 square feet.

1304.2 The size of the mature cannabis plant grow canopy area shall be assessed at the

greatest size at any point or time during the licensing period for the entire license period.

1304.3 A cultivation center that permits the mature cannabis plant grow area to grow in size sufficient to qualify under a higher Tier shall pay the fee for the new Tier immediately upon reaching the new Tier or within thirty (30) days written notice provided by ABCA. A cultivation center that fails to pay the required fee shall be subject to the suspension of its license until the appropriate Tier fee is paid.

1304.4 A cultivation center shall not be able to obtain a refund should the mature cannabis plant growth area be reduced sufficiently to qualify for a lower Tier.

1304.5 The mature cannabis plant grow canopy area shall include all plant grow areas in the facility whether adjoined or in separate locations.

A new section 1305, CANOPY MEASUREMENT, is added to read as follows:

1305 CANOPY MEASUREMENT

1305.1 In order to measure the cannabis grow canopy area to determine the appropriate Tier, the measurement shall be calculated in square feet and measured using clearly identifiable boundaries of all areas(s) that will contain flowering or vegetative plants larger than eight (8) inches tall and eight (8) inches wide at any point in time, including all of the space(s) within the boundaries.

1305.2 A canopy may be noncontiguous, but each separate area included in the total canopy calculations shall be separated by an identifiable boundary which includes: interior walls, shelves, greenhouse walls, hoop house walls, garden benches, hedge rows, fencing, garden beds, or garden plots. If flowering or vegetative plants larger than eight (8) inches tall and eight (8) inches wide are being cultivated using a shelving system, the surface area of each level shall be included in the total canopy calculation.

A new section 1306, DETERMINING MANUFACTURER CATEGORY, is added to read as follows:

1306 DETERMINING MANUFACTURER CATEGORY

1306.1 There shall be two types of manufacturing license categories:

(a) A Type 1 manufacturing license shall authorize the production of all medical cannabis products except for those authorized by a Type 2 manufacturing license; and

(b) A Type 2 manufacturing and extraction license shall be required if the medical cannabis facility intends to manufacture medical cannabis

products utilizing hazardous materials, flammable and combustible liquids, compressed gases, cryogenic fluids, or extraction equipment that requires an operational permit from the Office of the Fire Marshal, Fire Prevention Division, DC Fire and Emergency Medical Services Department (Office of the Fire Marshal). A listing of when an operational permit is required from the Office of the Fire Marshal is set forth in Sections F-107.10.1 through F-107.10.43 of the D.C. Fire Prevention Code (2008).

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

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

Section 1400.5 is amended to read as follows:

1400.5 Each member of the Committee shall serve at the pleasure of the Mayor, the appointing agency director, or City Administrator. Public members of the Committee shall serve a maximum term of three (3) years from the date of appointment and may be reappointed.

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

Subsection 1401.1 is replaced in its entirety to read as follows:

1401.1 The Advisory Committee shall convene as needed to monitor best practices in other states, monitor scientific research on the use of medical cannabis, monitor the effectiveness of the District's medical cannabis program, the adequacy of the medical cannabis supply in the District of Columbia, and make recommendations to the Mayor, the Council, the Board, or consult with other agencies.

A new CHAPTER 19, INQUIRIES TO THE BOARD, is added to read as follows:

CHAPTER 19, INQUIRIES TO THE BOARD.

A new Section 1900, COMPLAINTS, is added to read as follows:

1900 COMPLAINTS

1900.1 The Board shall receive, at any time during the license period, complaints from any person, or an affected ANC, alleging a violation by a licensee of the terms of its license or an unlicensed person.

1900.2 Complaints shall be in writing and set forth enough information to allow the Board or its staff to investigate the matter.

1900.3 In addition to written complaints identifying the complainant, any person may make an anonymous complaint in writing to the Board or orally to any ABCA investigator.

1900.4 Anonymous complaints shall be investigated to the best of the Board's ability but may result in no action being taken if an anonymous complainant fails to provide the Board or the ABCA investigator with sufficient information.

1900.5 All written complaints under this section that identify the complainant by name and address shall be responded to by the Board or its staff within ninety (90) days of receipt of the complaint. The response shall advise the complainant of the action that the Board or its staff has taken on the matter or provide a copy of the establishment's investigative history.

1900.6 The Board shall maintain records documenting complaints received and the action taken in response to the complaint.

1900.7 In the case where a complainant has not received a timely response, the complainant may petition the Board to release a copy of the target licensee's investigative history for review.

A new Section 1901, LETTERS OF INFORMATION, is added to read as follows:

1901 LETTERS OF INFORMATION

1901.1 Any person, group, licensee, or business organization may make a written request to the Board for general information concerning staff procedures, Board procedures, the Act, this title, or any other matter of a general nature affecting the licensing of medical cannabis in the District of Columbia.

1901.2 The Board shall respond to all such letters in writing and may refer the writer directly to a member of the ABCA Staff, to a specific section of the Act or this title, or to other District of Columbia government officials. The response may also suggest that the writer retain the services of an attorney to properly advise the individual as to how to proceed in a particular matter. If the writer's inquiry is so broad, inexact, or vague that the Board is unable to respond, the Board shall so advise the writer and may request that the writer provide additional information.

1901.3 Any statement contained in the Board's letters of information provides only general guidance to the writer and shall not be binding on the writer or binding on the Board if the Board is later presented with a more particularized factual situation. Further, the Board's responses shall not provide any basis for appeal to any court in the District of Columbia.

A new Section 1902, ADVISORY OPINIONS, is added to read as follows:

1902 ADVISORY OPINIONS

1902.1 Any ANC, person, group, licensee, or business organization may make a written request to the Board for an advisory opinion when:

(a) The requestor is confronted with a situation involving the Act or this title which requires, or may require, the individual to take action; and

(b) The legality or propriety of the action to be taken is not clear from the plain text of the Act or this title.

1902.2 Any request for an advisory opinion shall set forth sufficient information to allow the Board to understand the issues involved and to frame a response. The requestor shall also state which section of the Act or section of this title the requestor wishes the Board to interpret or clarify, with respect to the stated set of facts.

1902.3 If the requestor presents insufficient facts in any request for an advisory opinion, the Board may, in its discretion, issue a letter of information; engage in fact-finding through investigation or a discretionary hearing; request the requestor to provide by letter more facts or details in support of their request; or decline to issue an advisory opinion.

1902.4 The decision to issue or not issue an advisory opinion shall be solely in the discretion of the Board.

1902.5 If issued, an advisory opinion is not binding upon the requestor but shall constitute guidance to the requestor as to how the Board may interpret the Act or this title on a particular matter, the facts of which are consistent with those raised by the requestor. Where the requestor is also a licensee, the Board may issue a show-cause notice pursuant to § 6204 of this title in the instance where the facts raised by the requestor provide the Board with reasonable cause to believe that the licensee should be fined, suspended, or revoked.

1902.6 If the requestor disagrees with the Board's advisory opinion in any respect, the individual may, within twenty (20) calendar days after issuance of the opinion, petition the Board in writing to reconsider its opinion, setting forth in detail the reasons and legal argument which support the requestor's points of disagreement, or may request the Board to issue a declaratory order, pursuant to § 1903. Advisory opinions shall not be deemed a final order of the Board.

1902.7 All advisory opinions of the Board shall be made available to the public on the agency's website.

A new Section 1903, DECLARATORY ORDERS, is added to read as follows:

1903 DECLARATORY ORDERS

1903.1 Any ANC, person, group, licensee, or business organization may make a written request to the Board to issue a declaratory order in accordance with the DC APA regarding the applicability of the Act, this subtitle or any other statute or regulation enforceable by the Board, to terminate a controversy other than a contested case or to remove uncertainty regarding a specific factual situation. If the request for a declaratory order involves an existing settlement agreement, the Board, in its discretion, may decline to issue an order or require a party to provide notice of the request to the other signatories to an existing settlement agreement and permit the other parties to intervene in the matter.

1903.2 Any request for a declaratory order shall:

(a) Set forth a particular and specific set of facts; and

(b) State in detail the reasons for uncertainty as to the applicability of the Act, this title or other statutes enforceable by the Board or state in detail why a controversy exists.

1903.3 Any declaratory order issued by the Board shall state the Board's Findings of Fact and Conclusions of Law. If the circumstances so warrant, the declaratory order may include an order by the Board to the requestor to cease and desist any practice or activity which is violative of applicable statutes or this title.

1903.4 All facts asserted in a request for a declaratory order shall be supported by sworn affidavit of the requestor. If the Board determines that further facts are necessary, it shall request the requestor to provide those facts by written affidavit or may receive those facts by stipulation at a non-contested case fact-finding hearing.

1903.5 Any requestor may appeal the order by petitioning the Board, in writing, within twenty (20) calendar days after issuance of the declaratory order, to reconsider its order by setting forth, in detail, either newly discovered facts or legal arguments that show one (1) or more errors of law in the Board's order.

1903.6 All declaratory orders of the Board determined to be in the public interest in accordance with section 9 of the DC APA (D.C. Official Code § 2-508), shall be published in the *D.C. Register* and shall be available for public inspection and copying at a reasonable charge at the offices of the Board.

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

The heading is amended to read as follows:

Chapter 50 LICENSED MEDICAL CANNABIS BUSINESSES

Section 5000, MEASURING DISTANCES, is amended as follows:

Section 5000.1 is amended to read as follows:

5000.1 In establishing the distance between one (1) or more places, (such as the actual distance of a medical cannabis business from a school or recreation center, as defined in the Act), the distance shall be measured linearly by the Board and shall be the shortest distance between the property lines of the places.

Section 5002, PERMISSIBLE ACTIVITIES AND LIMITATIONS ON CULTIVATION CENTERS, DISPENSARIES, AND TESTING LABORATORIES, is repealed.

Section 5003, LOCATION AND OWNERSHIP, is renumbered section 5002, and its subsections are renumbered accordingly.

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

Section 5100.1, REGISTRATION PERIODS, shall be amended to read as follows:

5100.1 Each license issued by the Board shall be valid for three (3) years unless otherwise stated in this title, except in the following circumstances:

Section 5101, RENEWAL PERIODS, is replaced in its entirety and amended to read as follows:

5101.1 The three (3) year renewal period for each medical cannabis facility license listed below shall occur sequentially every three (3) years starting with the following dates:

License Classification	Licensure Period	Ending Year
Courier	Jan. 1 to Dec. 31	2024
Cultivation Center	Jan. 1 to Dec. 31	2025
Internet Retailer	Jan. 1 to Dec. 31	2023
Manufacturer	Jan. 1 to Dec. 31	2025
Retailer	Jan. 1 to Dec. 31	2023
Testing Laboratory	Jan. 1 to Dec. 31	2024

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

Subsections 5103.2 through 5103.9, 5103.12 through 5103.13, and 5103.15 through 5103.21 are deleted and the remaining subsections are renumbered accordingly.

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

5105 MEDICAL CANNABIS CERTIFICATION PROVIDER PERMIT

Subsection 5105.2 is amended by striking the phrase "Department" and inserting the phrase "Board" in its place.

Subsection 5105.3(a) is amended by striking the phrase "Department" and inserting the phrase "Board" in its place.

Subsection 5105.5 is amended by striking the phrase "Department" and inserting the phrase "Board" in its place.

Subsection 5105.7 is added to read as follows:

5105.7 When a person completes the approved education training program provided by a medical cannabis certification provider, the provider shall issue the person a medical cannabis training certificate. The certificate shall be valid for three (3) years and may be reissued to the holder upon completion of the training necessary to qualify for the initial certificate.

Section 5106, MANAGER CERTIFICATION, is amended as follows:

Section 5106.1 and 5106.2 is amended to read as follows:

5106 MANAGER LICENSE

5106.1 A manager's license shall authorize the licensee to manage a licensed medical cannabis business.

5106.2 The holder of a manager's license may be employed by one or more licensed medical cannabis facilities without further investigation, subject to compliance by the licensed business. A manager's license issued to a manager may be utilized by the manager at any licensed medical cannabis facility.

Section 5107, NOTICE TO ADVISORY COMMISSIONS, is repealed and amended to read as follows:

5107 [Reserved]

Section 5108, POSTED NOTICE TO THE PUBLIC, is repealed and amended to read as follows:

5108 [Reserved]

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

5109 [Reserved]

Chapter 52, REGISTRATION LIMITATIONS, is amended as follows:

Section 5200, LIMITATION ON THE NUMBER OF DISPENSARIES, CULTIVATION

CENTERS, AND TESTING LABORATORIES, is repealed.

Section 5201, REGISTRATION APPLICATIONS NEAR SCHOOLS AND RECREATION CENTERS, is renumbered as section 5200 and amended to read as follows:

5200 DISTANCE REQUIREMENTS

5200.1 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.

5200.2 No new retailer license shall be issued for a location that is within four hundred feet (400 ft.) of another retailer.

5200.3 An academy or other facility providing educational services operated by the Department of Youth Rehabilitation Services or the D.C. Department of Corrections at a residential facility subject to mandatory detention at the facility shall not be deemed to be a school.

Chapter 54, REGISTRATION APPLICATIONS, is amended as follows:

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

The heading is amended to read as follows:

5400 QUALIFICATIONS FOR LICENSURE

Section 5400.1(c), QUALIFICATIONS FOR LICENSURE, is amended to read as follows:

(c) The applicant has not had a felony conviction for a crime of violence as defined in D.C. Official Code § 23-1331(4), 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 section 7 of the Act (D.C. Official Code § 7-1671.06);

A new subsection 5400.3 is added to read as follows:

5400.3 In addition to the requirements of § 5400.1, an applicant for a licensed medical cannabis facility shall demonstrate to the satisfaction of the Board that the applicant is the true and actual owner of the facility for which the license is sought and the individual intends to carry on the business for himself or herself

and not as the agent of any other individual, partnership, association, limited liability company, or corporation not identified in the application.

Section 5401, OPEN APPLICATION PERIOD AND REQUIRED LETTER OF INTENT is amended by amending subsections 5401.1 through 5401.4 to read as follows:

5401 OPEN APPLICATION PERIOD

5401.1 Applications for a new medical cannabis business license shall only be accepted by the Board during an open application period as specified by the Board by publishing a Notice in the *D.C. Register*. The period selected by the Board shall not be extended.

5401.2 An application for a new testing laboratory may be filed with the Board at any time.

5401.3 At the start of each open application period for a new cultivation center, manufacturer, internet retailer, retailer, or courier license the Board shall publish a notice in the *D.C. Register* setting forth the process for submission of the applications, which shall include:

(a) The opening and ending dates for the submission of applications for a new cultivation center, manufacturer, internet retailer, retailer, or courier license;

(b) The address and email address to submit an application to the Board; and

(c) The process for obtaining application materials from the Board.

5401.4 The Notice required in § 5401.3 of this chapter shall appear, at a minimum, in the *D.C. Register* and on ABCA's website.

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

5402 APPLICATION REQUIREMENTS

5402.1 A person applying for issuance, transfer to a new owner, or renewal of a license, endorsement, or permit, or for approval of substantial changes in operation, including a transfer to a new location related to a licensed medical cannabis facility, shall file with the Board an application in the form prescribed by the Board.

5402.2 The application shall contain the information set forth in this chapter and any additional information that the Board may require.

5402.3 A separate application shall be filed for each medical cannabis facility for which a

license is sought.

5402.4 The Board may require an applicant to submit additional documents and information needed to properly process an application.

5402.5 The Board shall not accept as filed, and shall take no action upon, any application that is not complete.

5402.6 An applicant for a medical cannabis business may amend or correct its license application at any time prior to Board approval.

5402.7 Any changes to an applicant's listed contact information, including mailing address, e-mail address, and telephone number, and other information as required by this chapter and provided on its license application that has been submitted to or approved by the Board shall be reported to ABCA within thirty (30) calendar days of the change. The failure to comply with this subsection after a written warning has been issued concerning the licensee's timely compliance shall be deemed a violation if not corrected within fifteen (15) days of receipt of the warning.

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

5403 APPLICATION CONTENTS

5403.1 The application of a person or entity applying for a medical cannabis business license shall include:

(a) In the case of a partnership or limited liability company applicant, the names and addresses of each member of the partnership or limited liability company and their ownership shares;

(b) In the case of a corporation, the legal name of the corporation, the proposed trade name of the business, 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;

(c) Whether the corporation is for-profit or non-profit;

(d) The name, address, telephone number, and e-mail address of the owners of the medical cannabis facility for which the license is sought;

(e) The address of the premises where the license is sought;

(f) The name and e-mail address of either an owner of the medical cannabis facility or the owner's designee, for purposes of receiving communications

from ABCA, including correspondence, hearing notices and other types of service of process, and Board orders;

(g) The type of license, endorsements, and other permits sought through submission of the application;

(h) The proximity of the facility to the nearest public or private, elementary, middle, charter, junior high, or high school and recreation center, and the name of the school and recreation center;

(i) Proposed hours of operation of the facility; hours of sale of medical cannabis and medical cannabis products; summer garden hours; and safe-use treatment facility hours if applicable;

(j) The size and design of the facility, which shall include the number of occupants permitted both inside and on any safe-use treatment facility or summer garden;

(k) The location of all restricted access areas closed to the public;

(l) An affidavit that complies with § 47-2863;

(m) Documents or other written statements or evidence establishing to the satisfaction of the Board that the person applying for the license, endorsement, or permit meets all of the qualifications set forth in the Act and this subtitle;

(n) The size and design of the facility;

(o) A lease or deed for the proposed location;

(p) A zoning certificate authorizing the proposed business activity or a certificate of occupancy for the proposed location;

(q) A food manufacturing permit and other permits from the Department of Health, if required;

(r) An operational permit from the Office of the Fire Marshal, if required.

(s) A certificate of good standing for the corporation;

(t) A site plan showing the entire structure of the medical cannabis facility, including the street(s), parking lot(s), other tenants within the facility, any other entities in facilities that physically border the applicant; and the area designated for trash disposal; and

(u) The medical cannabis facility applicant acknowledgment attestation form.

5403.2 An applicant for a medical cannabis business license shall file a security plan with their application.

5403.3 If protested by an affected Advisory Neighborhood Commission, the applicant for a cultivation center, manufacturer, internet retailer, or retailer license shall also provide information at the Board protest hearing related to the appropriateness of the facility regarding:

(a) The facility's impact on peace, order, and quiet, including measures to prevent noise disturbances and litter, and measures to foster public safety;

(b) The facility's impact on residential parking and vehicular and pedestrian safety, including the availability of parking at or near the establishment and the proximity of the business to public transportation and shared transportation services (e.g., Metro, bus, bike share station); and

(c) The facility's impact on real property values, including measures to prevent blight and maintain its building and efforts to prevent odor nuisances from impacting neighboring properties, and whether the property was subject to any building code violations while under the ownership or control of the applicant, and whether the violations indicated have been resolved.

5403.4 An applicant for any license shall advise the Board, in the application, as to the source of funds used to acquire or develop the business for which the license is sought.

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

5404 APPLICATION FOR A SUBSTANTIAL CHANGE

5404.1 A licensee shall obtain the approval of the Board by filing an application for a substantial change, if not initially approved as part of the licensee's initial application, prior to:

(1) Changing or expanding its location;

(2) Increasing the facility's plant capacity or physical plant count to another tier, if a cultivation center;

(3) Adding a safe-use treatment facility or summer garden;

(4) Extracting medical cannabis if not previously permitted or authorized;

(5) Increasing the hours of operation, delivery, or the hours of sale, service, or consumption of cannabis at the premises, the safe-use treatment facility, or the summer garden; or

(6) Increasing the physical occupancy or capacity of the premises, the safe-use treatment facility, or the summer garden or allowing or permitting more persons than permitted by the Board.

Section 5405, INTERNET RETAILER OR RETAILER APPLICATION REQUIREMENTS, is amended to read as follows:

5405 ABANDONMENT OF APPLICATION

5405.1 The Board may deem an application abandoned or withdrawn if an applicant fails to provide any additional documents within thirty (30) days of a request from ABCA or the Board for additional or required information.

5405.2 An applicant may seek an extension of time to submit documents needed to process the application upon a showing of good cause. An extension granted by the Board shall not exceed thirty (30) days.

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

5406 APPLICATION CERTIFICATION AND SIGNATURE

5406.1 An individual applicant, all of the general partners of an applicant partnership, all of the members of a limited liability company, or the president or vice-president of an applicant corporation shall sign a statement with an original signature, which may be a signature by wet ink, an electronic signature, or a copy thereof, certifying that the application is complete and accurate, and agreeing to all certifications required by the Board.

5406.2 The medical cannabis facility application of a person or entity applying for a medical cannabis business license shall state each of the following notices:

(a) **Limitation of Liability** -- To the extent provided by section 12 of the Act (D.C. Official Code § 7-1671.11), 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 a person's participation in the District of Columbia's medical cannabis program, including but not limited to the following: any fire, robbery, theft, mysterious disappearance or any other casualty; or injury arising from the use of medical cannabis obtained through the program.

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 cannabis is a controlled substance and has placed cannabis in Schedule I of the Controlled Substance Act. Growing, distributing, and possessing cannabis 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 cannabis program will not excuse any licensee from any violation of the federal laws governing cannabis or authorize any licensee to violate federal laws.

(c) **Knowledge of Law** – The applicant swears or affirms that the ownership is sufficiently familiar with the District of Columbia's medical cannabis laws to superintend a medical cannabis business and has the ability to ensure the business complies with the law.

(d) **True and Actual Owner-** The applicant is the true and actual owner of the business for which the license is sought and that he or she intends to carry on the business for himself or herself and not as the agent of any other individual, partnership, association, or corporation not identified in the application; and that the licensed establishment will be managed by the applicant in person or by a manager approved by the Board.

5406.3 As part of the application process, every applicant for a licensed medical cannabis business shall sign a written statement attesting to the following:

(a) The applicant acknowledges receipt and advisement of the notices set forth in § 5406.2 of this subtitle;

(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 § 5406.2 of this subtitle;

(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, dispensing, or testing of medical cannabis;

(d) The applicant understands that the medical cannabis laws and enforcement thereof by 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.

5406.4 The making of a false statement, whether made with or without the knowledge or

consent of the applicant, shall, in the reasonable discretion of the Board based on the materiality and willfulness of the false statement, constitute sufficient cause for denial of the application or revocation of the license.

5406.5 A person shall not knowingly submit an altered document or application to the Board for the purpose of deceiving the Board. The submission of an altered document intended to deceive the Board, may, at the reasonable discretion of the Board, constitute sufficient cause for denial of the application or revocation of the license.

Section 5407, CULTIVATION CENTER, INTERNET RETAILER OR RETAILER, AND TESTING LABORATORY REGISTRATION ISSUANCE, is amended to read as follows:

5407 BOARD AUTHORITY TO ISSUE LICENSES

5407.1 The Board may issue medical cannabis facility licenses to persons who meet the requirements set forth in the Act and the regulations.

5407.2 All medical cannabis facility licenses issued under this title, unless otherwise stated, shall be valid for a term of three (3) years and may be renewed upon completion of the procedures set forth in the Act and this title and payment of the required fees.

5407.3 A license to sell medical cannabis, medical cannabis products, and paraphernalia in the District can be granted only by the Board upon completion of the application and review process as contained in the Act and this title.

5407.4 Unless otherwise stated in the Act or this title, each license or permit shall particularly describe the place where the rights of the license are to be exercised.

5407.5 The Board, in issuing licenses, may require that certain conditions be met if it determines that the inclusion of the conditions will be in the best interest of the locality, section, or portion of the District where the licensed facility is to be located. The Board, in setting the conditions, shall state, in writing, the rationale for the determination.

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

Subsection 5408.1(b) is amended to read as follows:

5408.1(b) An individual who has been approved by the Board as a director, officer, member, incorporator, or agent shall not be required to register as an employee or manager. However, nothing in this subsection shall obviate the requirement in subsection 5604.1 that in the absence of an owner, a licensed medical cannabis business is required to have a Board-approved manager present at the licensed establishment

during the hours that the licensed medical cannabis business is open.

Section 5409, EMPLOYEE REGISTRATION REQUIREMENTS, is amended as follows:

Subsection 5409.1(a) is amended by striking the phrase "registration qualifications; and" and inserting the phrase "registration qualifications."

Subsection 5409.1(b) is repealed.

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

Section 5410, MANAGER'S REGISTRATION REQUIREMENTS, is renamed MANAGER LICENSE REQUIREMENTS

Subsection 5410.3 is amended to read as follows:

5410.3 An owner of a medical cannabis business may request that the Board issue a temporary license card to a manager valid for forty-five (45) days.

Section 5411, CRIMINAL BACKGROUND CHECKS, is amended to read as follows:

5411 CRIMINAL BACKGROUND CHECKS

5411.1 Each applicant for a medical cannabis business license, except for an applicant for an agent, employee, or manager registration, shall be required to undergo a criminal background check prior to being registered or licensed. In the case of an applicant for a non-profit or for-profit corporation, a criminal background check shall be conducted on all of its directors, officers, members, and incorporators.

5411.2 Except for social equity applicants, ABCA shall not require the submission of a criminal background check for a director, officer, member, or incorporator until the agency deems the applicant otherwise qualified for licensure and its license application accepted by the agency.

5411.3 Consistent with D.C. Official Code § 7-1671.06(u)(2)(A), ABCA's determination that an applicant is qualified, or its license or registration application should be accepted does not overrule the Board's authority to deem the applicant qualified or unqualified, hold a qualifications hearing, or to otherwise deem the applicant unfit for licensure.

Section 5412, REGISTRATION PROHIBITED IN RESIDENTIAL USE DISTRICT, is amended to read as follows:

5412 LICENSE PROHIBITED IN RESIDENTIAL USE DISTRICT

5412.1 No license shall be issued to a medical cannabis business 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.

Section 5413, RESTRICTIONS ON OWNERSHIP AND HOLDING A CONFLICTING INTEREST, is amended to read as follows:

5413 RESTRICTIONS ON OWNERSHIP AND HOLDING A CONFLICTING INTEREST

5413. 1 The holder of a testing laboratory license shall not hold, own, control or have any beneficial or other financial interest in a cultivation center, manufacturer, internet retailer, retailer, or courier license.

5413.2 The holder of a courier license shall not hold, own, control or have any beneficial or other financial interest in a cultivation center, manufacturer, internet retailer, retailer, or testing laboratory license.

5413.3 The holder of a cultivation center license shall not hold, own, control, or have any beneficial or other financial interest in more than two (2) cultivation center licenses.

5413.4 The holder of a retailer or internet retailer license shall not hold, own, control, or have any beneficial or other financial interest in a combined number of more than three (3) internet retailer and retailer licenses.

5413.5 The holder of a cultivation center license shall not hold, own, control or have any beneficial or other financial interest in more than one retailer license.

5413.6 The holder of an internet retailer license shall not hold, own, control or have any beneficial or financial interest in a cultivation center license.

5413.7 The Board may fine as set forth in the schedule of civil penalties, suspend, and revoke the license of a person that obtains ownership or control of a license, whether in whole or in part, in violation of this section or permit the person to place the license in safekeeping for a period not to exceed one hundred and eighty (180) days to facilitate the sale, transfer, divestment or other action necessary to comply with this section.

5413.8 It shall be a violation for a licensee to obtain an interest prohibited by this section.

Section 5414, RENEWAL PROCESS, is amended to read as follows:

5414 RENEWAL APPLICATION

5414.1 An applicant for license renewal shall self-certify the accuracy of its application, including any changes in ownership or other documents and submissions

constituting a part of the application for its initial license or, if appropriate, at the time of application by the medical cannabis facility for a substantial change in operation.

5414.2 Each license for a medical cannabis business issued by the Board shall be valid for three (3) years, except in the following circumstances:

(a) When suspended or revoked; or

(b) When the license takes effect on a date in between the dates established by the Board for the regular renewal licensing period, in which case the license shall be valid only until the end of the license period.

A new section 5415, SECURITY PLAN, is added to read as follows:

5415 SECURITY PLAN

5415.1 All medical cannabis businesses shall be required to file with their initial application and maintain a written and compliant security plan with the Board.

5415.2 A compliant security plan shall fully provide or describe the following:

(a) A statement on the type of security training provided for, and completed by, establishment personnel, which shall include conflict resolution, handling robberies and violent incidents, and medical emergencies;

(b) Procedures for handling violent incidents, other emergencies, and calling the Metropolitan Police Department;

(c) The type of security or alarm system and outdoor lighting to be used by the applicant;

(d) A site and floor plan detailing:

(1) All entrances and exits to the facility;

(2) The location of any windows, skylights, roof hatches, and outdoor lighting;

(3) The number and location of security cameras used by the business 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;

(6) Restricted and public areas; and

(7) The structure the facility is housed in, including nearby street(s), parking lots and other tenants that are within or border the facility;

(e) Security measures taken by the applicant to prevent individuals from entering the limited access area portion of the premises;

(f) Procedures for using and maintaining an incident log;

(g) Procedures for preserving a crime scene;

(h) The closing procedures after the cessation of business each day, including steps to properly store cannabis in a secure area and to prevent theft; and

(i) Procedures to prevent theft, robbery, or the diversion of medical cannabis in compliance with District law.

5415.3 A licensee shall provide either in-person or virtual training regarding its security plan to all employees and security within thirty (30) days of hire and at least once per year thereafter.

5415.4 A licensee may amend or replace an existing security plan on file with the Board by filing a new security plan that is compliant with this section.

5415.5 A licensee provided written notice that its submitted plan is deficient under this regulation shall file a corrected security plan within fifteen (15) days of receiving notice.

A new section 5416, CONDITIONAL LICENSE, is added to read as follows:

5416 CONDITIONAL LICENSE

5416.1 A conditional license application may be filed by both standard and social equity applicants for a cultivation center, manufacturer, internet retailer, retailer, or courier license that do not currently have a proposed location. A conditional license application may only be filed with the Board during an open application period noticed in the *D.C. Register* and on the ABCA website.

5416.2 An applicant for a conditional license shall indicate the type of license facility applied for in the application and request conditional status.

5416.3 If approved, the holder of a conditional license has one (1) year from the date of Board approval to submit to ABCA:

(1) A lease or similar documentation;

(2) A security plan;

(3) A certificate of occupancy for the proposed location;

(4) A permanent medical cannabis facility license application;

(5) Any remaining or additional licensing or endorsement fees owed to ABCA; and

(6) Any other documentation requested by the Board.

5416.4 The Board shall deem the conditional license expired and cancel the license if all the documents listed in §§ 5403 and 5416.3 are not provided within one (1) year from the date of Board approval.

5416.5 A conditional license application is not required to undergo a forty-five (45)-calendar day public comment period. Approved conditional license applicants are required to undergo a forty-five (45)-calendar day public comment period after their permanent medical cannabis facility application is filed with ABCA.

5416.6 A conditional license does not permit the holder to distribute, purchase, possess, cultivate, manufacture, or sell medical cannabis or medical cannabis products.

5416.7 A one (1)-year conditional license cannot be sold or transferred to a new owner.

5416.8 The holder of a conditional license is required to have their facility operational within one (1)-year of Board approval.

5416.9 The one (1)-year conditional license period shall not be extended.

5416.10 A conditional license approved by the Board shall count toward the requirement that at least fifty percent (50%) of all new cultivation center, manufacturer, internet retailer, retailer, and courier licenses be set aside for social equity applicants.

A new section 5417, SOCIAL EQUITY APPLICANT STATUS, is added to read as follows:

5417 SOCIAL EQUITY APPLICANT STATUS

5417.1 At least fifty percent (50%) of all new cultivation center, manufacturer, internet retailer, retailer, and courier licenses shall be set aside for social equity applicants. Only social equity applicants and medical cannabis certified business enterprises are eligible to receive equity, grants, and loans from the medical cannabis social equity fund.

5417.2 A social equity applicant is entitled to a seventy-five percent (75%) fee reduction on application and licensing fees associated with receiving a medical cannabis facility license for the first three years. The seventy-five (75%) fee reduction for social equity applicants does not apply to endorsement fees, including the application fees.

5417.3 To qualify as a social equity applicant, an applicant must satisfy two (2) or more of the following criteria:

(a) Has at least one (1) owner who is a District resident, individually or collectively owns at least fifty percent (50%) of the business, and is a returning citizen;

(b) Has at least one (1) owner who is a District resident, individually or collectively owns at least fifty percent (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, or a grandparent or a sibling who is or has been arrested, convicted, or incarcerated in the District or any other jurisdiction for a cannabis or drug-related offense; or

(c) Has at least one (1) owner who is a District resident, individually or collectively owns at least fifty percent (50%) of the business and has an income that does not exceed one hundred and fifty percent (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.

5417.4 In order to qualify for a social equity applicant status, an applicant shall file with its application a Social Equity Declaration Form.

5417.5 A complete application from a social equity applicant shall also provide or describe the following for each owner:

(a) The two (2) or more criteria that qualify the applicant for social equity status in accordance with § 5417.3;

(b) An affidavit, which shall be referred to as the Social Equity Applicant Attestation Form, attesting to:

(1) The number of owners who meet the criteria for a social equity applicant;

(2) The ownership interests, incomes, and net worth of any owners;

(3) The location of all managerial employees in the principal office;

(4) The residency of owners, employees, and contractors; and

(5) The locations of the assets and the percentages of the assets in each location.

(c) Proof of District residency for each owner claiming social equity applicant status, which shall include two (2) of the following:

(1) Proof of payment of D.C. personal income tax during the last tax period;

(2) A current tax withholding statement which contains the applicant's name;

(3) Current official documentation of financial assistance from the District (such as Temporary Assistance for Needy Families or housing assistance);

(4) Valid, unexpired D.C. driver's license or non-driver's identification;

(5) Valid, unexpired vehicle registration;

(6) Valid, unexpired lease and rent receipts for a period within two (2) months immediately preceding consideration of residency; or

(7) Utility bills with paid receipts or cancelled checks from a period within the two (2) months immediately preceding the filing of the application.

(d) If claiming social equity applicant status based upon returning citizen status, each owner claiming this status shall provide with their application law enforcement or court documents demonstrating proof of arrest, conviction, or incarceration for a drug-related offense;

(e) If claiming social equity applicant status based upon the incarceration of an immediate family member due to cannabis or drug-related offense, each owner claiming this status, shall:

(1) Identify the immediate family member that qualifies the applicant;

(2) Identify the nature of the qualifying relationship, including whether the relation is based on a marriage or civil union, and

whether the applicant is the parent of a qualifying child or the child of a qualifying parent or non-parent legal guardian, or has a qualifying grandparent or sibling;

(3) Provide documents proving the relationship (e.g., birth certificate, marriage certificate, proof of legal guardianship);

(4) Provide law enforcement or court documents demonstrating arrest, incarceration, or conviction; and

(5) Provide law enforcement or court documents demonstrating that the arrest, conviction, or incarceration of the qualifying relative was due to a cannabis or drug-related offense.

(f) If claiming social equity applicant status based on income, for each owner claiming this status, the applicant shall provide proof of income and household size, which shall include:

(1) Documentation establishing proof of income tax filing or withholding in the District of Columbia from the tax year prior to the date of the application; or

(2) If the documentation described in subparagraph (1) is not possible to obtain, a notarized statement of net income anticipated to be received with the next twelve (12) months, based on the previous twelve (12) months and explanation of the reason for failing to obtain one of the documents listed in subparagraph (1) of this paragraph.

Section 5418, LIMITATION ON SUCCESSIVE APPLICATIONS AFTER DENIAL, is amended to read as follows:

5418 LIMITATION ON SUCCESSIVE APPLICATIONS AFTER DENIAL

5418.1 The Board shall not consider an application for the same class of license, permit, endorsement, or substantial change by the same applicant if the Board has denied a previously filed application within five (5) years.

5418.2 Notwithstanding subsection 5418.1, if an application is withdrawn for good cause, as determined by the Board, and prior to the protest status hearing, or if a previously filed application for the same license class, permit, endorsement, or substantial change was denied by the Board on purely technical or procedural grounds, a successive application by such applicant may be considered.

A new section 5420, MEDICAL CANNABIS CERTIFIED BUSINESS ENTERPRISE AFFIDAVIT, is added to read as follows:

5420 MEDICAL CANNABIS CERTIFIED BUSINESS ENTERPRISE AFFIDAVIT

5420.1 The applicant shall attest by completing the Annual Personal Net Income Attestation Form that the annual personal net income of each owner of the enterprise applying for a medical cannabis business license does not exceed $349,999.

A new section 5421, APPROPRIATENESS REQUIREMENT, is added to read as follows:

5421 APPROPRIATENESS REQUIREMENT

5421.1 To qualify for issuance, renewal of a license, transfer of a license to a new location, or an application for the approval of a substantial change in operation as determined by the Board, an applicant shall demonstrate to the satisfaction of the Board that the medical cannabis establishment is appropriate for the locality, section, or portion of the District where it is to be located.

5421.2 In determining the appropriateness of a medical cannabis establishment, the Board shall consider all relevant evidence of record, including:

(a) The effect of the establishment on real property values;

(b) The effect of the establishment on peace, order, and quiet; and

(c) The effect of the establishment upon residential parking needs and vehicular and pedestrian safety;

5421.3 In determining the appropriateness of a medical cannabis establishment for initial issuance of a license or a transfer of a license to a new location, the Board shall also consider the following as they relate to the appropriateness factors described in § 5421.2:

(a) The proximity of the establishment to schools, recreation centers, day care centers, public libraries, or other similar facilities;

(b) The effect of the establishment on the operation and clientele of schools, recreation centers, day care centers, public libraries, or other similar facilities; and

(c) Whether issuance of the license would create or contribute to an overconcentration of licensed medical cannabis establishments of the same type.

5421.4 The requirements of this section shall only apply to applicants for a cultivation

center, manufacturer, internet retailer, or retailer license.

5421.5 For purposes of establishing the appropriateness of the medical cannabis establishment, the applicant shall present to the Board such evidence and argument as would lead a reasonable person to conclude the following:

(a) The establishment will not interfere with the peace, order, and quiet of the relevant area, considering such elements as noise, rowdiness, loitering, litter, and criminal activity;

(b) The establishment will not have an adverse impact on residential parking needs, considering available public and private parking and any arrangements made to secure such parking for the clientele of the establishment;

(c) The flow of traffic to be generated by the establishment will be of such pattern and volume as to neither increase the likelihood of vehicular accidents nor put pedestrians at an unreasonable risk of harm from vehicles; and

(d) The establishment will not have an adverse impact on real property values in the locality, section, or portion of the District of Columbia where it is to be located, considering such elements as blight, the presence of graffiti, the history of building violations and vacancy status under the applicant, and the physical impact of the property on neighboring properties, including odors and noise.

5421.6 Whenever an applicant has initially presented evidence to show that the establishment is appropriate, any protestant opposing the license shall present to the Board such evidence and argument as would establish the inappropriateness of the establishment, and as would overcome, to the satisfaction of a reasonable person, the evidence and argument presented by the applicant.

A new section 5422, PRESUMPTION OF APPROPRIATENESS, is added to read as follows:

5422 PRESUMPTION OF APPROPRIATENESS

5422.1 If notice in accordance with the Act and this chapter is provided and no valid objection regarding appropriateness is filed by a protestant, the application shall be presumed to be appropriate for the locality, section, or portion of the District where it is located.

A new section 5423, DENIAL FOR VIOLATIONS OF THE LAW, is added to read as follows:

5423 DENIAL FOR VIOLATIONS OF THE LAW

5423.1 The Board may deny a license to an applicant if the preponderance of the evidence shows that the applicant has permitted conduct at the medical cannabis establishment that is in violation of the Act or this chapter.

A new section 5424, SPOUSAL INTEREST IN LICENSE, is added to read as follows:

5424 SPOUSAL INTEREST IN LICENSE

5424.1 The spouse of a license holder may apply for a separate medical cannabis business license if the individual can establish that the conflict-of-interest provisions found at 22-C DCMR § 5413 will not be violated. Specifically, in applying for a license the spouse not holding a medical cannabis business license must submit a signed and notarized affidavit which states that:

(a) The applicant has no present or future ownership, except for an executory interest or property distributed in accordance with Title 16 of the D.C. Official Code or similar marriage or domestic partnership separation, annulment, or divorce law in another jurisdiction, in any other licensed medical cannabis business that the applicant is prohibited from owning under the Act;

(b) The applicant's spouse will have no ownership interest in the license being sought by the applicant;

(c) The applicant or another corporation (in which the spouse is not an officer, shareholder or member) is solely liable for the business rather than the spouse or spouse's business;

(d) The applicant's spouse will not have any operational control over the establishment and will not serve in a management capacity for the establishment or apply for a manager's license for that establishment; and

(e) The applicant will not transfer any medical cannabis inventory to, or receive any medical cannabis inventory from, their spouse's licensed establishment.

5424.2 The applicant shall provide documentation, upon request of the Board, necessary to validate the applicant's sworn affidavit. Failure to submit the necessary documentation within ten (10) business days of the Board's request may result in the suspension or revocation of the applicant's license unless an extension is granted by the Board.

A new section 5425, NOTICE BY BOARD, is added to read as follows:

5425 NOTICE BY BOARD

5425.1 Upon the receipt of an application filed by a cultivation center, manufacturer, internet retailer, or retailer, excluding conditional license applications, for the issuance or renewal of a license, for a substantial change in operation as determined by the Board, for the transfer of a license to a new location, or for a unilateral petition to amend or terminate a settlement agreement, the Board shall give notice of the application to the following parties:

(a) The Councilmember of the ward where the establishment is or will be located; and

(c) All ANCs in the ward where the establishment is or will be located.

5425.2 The notice shall contain the legal name and trade name of the applicant, the street address of the establishment for which the license is sought, the type of license sought, and a description of the nature of the operation the applicant has proposed or the proposed change in operation.

5425.3 The notice shall state that ANCs objecting to approval of the application are entitled to be heard before the granting of the application and shall inform the recipient of the final day of the protest period and the date, time, and place of the roll call hearing in accordance with this chapter.

5425.4 The Board shall give notice by electronic mail on or before the first day of the forty-five (45)-day comment period to:

(a) The ANC office established pursuant to D.C. Official Code § 1-1309.13(e), with a copy to each ANC member in the affected ward;

(b) The ANC chairperson in the affected ward; and

(c) The ANC member in whose single-member district the establishment is or will be located.

5425.5 The Board shall publish the notices required under this section in the District of Columbia Register.

A new section 5426, LICENSEE NOTICE REQUIREMENT, is added to read as follows:

5426 LICENSEE NOTICE REQUIREMENT

5426.1 A cultivation center, manufacturer, or retailer applicant that is required to undergo a forty-five (45)-day public comment period under the Act or this chapter shall post two (2) notices, furnished by ABCA, of the application in conspicuous places on the outside of the establishment for the duration of the protest period.

5426.2 The notices shall state:

(a) The information required by § 5425;

(b) The final day of the protest period;

(c) The date, time, and place of the roll call hearing;

(d) The telephone number and mailing address of ABCA; and

(e) That any person willfully removing, obliterating, or defacing the notices shall be guilty of a violation of this chapter.

5426.3 An applicant who fails to maintain the posted notices continuously during the protest period shall be guilty of a violation of this chapter.

5426.4 If the Board determines that the notices posted at an applicant's establishment have not remained visible to the public for the duration of the forty-five (45)-day protest period, the Board shall require the reposting of the notices and shall reschedule the roll call hearing for a date at least forty-five (45) days after the originally scheduled hearing, unless the applicant has fully performed all other notice requirements and the Board determines that it is in the best interest of the parties to proceed at an earlier date.

5426.5 An applicant for an internet retailer license shall not be required to post the two (2) notices required by this section; provided, that the notice shall be posted on the applicant's website for the entire forty-five (45)-day public comment period.

5426.6 An applicant for a new or renewal license or for the transfer of a license to a new location shall take a picture of the posted placards within two (2) calendar days of the date the placards were posted, and upon request of the Board provide a copy of the picture, or pictures, of the posted notices that includes the date and time that the pictures were taken.

A new section 5427, STANDING TO FILE PROTEST, is added to read as follows:

5427 STANDING TO FILE PROTEST

5427.1 An ANC located within 600 feet of the applicant's proposed location may protest the issuance or renewal of a license, or the transfer of a license to a new location involving a cultivation center, manufacturer, retailer, or internet retailer.

A new section 5428, FILING A PROTEST, is added to read as follows:

5428 FILING A PROTEST

5428.1 Any affected ANC objecting to the approval of an application shall notify the Board in writing of its intention to object and the grounds for the objection within the protest period. The initial protest letter filed by the ANC shall state all appropriateness grounds that the ANC intends to raise, and any other legal issue related to the application.

5428.2 Protests submitted by the ANC shall be signed by the Chairperson, the Vice-Chairperson or any other person authorized to sign a protest by the ANC's bylaws, or a resolution adopted by the ANC.

5428.3 The protest shall state the name and position of the designated representative who shall receive correspondence from the Board on behalf of the ANC.

A new section 5429, ANC COMMENTS, is added to read as follows:

5429 ANC COMMENTS

5429.1 An affected ANC shall notify the Board in writing of its recommendations, if any, and serve a copy upon the applicant or licensee, not less than seven (7) calendar days before the date of the protest hearing. The Board shall give great weight to the ANC recommendations as required by section 13 of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-58; D.C. Official Code § 1-309.10). The applicant or licensee may file a written objection or respond to the comments at the protest hearing.

A new section 5430, EXTENDING THE LICENSURE PERIOD, is added to read as follows:

5430 EXTENDING THE LICENSURE PERIOD

5430.1 Licenses that have been made the subject of protest hearings shall be extended as provided by this section.

5430.2 If the Board has not issued a decision on the matter, and the license has expired, the license shall continue in effect until such time as the Board has rendered a final decision.

5430.3 In the case of protested applications for a transfer to a new location, the license shall continue in effect only for purposes of the original location, and operations at the new location shall be prohibited until the Board has rendered a final decision.

A new section 5431, APPLICATION REVIEW, is added to read as follows:

5431 APPLICATION REVIEW

5431.1 Upon receipt of a complete new, renewal, or transfer to new location application filed by a cultivation center, manufacturer, internet retailer, or internet retailer, excluding conditional license applications, the Board shall schedule a roll call hearing on the application. The roll call hearing shall not take place until after the close of the forty-five (45)-day protest period.

5431.2 Before any license is issued or renewed, the Board shall ensure that proper notice has been provided to the public and that an ANC located in the same ward as the applicant has been given at least forty-five (45) days in which to protest the license and that a roll call hearing has been conducted.

5431.3 If no protest has been received by the Board from an affected ANC during the protest period, the Board shall consider the application within ten (10) days after the end of the protest period.

5431.4 If a protest has been received by the Board during the protest period, the Board shall take the following actions:

(a) The Board shall schedule a protest hearing, to be held within one hundred and twenty (120) days of the end of the protest period, for new license applications to receive testimony and other evidence regarding the application.

(b) The parties shall be informed of their obligation to attend a mediation for the purpose of discussing and resolving, if possible, the objections raised by the protestants.

(c) The parties shall be informed of their rights and responsibilities with respect to reaching a settlement.

5431.5 The Board shall issue a decision in accordance with the Act and this chapter.

A new section 5432, ROLL CALL HEARING, is added to read as follows:

5432 ROLL CALL HEARING

5432.1 The roll call hearing shall be a non-adversarial proceeding conducted by the Board or the Board's agent, in which a list of applications for a new or renewed license, transfer to new location, or a substantial change in operation, and the protestants thereto, shall be read to the public.

5432.2 For the purposes of this subsection, the term "Board's agent" means an employee at or above the Grade 12 level in the Office of the General Counsel within ABCA, excluding the ABCA General Counsel, who shall have the authority to:

(a) Regulate the course of the hearing;

(b) Request the persons appearing at the hearing to identify themselves, and to provide contact information, including e-mail addresses;

(c) Request or accept written documentation from the parties, including letters of representation;

(d) Identify the parties with standing and the filed protest issues;

(e) Schedule mediation;

(f) Adjourn a hearing and establish the date when the hearing will be continued; and

(g) Take any other action considered necessary by the Board.

5432.3 Each applicant and each protestant shall attend the roll call hearing in person or appear through a designated representative.

5432.4 The ANC may designate any member or every member of its Commission, or a non-member of the Commission, to participate in the protest process, hearings, and negotiating settlement agreements.

5432.5 Failure to appear in person or through a designated representative at the roll call hearing may result in denial of the license application or dismissal of a protest, unless, in the discretion of the Board, good cause is shown for the failure to appear. Examples of good cause for failure to appear may include:

(a) Sudden, severe illness or accident;

(b) Death or sudden illness in the immediate family, such as spouse, partner children, parents, siblings;

(c) Incarceration; or

(d) Severe inclement weather.

5432.6 A recommendation by the Board's agent to dismiss a license application or dismiss a protest for failure to attend the roll call hearing shall be forwarded to the Board for issuance of a written order.

5432.7 At the roll call hearing, the Board's agent shall have the authority to:

(a) Regulate the course of the hearing;

(b) Request the persons appearing at the hearing to identify themselves, and

provide contact information including email addresses;

(c) Request or accept written documentation from the parties including letters of representation;

(d) Identify the parties with standing and the filed protest issues, if undisputed;

(e) Approve a joint request from the parties to schedule mediation;

(f) Adjourn a hearing and establish the date when the hearing will be continued; and

(g) Take any other action authorized by, or necessary under, this section.

5432.8 At the roll call hearing the parties shall be required, on a form prescribed by the Board, to provide their name, address, email address, and telephone numbers, as well as the same information for any attorney or non-attorney representative representing the parties. The parties shall also indicate on the form their consent to service by electronic means to their email address or to the email address of their attorney or representative.

5432.9 Upon the scheduling of the roll call hearing, all parties shall be prohibited from participating in any ex parte communication with the Board's agent relevant to the merits of the proceeding. This shall include any oral or written communication not in the public hearing record with respect to which reasonable prior notice is not given to all parties to the proceeding.

5432.10 The roll call hearing shall be open to the public and transcribed by a certified court reporter.

A new section 5433, PROTEST STATUS HEARING, is added to read as follows:

5433 PROTEST STATUS HEARING

5433.1 The protest status hearing is a proceeding held by the Board at which the parties may address any unresolved legal issues from the roll call hearing, including whether a protestant granted conditional standing has subsequently met the standard for full standing, or address motions or pleadings previously filed with the Board.

5433.2 At the protest status hearing, the parties also inform the Board of their progress in reaching a settlement agreement. The Board in its discretion may set another status hearing if the Board determines that the parties are close to reaching a settlement agreement or that mediation might be helpful.

5433.3 Failure to appear at the protest status hearing either in person or through a designated representative may result in denial of the license application or dismissal of a protest, unless, in the discretion of the Board, good cause is shown for the failure to appear. Examples of good cause for failure to appear include, but are not limited to:

(a) Sudden, severe illness or accident;

(b) Death or sudden illness in the immediate family, such as spouse, partner, children, parents, or siblings;

(c) Incarceration; or

(d) Severe inclement weather.

5433.4 The protest status hearing shall be open to the public and transcribed by a certified court reporter.

A new section 5434, PARTY DISMISSAL, is added to read as follows:

5434 PARTY DISMISSAL

5434.1 If an applicant or a protestant is dismissed and not reinstated by the Board for good cause after failing to appear at a roll call hearing, status hearing, or protest hearing, the Board may deny the license application, dismiss the protest, or take both actions if appropriate.

5434.2 If an applicant's request to renew its license is dismissed and not reinstated by the Board for good cause, the applicant shall be permitted to submit a second renewal application upon the filing of an application fee of one thousand dollars ($1,000).

5434.3 The re-filed second renewal application shall be submitted to ABCA within ten (10) calendar days of receipt of the Board's order dismissing the license application or not reinstating the license application in the event that a request for reinstatement was filed by the applicant. In the event that the applicant fails to resubmit its second renewal application within ten (10) calendar days, the Board shall issue a cease-and-desist order to the applicant notifying the business to immediately cease the sale, distribution, manufacturing, or delivery of medical cannabis, medical cannabis products, and paraphernalia upon expiration of the non-renewed license for the prior licensing period.

5434.4 If a second renewal application is re-filed by an applicant within ten (10) calendar days, any protestant that appeared at the roll call hearing or status hearing where the applicant was dismissed for failure to appear shall not be required to refile a previously submitted valid protest letter.

5434.5 If an applicant's re-filed second renewal application is dismissed for failure to appear at a hearing and not reinstated by the Board for good cause, the license renewal application shall be denied. The applicant shall be required to file a new license application, and the Board shall not accept a third license renewal application from the applicant.

5434.6 If an applicant's request to terminate or amend its settlement agreement is dismissed and not reinstated by the Board for good cause, the applicant shall not be permitted to file a subsequent request to terminate or amend its settlement agreement until the next three-year renewal period.

A new section 5435, ESTABLISHMENT OF GEOGRAPHIC BOUNDARIES IN A PROTEST, is added to read as follows:

5435 ESTABLISHMENT OF GEOGRAPHIC BOUNDARIES IN A PROTEST

5435.1 Upon recognition by the Board of a properly filed protest at a roll call hearing, the geographic boundary of the protest shall be deemed the "section." The applicant may select another geographic area permitted by this section. The applicant shall submit the alternative proposed boundaries to the Board and the protestants no later than ten (10) calendar days after the roll call hearing.

5435.2 Any protestant may object to the area and boundaries proposed by an applicant by filing a written objection with the Board no later than thirty (30) calendar days after receipt of the applicant's proposed boundaries. The objection shall also be served on the applicant in accordance with the Act and this title. The objection shall state in detail the following:

(a) The reasons for objecting to the boundaries proposed by the applicant;

(b) The boundaries proposed by the protestant; and

(c) The reasons why the protestant's boundaries should be adopted by the Board.

5435.3 The applicant may file a reply to the protestant's objection within seven (7) days of receipt of the objection.

5435.4 Any protestant or applicant who makes a submission to the Board may forward written argument or documentary evidence to the Board in support of the boundaries he or she proposes.

5435.5 The Board shall determine, on a case-by-case basis, the size of the area relevant for the appropriateness review. In making this determination, the Board shall consider the overall characteristics of the area, including population, density, and general commercial and residential activities.

5435.6 For the purpose of determining the appropriateness of a license, the geographic areas to be considered by the Board shall be measured pursuant to § 101.1 and shall be as follows:

(a) A "locality," which shall be the immediate neighborhood of the establishment and whose boundary shall be at a distance of six hundred feet (600 ft.) from the establishment;

(b) A "section," whose boundary shall be at an area larger than the immediate neighborhood and whose boundary shall be at a distance of twelve hundred feet (1,200 ft.) from the establishment; and

(c) A "portion," whose boundary shall be at an area larger than a "section" and whose boundary shall be at a distance of eighteen hundred feet (1,800 ft.) from the establishment.

5435.7 In determining the area to be considered, the Board shall consider the overall characteristics of the alternative areas, including the following:

(a) The population and density of the areas surrounding the establishment;

(b) The general commercial and residential activities in the areas surrounding the establishment;

(c) Geographical factors, such as parks, rail lines, major thoroughfares, bodies of water, cemeteries, and unimproved or unused property, which may tend to define physically an area to be considered; and

(d) Historical patterns of commercial or residential activity leading to an identification of a given area as a distinct, generally recognized neighborhood, or larger area.

5435.8 The Board shall make a final decision on the boundaries without a hearing and based on the submissions received from the applicant and the protestant.

5435.9 The Board's final decision shall be made and announced at the first status hearing for the application at issue unless no geographic boundary selection is made by the parties.

5435.10 In establishing a geographic boundary, including the designations of locality, section, or portion set forth in the Act or this chapter, the Board shall measure the specified distance in an arc from each corner of the building on which the licensed establishment is located, connecting the arcs by tangent lines.

A new section 5436, DECISIONS OF THE BOARD, is added to read as follows:

5436 DECISIONS OF THE BOARD

5436.1 No application shall be approved until the Board has determined that the applicant has complied with the Act and this title or, in the case of a renewal, has fulfilled the license requirements. The Board shall make findings of fact with respect to each requirement, including the appropriateness standards set forth in the Act and the regulations.

5436.2 For the purposes of this section, the record shall close thirty (30) days after a hearing is concluded to allow the parties to submit proposed findings of fact and conclusions of law and any other document submissions requested by the Board.

5436.3 Within ninety (90) days after the close of the record, the Board shall issue its written decision accompanied by findings of fact and conclusions of law.

A new section 5437, PROTEST PARTIES, is added to read as follows:

5437 PROTEST PARTIES

5437.1 The parties to the protest hearing shall be the applicant and the protestants as identified at the roll call hearing.

5437.2 If there is more than one protestant, the Board, in its discretion, may request that multiple protestants confer among themselves and designate one person to conduct the protestants' case. In the case where the protestants fail to agree, the Board may select the protestant presentation order and limit the presentation time of one or more parties to ensure that the applicant and protestants have similar presentation times.

A new section 5438, MEDIATION, is added to read as follows:

5438 MEDIATION

5438.1 A mediation among the parties shall be held to discuss and resolve, if possible, the objections raised by the protestants. If the parties fail to reach a settlement agreement on one or more of the protest issues, they shall so inform the Board at the scheduled protest status hearing, or the protest hearing and the Board shall proceed with a protest hearing as to all unresolved issues.

5438.2 Mediation, which may be arranged at a roll call hearing or any other time, shall be set on a mutually convenient date before the scheduled protest status hearing or the protest hearing.

5438.3 At the request of all parties, and if a mediation would be unlikely to succeed, the Board may waive the parties' obligation to attend a mediation.

A new section 5439, PROTEST HEARINGS, is added to read as follows:

5439 PROTEST HEARINGS

5439.1 The parties to a protest hearing shall be the applicant or licensee and the protestants.

5439.2 At the protest hearing, an applicant or licensee may give a brief opening statement summarizing the evidence and testimony they intend to present regarding the appropriateness of the application or license at issue. Thereafter, the protestant may give a brief opening statement summarizing the evidence they intend to present to rebut or overcome the evidence and argument presented by the applicant or licensee.

5439.3 At the conclusion of the opening statements, the Board shall call its own witnesses, if any, who shall testify to the results of their investigation into the appropriateness of the establishment.

5439.4 At the conclusion of testimony by the Board's witnesses, if any, the applicant shall call its witnesses to give testimony and present evidence regarding the appropriateness of the establishment.

5439.5 At the conclusion of testimony by the applicant's witnesses, the protestant shall call witnesses to give testimony and present evidence.

5439.6 All witnesses shall testify under oath and shall be subject to questioning by the Board and to cross-examination by the opposing party.

5439.7 In any case where there is more than one (1) protestant, the Board, in its discretion, may request that the protestants designate one (1) person to conduct the protestant's case, to give opening and closing statements, and to examine and cross-examine witnesses.

5439.8 The Board may, on a motion from either party or on its own motion, limit the number of persons who may testify on behalf of the applicant, licensee, or protestant if the Board determines the testimony would be redundant.

A new section 5440, SETTLEMENT AGREEMENTS, is added to read as follows:

5440 SETTLEMENT AGREEMENTS

5440.1 The applicant and one or more ANCs that have protested, or would have standing to protest, an application pursuant to the Act or this title may, at any time, negotiate a settlement and enter into a written settlement agreement setting forth the terms of the settlement.

5440.2 The signatories to the agreement shall submit the agreement to the Board for approval. A settlement agreement, amendment to a settlement agreement, or cancellation of a settlement agreement shall not be effective until the Board issues a written Order approving the proposed settlement.

5440.3 All provisions of a settlement agreement approved by the Board shall be enforceable by ABCA or the Board unless prohibited by the Act or this chapter.

5440.4 A settlement agreement not approved by the Board shall not be enforced by ABCA or the Board.

5440.5 Unless a shorter term is agreed upon by the parties, a settlement agreement shall run for the term of a license, including renewal periods, unless it is terminated or amended in writing by the parties and the termination or amendment is approved by the Board.

5440.6 The terms of a settlement agreement submitted by the parties shall be consistent with District of Columbia law, typed, and in compliance with the Act and this title.

5440.7 A settlement agreement submitted to the Board shall include the form provided by the Board that shall be deemed part of the agreement and at a minimum:

(a) Identify all parties to the agreement;

(b) Contain the contact information for all parties; and

(c) Contain the signatures of all parties.

5440.8 When the parties file an additional settlement agreement or amendment to an existing settlement agreement, the Board may, before considering the agreement or amendment, require the parties to cancel all prior agreements and consolidate all intended settlement terms into one comprehensive document before approval.

A new section 5441, SUCCESSOR ANC, is added to read as follows:

5441 SUCCESSOR ANC

5441.1 After the approval of a settlement agreement between the licensee and an ANC or the filing of a protest, if the District legally changes the boundaries of ANCs and the licensed location is located in a new ANC's jurisdiction, the new ANC shall, to the extent consistent with governing law, be deemed the successor-in-interest and replace the original ANC as a party to the agreement and the protest.

A new section 5442, AUTOMATIC TERMINATION, is added to read as follows:

5442 AUTOMATIC TERMINATION

5442.1 A settlement agreement shall be terminated by the Board upon petition of the applicant if the applicant shows that the Board has approved a transfer of the license to a new location at least twelve hundred feet (1,200 ft.) away from the prior location after the initial approval of the agreement. The licensee may request a declaratory order terminating the settlement agreement if its settlement agreement qualifies for termination under this section.

A new section 5443, BOARD REVIEW OF SETTLEMENT AGREEMENTS, is added to read as follows:

5443 BOARD REVIEW OF SETTLEMENT AGREEMENTS

5443.1 If the Board determines that the settlement agreement complies with all applicable laws and regulations and the applicant otherwise qualifies for licensure, it may, in its discretion, approve the license application, conditioned upon the licensee's compliance with the terms of the settlement agreement. The Board shall incorporate the text of the settlement agreement in its order and the settlement agreement shall be enforceable by the Board.

5443.2 The Board may reject any settlement agreement that is not in accordance with the law, not in the public interest, or otherwise not in the interest of ABCA to enforce.

5443.3 The Board may reject a settlement agreement that does not represent the entire agreement of the parties or when any or all of the terms of the settlement agreement:

(a) Violate the Act or this title, the Constitution, the D.C. Human Rights Act, or any other law or regulation;

(b) Are not in the public interest;

(c) Are not in the agency's interest to enforce because it is overly burdensome, unenforceable, or overrides the prosecutorial or other discretion provided to the Board or the District;

(d) Are incomplete, not final, or vague; or

(e) Require the licensee or the District to exercise control over third parties outside the premises.

5443.4 The parties may submit a settlement agreement at any time, except that, on the date of the protest hearing or after the close of the record, the parties may only file a settlement agreement with the permission of the Board.

5443.5 If the Board determines that a settlement agreement submitted by the parties does not comply with all applicable laws and regulations, the Board may condition approval of the settlement agreement on the parties' acceptance of modifications of the agreement proposed by the Board. If the parties reject the modifications proposed by the Board, they may submit a new settlement agreement for Board review that complies with applicable laws and regulations, or the Board may order the parties to proceed to a Protest Hearing.

5443.6 The Board shall issue an Order rejecting the settlement agreement if the parties to a settlement agreement reject the modifications proposed by the Board and fail to submit a new settlement agreement, or fail to respond to the Board's modifications, within thirty (30) days of receiving notice of the modifications.

5443.7 If the Board issues an Order denying the settlement agreement and a protest has been filed against the application, the matter will be scheduled for a Protest Hearing.

A new section 5444, UNILATERAL AMENDMENT OR TERMINATION, is added to read as follows:

5444 UNILATERAL AMENDMENT OR TERMINATION

5444.1 The Board may accept an application to amend or terminate a settlement agreement by fewer than all parties in the following circumstances:

(A) During the license's renewal period; and

(B) After four (4) years from the date of the Board's decision initially approving the settlement agreement.

5444.2 Notice of an application under § 5444.1 to amend or terminate a settlement agreement shall be given both to the parties of the agreement and to the public at the time of the applicant's renewal application according to the renewal procedures required under the Act and this chapter.

5444.3 The Board may approve a request by fewer than all parties to amend or terminate a settlement agreement for good cause shown if it makes each of the following findings based upon sworn evidence:

(a) The applicant seeking the amendment or termination has made a diligent effort to locate all other parties to the settlement agreement; or if non-applicant parties are located, the applicant has made a good faith attempt to negotiate a mutually acceptable amendment or termination of the settlement agreement;

(b) The need for an amendment or termination is either caused by

circumstances beyond the control of the applicant or is due to a change in the neighborhood where the applicant's establishment is located; and

(c) The amendment or termination will not have an adverse impact on the neighborhood where the establishment is located.

5444.4 To fulfill the good-faith attempt criteria of this section, the applicant shall file a sworn affidavit with the Board at the time that an application to amend or terminate a settlement agreement by fewer than all parties is filed stating that either:

(a) A meeting occurred between the parties which did not result in agreement; or

(b) The non-applicant parties refused to meet with the applicant.

5444.5 For the purposes of this section, the term "license's renewal period" means the sixty (60)-day period before the expiration date of a license.

5444.6 Upon the filing of a valid petition for termination or amendment, any signatory party that has not filed a valid protest against the petition shall automatically be removed from the agreement.

A new section 5445, ENFORCEABLE SETTLEMENT AGREEMENT PROVISIONS, is added to read as follows:

5445 ENFORCEABLE SETTLEMENT AGREEMENT PROVISIONS

5445.1 A settlement agreement enforceable by the Board under this chapter may, to the extent consistent with the Act, include:

(a) Provisions allowing or prohibiting background or recorded music or other amplified sounds, restricting the location of music and sound equipment, and the hours of recorded or background music may be provided;

(b) 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;

(c) Provisions requiring cleanliness, odor, smoke, litter, and trash control on the premises 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, the establishment of non-smoking areas, and trash and recycling management;

(d) Provisions requiring specific parking arrangements;

(e) 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;

(f) 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;

(g) Provisions requiring the filing and compliance with a security plan in accordance with the Act and this title;

(h) Notice to cure provisions;

(i) Provisions restricting the indoor and outdoor hours of operation, and hours of medical cannabis sales and delivery;

(j) Provisions prohibiting or restricting the utilization of floors and outdoor areas, or the occupancy of all or a portion of the premises;

(k) 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;

(l) Provisions requiring minimum training for managers and staff;

(m) Provisions requiring the posting of signage or information on the establishment's website; and

(n) Provisions that mandate that the establishment comply with existing District law and all licenses, permits, and other privileges granted by the District.

A new section 5446, UNENFORCEABLE SETTLEMENT AGREEMENT PROVISIONS, is added to read as follows:

5446 UNENFORCEABLE SETTLEMENT AGREEMENT PROVISIONS

5446.1 The Board shall not enforce the following if included in a settlement agreement

covered by this chapter:

(a) Provisions that require approval from a signatory or third party to file an application or request with the Board;

(b) Provisions that require additional or specific notice to a signatory or third party outside of the notice required by law;

(c) 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;

(d) 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;

(e) 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;

(f) 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 § 2-1401.01 *et seq*.);

(g) Provisions requiring the use of specific businesses; require the joining of any group; or requiring the hiring of any specific person or local individuals;

(h) Provisions that create additional administrative procedures in addition to those required by ABCA or the District, alter the penalties of existing laws, or otherwise restrict prosecutorial or Board discretion;

(i) 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;

(j) Provisions that require the establishment to provide money, buy specific goods or services, or provide financial or other benefits to the community or its agents; provide discounts, free goods and service; or offer specific promotions;

(k) Provisions requiring the provision of contracts, incident logs, and other documents to the signatories or third parties except to ABCA or the Board;

(l) Provisions that require a minimum or maximum level of food, non-alcoholic beverage, or cannabis sales to the public, individuals, qualified

patients, or other persons authorized to purchase goods and services from the establishment or require the purchase of specific products by qualified patients, caregivers, or other customers.

(m) 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

(n) Provisions that create a plant limit or restrict the products that may manufactured, dispensed, or sold by the licensee.

5446.2 A settlement agreement provision that requires a violation of District law shall not be enforced, even if the law did not exist at the time the agreement was approved.

5446.3 If a settlement agreement provision is deemed unenforceable after approval of the agreement, it shall be presumed that the parties intended for the remainder of the agreement to remain enforceable.

A new section 5447, DISCOVERY OF LICENSEE DOCUMENTS, is added to read as follows:

5447 DISCOVERY OF LICENSEE DOCUMENTS

5447.1 An ANC granted standing as a protestant during the pendency of the protest may request from ABCA a copy of a contract to which a licensee is a party, an incident log kept by a licensee, or similar document, if obtained by ABCA, except for patient and caregiver records, financial information, or any other document that in the determination of the Board merits privacy protection.

A new section 5448, QUALIFICATIONS HEARING, is added to read as follows:

5448 QUALIFICATIONS HEARING

5448.1 The Board may hold a qualifications hearing before issuing, transferring, or renewing a license, registration, or permit to determine whether the applicant, licensee, registrant, or permittee meets the criteria set forth in the Act and this subtitle even if not raised as part of a protest.

5448.2 A qualifications hearing shall be conducted as a contested case pursuant to the DC APA.

5448.3 The Board shall give notice to the applicant, licensee, or permittee, by personal service or certified mail, requiring the person to appear before the Board within 15 calendar days after receipt of the notice to provide evidence establishing that the person meets the criterion set forth in the Act and this title.

5448.4 The hearing notice required by § 5448.3 of this section shall include:

(a) The criterion about which the Board is requesting information;

(b) The evidence to be considered by the Board at the hearing, including documentation, exhibits, investigative reports, or electronic or digitally stored information; and

(c) The conditions, if any, that the Board is considering imposing on the applicant.

5448.5 If after notice has been provided, as required by § 5448.3 of the section, the applicant refuses or otherwise fails to appear at the hearing, the Board may hold the hearing ex parte.

5448.6 The Board shall deny the issuance, transfer, or renewal of a license, registration, or permit application if it determines that the applicant does not meet the criteria set forth in the Act or this title.

5448.7 In issuing or renewing a license, registration, or permit, or approving a transfer, the Board may require that certain conditions be met, consistent with the requirements set forth in the Act or this title.

A new section 5449, UNLICENSED ESTABLISHMENT APPLICATION, is added to read as follows:

5449 UNLICENSED ESTABLISHMENT APPLICATION

5449.1 An unlicensed establishment described in section 7a of the Act (D.C. Official Code § 7-1671.06a) applying for a cultivation center, internet retailer, or retailer license shall provide the information required by section 7a of the Act (D.C. Official Code § 7-1671.06a) in order to be eligible to file a license application for a cultivation center, internet retailer, or retailer license.

5449.2 In order to satisfy section 7a(a)(2)(B) of the Act (D.C. Official Code § 7-1671.06a(a)(2)(B)), an applicant for an unlicensed establishment applying for a cultivation center shall provide an architectural map of the facility indicating where medical cannabis will be grown, processed, and packaged and attest that the proposed facility will have sufficient power and heating and ventilation systems to support medical cannabis growing activity.

5449.3 Once an unlicensed establishment files an application, no amendment to the selected location for the license may be accepted until the license is issued.

A new section 5450, RESERVED, is added to read as follows:

5450 RESERVED

5450.1 [Reserved].

Chapter 55, REGISTRATION CHANGES, is amended as follows:

Section 5501, INDIVIDUAL OWNERSHIP, PARTNERSHIP, LIMITED LIABILITY COMPANY OR PARTNERSHIP, AND CORPORATE CHANGES, is deleted in its entirety and amended to read as follows:

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

5501.1 For a corporation that holds a medical cannabis business license, if there is a change in corporate officers or directors, or other persons, owning or controlling one percent (1%) or more, but less than fifty percent (50%), of that corporation's common stock, the corporation shall submit to the Board, 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 any percentage of the stock.

5501.2 For a partnership or limited liability company that holds a medical cannabis business license, if there is a change in the ownership of the partnership or limited liability company of one percent (1%) or more, but less than fifty percent (50%), of the total ownership interest of the business, the partnership or limited liability company shall submit to the Board 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 submit to the Board any relevant data pertaining to the personal and business history of any new officer, director, stockholder, member, general or limited partner, or other person that the Board may require, and each new person shall apply for a license as required under this subtitle.

5501.4 Each individual seeking to own or control interest of at least one percent (1%) in a partnership, limited liability company, or corporation shall pass a criminal background check and pay the applicable registration fee as required by the Act and this subtitle.

5501.5 The proposed transferee(s) shall not operate the licensed medical cannabis business until they have received a license issued by the Board.

Section 5502, TRANSFER OF EQUAL OR MAJORITY OWNERSHIP OR CONTROL, is amended to read as follows:

5502.1 At least thirty (30) days before executing an agreement that will result in the transfer of ownership or control of fifty percent (50%) or more of the ownership interest or common stock of an entity that holds a licensed medical cannabis business, the current licensee shall submit to the Board an application for a transfer of equal or majority ownership or control.

5502.2 A licensee shall not complete the sale or transfer of fifty percent (50%) or more of its ownership or control of an entity that holds a licensed medical cannabis business until the licensee has received written approval from the Board of the sale or transfer.

5502.3 If a licensee transfers ownership or control of fifty percent (50%) or more of its ownership or control of an entity that holds a licensed medical cannabis business without Board approval, the license shall automatically be deemed void and shall be surrendered to the Board upon demand.

5502.4 The Board shall not approve an application for a transfer of fifty percent (50%) or more of its ownership or control of a licensed medical cannabis business until a complete application providing the following information is filed:

(a) The legal name or trade name of the business and a copy of the trade name registration, if applicable;

(b) The name, address, date of birth, and social security number of the individual owner, partners, limited liability company or partnership member, principal officers, directors, or shareholders (no P.O. Boxes will be accepted);

(c) The Certificate of Good Standing for the partnership, limited liability company or partnership, or corporation, issued within thirty (30) days of the date of submission of the application;

(d) A Basic Business Registration with a General Business registration endorsement;

(e) A certificate of occupancy for the premises issued in the name of the new owner, if applicable;

(f) Evidence that the transferee has entered into a bona fide agreement with the owner of the building to lease, purchase, or occupy the premises;

(g) A signed and notarized Acknowledgment and Attestation form;

(h) Information on the source of funds used to acquire the ownership or control interests of the business;

(i) A copy of both the Bill of Sale and the Purchase and Sale Agreement between the licensee and the transferee, if such documents exist; and

(j) A notarized and signed copy of the Transfer of License Affidavit Form.

5502.5 The proposed transferee(s) shall pass a criminal background check as required by the Act and the regulations.

5502.6 The proposed transferee(s) shall not operate the licensed medical cannabis business until they have received a license issued by the Board.

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

Section 5601, POSTING OF IDENTIFICATION REQUIREMENT BY INTERNET RETAILER OR RETAILER, IS amended to read as follows:

5601 POSTING OF IDENTIFICATION REQUIREMENT BY RETAILER AND INTERNET RETAILER

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

(a) A valid registration card issued by the Board or valid out of state documentation demonstrating enrollment in another jurisdiction's medical cannabis program; and

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

5601.2 An internet retailer shall be required to post the information required by § 5601.1 on its website.

Section 5602, HOURS OF OPERATION, SALE, SERVICE, AND DELIVERY, IS amended as follows:

Subsection 5602.1 is amended to read as follows:

5602.1 A retailer may operate and sell medical cannabis, and a retailer with a retail delivery endorsement may deliver medical cannabis, on any day and at any time except between the hours of 11:00 p.m. and 7:00 a.m.

Subsection 5602.2 is amended to read as follows:

5602.2 A licensed courier, cultivation center, internet retailer, manufacturer, and testing laboratory shall not be open to the public.

Subsection 5602.3 is amended to read as follows:

5602.3 A manufacturer may operate its business twenty-four (24) hours a day.

Subsection 5602.8 is renumbered subsection 5602.9.

Subsection 5602.9 is renumbered subsection 5602.10.

A new subsection 5602.8 is added to read as follows:

5602.8 A courier and internet retailer may operate, sell, and deliver medical cannabis on any day and at any time except between the hours of 11:00 p.m. and 7:00 a.m.

A new subsection 5602.11 is added to read as follows:

5602.11 A medical cannabis business may maintain its websites, mobile applications, and third-party listings active after its Board-approved hours and receive internet orders for medical cannabis so long as no medical cannabis is dispensed or delivered to a qualifying patient, caregiver, or courier until its Board-approved hours permit the business to open.

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

5604 MANAGER'S APPLICATION

5604.1 In the absence of an owner, a licensed medical cannabis business shall have a Board-approved manager present at the licensed premises during the hours that the licensed medical cannabis business is open.

5604.2 An applicant for a manager's license shall submit:

(a) An application to the Board on the prescribed form;

(b) A copy of their certificate showing completion of a medical cannabis training and education program from a Board-approved medical cannabis certification provider; and

(c) The required fee.

5604.3 If a licensed medical cannabis business has designated one or more persons to manage the licensed business, each manager shall be the holder of a valid manager's license which shall be renewable each year.

5604.4 A manager's license shall remain valid until surrendered, expired, suspended, or revoked.

5604.5 An applicant for a manager's license shall be subject to the requirements of the Act and this title.

5604.6 A licensed medical cannabis business may file a written request with the Board that an applicant for a manager's license who has not completed a medical

cannabis training and education certification program be issued a temporary manager's license and shall attest that the applicant for the manager's license will complete the medical cannabis and cannabis training within thirty (30) calendar days of receipt of the temporary manager's license.

5604.7 The written request for a temporary manager's license shall set forth the name of the licensed establishment, the trade name, the address of the establishment, the name of the applicant for the manager's license, and the reason why the issuance of the temporary manager's license is necessary.

5604.8 The temporary manager's license issued pursuant to § 5604.8 shall cease after thirty (30) days or upon the approval or denial of the manager's license application.

5604.9 A manager's license shall expire one (1) year from issuance.

Section 5606.1, NOTICE OF CRIMINAL CONVICTION OF DIRECTOR, OFFICER, MEMBER, INCORPORATOR, AGENT OR EMPLOYEE, is amended to read as follows:

5606 NOTICE OF CRIMINAL CONVICTION OF DIRECTOR, OFFICER, MEMBER, INCORPORATOR, AGENT OR EMPLOYEE

5606.1 If a licensed medical cannabis business discovers that any director, officer, member, incorporator, agent, or employee has at any time during their employment been convicted of a felony, it shall notify the Board within seven (7) days of that discovery.

Section 5606.2, NOTICE OF CRIMINAL CONVICTION OF DIRECTOR, OFFICER, MEMBER, INCORPORATOR, AGENT OR EMPLOYEE, is deleted.

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

Subsection 5607.1(f) is repealed.

Subsection 5607.13 is amended to read as follows:

5607.13 The cultivation center or manufacturer shall place medical cannabis or medical cannabis products in either tamper-evident or tamper-proof packaging so long as such packaging is difficult for children under five (5) years of age to open prior to transporting the products to the internet retailer or retailer.

Subsection 5607.17 is amended to read as follows:

5607.17 An internet retailer, retailer, cultivation center, and manufacturer shall submit its labeling to the Board for approval and record.

Section 5608, INGESTIBLE ITEMS, is amended to read as follows:

5608.1 No medical cannabis business shall produce any cannabis product in an edible form, or other form which is intended to be eaten, drunk, or otherwise consumed orally, unless it has:

(a) Prepared the product at a cultivation center facility that meets all requirements of a retail food establishment, including any Department of Health licensing and certification requirements;

(b) Complied with all District of Columbia health regulations relating to the production, preparation, and sale of prepared food items in accordance with Title 25 DCMR, Subtitle A (Food and Food Operations); and

(c) Obtained all licenses, permits, endorsements, or other permissions required by law, including any Hazard Analysis and Critical Control Points (HACCP) plan required by law, before producing any ingestible products.

5608.2 A medical cannabis business shall not create, process, sell or transfer a cannabis item that:

(a) That by its shape, design or flavor is likely to appeal to minors, including:

(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, fruit, 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);

(d) That contains more than 200 mg of THC per package;

(e) That contains more than 20mg of THC per serving size or piece; or

(f) That requires cooking or baking by the consumer.

5608.3 In addition to the requirements of § 5608.2, chocolate cannabis-infused products shall comply with the following requirements:

(a) Each serving size piece shall be individually wrapped; and

(b) Each serving size piece shall be affixed with a stamp or the imprinted letters "THC."

5608.4 The sale of an ingestible item containing either a serving size piece of more than 20 mg of THC or more than 200 mg of THC per package shall be permitted as follows:

(a) Notwithstanding the THC limits set forth in subsections 5608.2, a medical cannabis business may apply to the Board to manufacture, sell, and transfer to other medical cannabis businesses as permitted by law ingestible items that may be sold only to qualifying patients with a written recommendation from an authorized practitioner, and that contain:

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

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

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

(c) The serving size and per package THC limits set forth in paragraph (a) of this subsection shall not apply to the sale of

i. Ingestible capsules;

ii. Tinctures; and

iii. Non-injectable syringes no larger than 5,000 mg.

(d) A qualifying patient with a valid non-resident patient card issued by another state or jurisdiction that does not permit patient self-certification shall be deemed as possessing a written recommendation from an authorized practitioner and shall be eligible to purchase ingestible items consistent with the limits set forth in paragraphs (a)(1) and (a)(2).

Section 5611, EDUCATIONAL CLASSES AND DEMONSTRATIONS, is amended to read as follows:

5611 EDUCATIONAL CLASSES AND DEMONSTRATIONS

5611.1 A retailer may offer educational classes and demonstrations to qualifying patients, caregivers, and non-resident qualifying patients upon issuance of an education tasting endorsement.

5611.2 Educational classes and demonstrations permitted to be offered on-site shall

include cooking and how-to classes and demonstrations, including how to utilize cannabis paraphernalia, how to cook foods with medical cannabis, and other medical cannabis preparation techniques.

5611.3 A retailer shall only offer educational classes and demonstrations on the retailer's registered premises.

5611.4 A retailer may permit a qualifying patient, caregiver, or non-resident qualifying patient to smell or touch medical cannabis products provided medical cannabis is not administered or consumed on the registered premises and the medical cannabis has not been sold or otherwise given away.

5611.5 An educational activity that includes the smoking, administering, or consumption of medical cannabis shall be prohibited.

5611.6 A retailer shall ensure that containers of medical cannabis to be utilized for educational activities are labeled as such and may not be sold.

5611.7 A retailer shall ensure that medical cannabis containers to be utilized for educational purposes remain in its secure storage area during non-operating hours.

5611.8 A retailer shall not allow a qualifying patient, caregiver, or non-resident qualifying patient to leave the premises with medical cannabis that was made available or offered as part of the educational activity.

5611.9 A retailer shall destroy and dispose of medical cannabis utilized during the educational activity consistent with the requirements of this subtitle. This subsection shall include all medical cannabis that is physically touched or handled by patients, caregivers, or staff as part of the educational activity.

5611.10 A retailer with an educational tasting endorsement may offer educational activities on the registered premises between the hours of 7:00 a.m. and 11:00 p.m., daily.

5611.11 A retailer shall be permitted to charge a qualifying patient, caregiver, or non-resident qualifying patient an additional fee to attend or participate in the educational class or demonstration.

Section 5612, PRODUCTION OF VALID IDENTIFICATION REQUIRED, is amended to read as follows:

5612 PRODUCTION OF VALID IDENTIFICATION REQUIRED

5612.1 An internet retailer or retailer shall refuse to sell or deliver medical cannabis to any person who fails to produce a valid medical cannabis patient card issued by

ABCA or a nonresident patient card or state-issued document and a valid government issued photo identification document displaying proof of age that matches the name on the patient card.

5612.2 A licensee shall take steps reasonably necessary to ascertain whether any person to whom the licensee sells, delivers, or serves medical cannabis is a qualifying patient registered or authorized to purchase or possess medical cannabis, and that the sale otherwise complies with the medical cannabis quantity and sale limits provided by the Act and this title.

5612.3 Any person who supplies a valid and unexpired medical cannabis patient card or medical cannabis caregiver card showing their legal age to be the legal age and authorization to obtain medical cannabis and all other documents required by the Act and this title, if required, shall be deemed authorized to obtain medical cannabis.

5612.4 The provisions of this section notwithstanding, no licensee shall discriminate on any basis prohibited by the Human Rights Act of 1977, effective December 13, 1977 (D.C. Law 2-38; D.C. Official Code § 2-1401.01 *et seq*.).

5612.5 It shall be an affirmative defense to a violation of § 5612.1 that the licensee or their agent was shown and inspected a fake or fraudulent identification document of such quality that a reasonable person would believe that it was valid unless:

(a) The identification was visibly damaged;

(b) The identification lacked the physical materials or features of the valid identification being imitated;

(c) The photograph contained in the identification that was shown did not match the bearer;

(d) The identification is displayed past the printed expiration date; or

(e) The licensee or their agent knew the person was not authorized or ineligible to obtain medical cannabis.

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

Subsection 5614.2 is amended to read as follows:

5614.2 Separately licensed medical cannabis businesses may be located in the same building or space but shall maintain separate books and records and a separate secure space. A medical cannabis business may share space or the same address if the licensed medical cannabis businesses demonstrate to the satisfaction of the Board that the medical cannabis businesses will have their own separate secure

space, maintain separate inventory, records, and financial accounts, and otherwise operate in accordance with the Act and this title.

Subsection 5614.4 is repealed.

Section 5615, SEED-TO-SALE TRACKING SYSTEM, is amended to read as follows:

5615 SEED-TO-SALE TRACKING

5615.1 A medical cannabis business shall purchase access to the METRC real-time electronic records system.

5615.2 All information required by this section shall be entered into the real-time electronic records system designated in § 5615.1.

5615.3 All information entered into the METRC real-time electronic records system shall be true, complete, and a real-time electronic record of the event, information, or occurrence recorded in the system.

5615.4 All information required to be entered into the real-time electronic records system shall be entered immediately at the time of the transaction, event, or occurrence, or the information becomes available to the licensee or its agents.

5615.5 A courier, internet retailer, or retailer shall enter the following information into the real-time electronic records system:

(a) All transactions where the licensee distributed or sold medical cannabis to a qualifying patient, nonresident qualifying patient, or caregiver, including,

(1) The quantity of medical cannabis distributed, delivered, or dispensed;

(2) Whether the transaction was fulfilled at the store, by curbside delivery, or delivery at another location;

(3) The amount of money or other consideration provided by the purchaser; and

(4) The name and address of the purchaser;

(b) The quantity of medical cannabis or medical cannabis products at the facility; and

(c) The destruction or disposal of cultivated, processed, or acquired medical cannabis, the method used, the reason for its destruction or disposal, and proof of disposal.

5615.6 A cultivation center and manufacturer shall enter the following information into the real-time electronic records system:

(a) The date of each distribution, transportation, or sale of medical cannabis to an internet retailer, manufacturer, retailer, or testing laboratory;

(b) The name, address, and license number of the internet retailer, manufacturer, or retailer;

(c) The quantity of medical cannabis and paraphernalia distributed, transported, or sold to the internet retailer, manufacturer, or retailer;

(d) The price charged and the amount received for the medical cannabis or medical cannabis products distributed, transported, or sold to the internet retailer, manufacturer, or retailer;

(e) The type, brand, and quantity of medical cannabis or medical cannabis products maintained at the cultivation center on a daily basis;

(f) The number of plants being grown at the cultivation center on a daily basis;

(g) The type, brand name, and quantity of medical cannabis or medical cannabis products produced on a daily basis;

(h) The results of the testing laboratory analysis for five (5) years from the date of the test; and

(i) The destruction or disposal of cultivated, processed, or acquired medical cannabis or medical cannabis products, the method used, the reason for its destruction or disposal, and proof of disposal.

5615.7 It is an affirmative defense to a violation of § 5615.6(h) that the medical cannabis or medical cannabis product was not subject to a testing requirement due to the absence of testing laboratory licenses in the District of Columbia or that all testing laboratories were in safekeeping, not in operation, or out of business for a period of more than fourteen (14) days.

Section 5616, SIGN REQUIREMENTS, is amended as follows:

Subsection 5616.1 is amended to read as follows:

5616.1 A retailer shall post at its building entrance in a conspicuous place, a sign from the Board that states the following:

(a) Minors are precluded from entering the premises unless they are a qualifying patient and are in the presence of a parent or guardian; and

(b) Smoking, ingesting, or consuming cannabis on the premises is prohibited.

5616.2 A retailer with a Board-approved safe-use treatment facility, summer garden, or education tasting endorsement shall not be required to post the language contained in § 5616.1(b).

Subsection 5616.4 is amended to read as follows:

5616.4 An internet retailer or retailer shall conspicuously post a sign on the premises accessible to the public; make a booklet or other document readily available to the public; or on its website post information or a document containing the current retail prices of all items available for sale.

Section 5620, MANUFACTURING STANDARDS, is amended to read as follows:

5620 MANUFACTURING STANDARDS

5620.1 In the course of producing and growing medical cannabis, a cultivation center or manufacturer 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; or

(h) Any pesticide, fungicide, fertilizer, rodenticide, or drug banned by the Department of Agriculture or Food and Drug Administration.

5620.2 The prohibition on "synthetic growth regulators" shall not preclude the use of artificial lighting or lighting equipment.

5620.3 A cultivation center or manufacturer shall obtain written approval from the Board before engaging in the use of butane or other explosive gases to extract or separate resin or tetrahydrocannabinol from cannabis or to produce or process any form of cannabis concentrates or cannabis-infused product.

5620.4 In reviewing a request for the use of butane or other explosive gases, the Board may consult with subject matter experts in the field, the Fire and Emergency Medical Services Department, and the Department of Energy and Environment as to the safety and sufficiency of the cultivation center's proposal.

5620.5 Pesticides may be legally used on medical cannabis by cultivation centers under the following criteria:

(a) Any pesticide used in the cultivation of medical cannabis must be registered with the Department of Energy and Environment (DOEE);

(b) The use of any pesticide used in the cultivation of medical cannabis must comply with the regulations promulgated by the DOEE; and

(c) Any pesticide registered with the DOEE may be used in accordance with its label or labeling directions for the cultivation of medical cannabis in the District of Columbia provided, that for products registered by the Environmental Protection Agency under Section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act:

(1) 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;

(2) The pesticide product label allows use on the intended site of application;

(3) The pesticide product label expressly allows use on crops or plants intended for human consumption; and

(4) The active ingredients of the pesticide product are allowed for use on tobacco by the Environmental Protection Agency.

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

5621 TRANSPORT OF MEDICAL CANNABIS

5621.1 A licensed medical cannabis business shall obtain from the Board a transporter license to transport medical cannabis within the District of Columbia to another

licensed medical cannabis business if permitted by law. An original transporter license shall be required for each vehicle being designated by the licensed medical cannabis business or its contracted agent to be authorized to deliver medical cannabis to another licensed medical cannabis business.

5621.2 A licensed medical cannabis business, or its contracted agent, shall not transport medical cannabis within the District of Columbia without an original transporter license. A licensed medical cannabis business shall permit only an employee, director, officer, member, incorporator, or agent registered with the Board or its contracted agent to transport medical cannabis to another licensed medical cannabis business.

5621.3 Upon demand by an ABCA investigator, the registered person in charge of the transportation or its contracted agent shall exhibit to the ABCA investigator an original transporter license.

Section 5622, INVENTORY, is amended to read as follows:

5622 INVENTORY

5622.1 Each licensed medical cannabis business shall be required to develop, implement, and maintain, on its registered premises, a written real-time inventory control plan, which shall:

(a) Establish inventory controls and procedures it will use to conduct inventory reviews and verify the business's cultivated, stored, useable and unusable cannabis and cannabis products that are in its possession; and

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

5622.2 Each licensed medical cannabis business shall be responsible for inputting and maintaining in METRC an accurate inventory in real time of all cannabis and cannabis products in the possession of the licensed medical cannabis business. This inventory shall include all cannabis and cannabis products available for cultivation, finished usable cannabis and cannabis products available for sale, immature and mature plants, and unusable cannabis and cannabis products at the registered premises.

5622.3 In entering inventory into METRC, pursuant to § 5615, a licensed medical cannabis business shall include damaged, defective, expired, or adulterated cannabis or cannabis products awaiting disposal, including the name, the quantity, and the reasons for which the licensed medical cannabis business is maintaining the cannabis or cannabis products.

5622.4 In tracking its cannabis and cannabis products inventory, a licensed medical cannabis business shall:

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

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

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

5622.5 The record of an inventory audit conducted pursuant to § 5622.4(b) or (c) shall include, at a minimum, the date of the audit, a summary of the audit findings, and the name, signature, and title of the person(s) who conducted the audit.

5622.6 A licensed medical cannabis business that becomes aware of a reportable loss, discrepancies identified during an audit, diversion, or theft, whether or not the cannabis or cannabis products are subsequently recovered, or the responsible parties are identified, shall notify the Board within twenty-four (24) hours.

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

A new section 5623, MANUFACTURING RESTRICTIONS AT CULTIVATION CENTERS, is added to read as follows:

5623 MANUFACTURING RESTRICTIONS AT CULTIVATION CENTERS

5623.1 A cultivation center that does not hold a manufacturer's license may distribute and produce medical cannabis in the form of pre-rolls and bulk fresh or dried cannabis flower and other cannabis plant material.

5623.2 A cultivation center that does not possess a manufacturer's license shall not produce concentrates, edibles, infused edibles, lozenges, vaping products, tinctures, topicals, or any other product except those listed in 5623.1.

5623.3. A cultivation center that does not possess a manufacturer's license shall not extract THC, CBD, or other chemicals from cannabis plants.

A new section 5624, RETAILER DELIVERY ENDORSEMENT, is added to read as follows:

5624 RETAILER DELIVERY ENDORSEMENT

5624.1 A retailer may apply for a retailer delivery endorsement, which shall authorize curbside pickup and off-site delivery of medical cannabis, medical cannabis products, and paraphernalia to qualifying patients and their caregivers.

5624.2 An internet retailer shall not be required to obtain a delivery endorsement to deliver medical cannabis, medical cannabis products, and paraphernalia off-site to qualifying patients and their caregivers.

5624.3 Medical cannabis that cannot be delivered shall be returned to the internet retailer or retailer. A retailer or internet retailer that uses the services of a licensed courier

must accept returns during their hours of operation from the licensed courier if the courier determines that the patient's or caregiver's order is undeliverable.

5624.4 The internet retailer's or retailer's delivery driver(s) shall wear an employee badge when making deliveries.

5624.5 The internet retailer or retailer shall implement a mechanism or process for patients and caregivers to submit copies of their registration cards and identification cards to the internet retailer or retailer for verification prior to delivery, and the internet retailer or retailer shall maintain a copy of both as part of the internet retailer's or retailer's recordkeeping requirements;

5624.6 The qualifying patient or caregiver ordering the medical cannabis and medical cannabis products shall be physically present at the residence or the commercial building in the District where medical cannabis and medical cannabis products can be lawfully delivered. For purposes of this paragraph, "physically present at the residence" includes the residence's porch, driveway, or yard. The phrase does not include any place that is not included within the residence's property line, including the sidewalk or the curb.

5624.7 An internet retailer or retailer may make deliveries up to seven (7) days a week, but shall only make deliveries between the hours of 7:00 a.m. and 11:00 p.m.

5624.8 The internet retailer or retailer shall implement a mechanism or recordkeeping process for patients and caregivers to document receipt of medical cannabis deliveries and shall maintain the records as part of the internet retailer and retailer's recordkeeping requirements.

5624.9 An internet retailer or retailer delivery driver shall only travel from the internet retailer and retailer to the driver's assigned delivery address(es) and return to the internet retailer and retailer.

5624.10 The internet retailer or retailer shall record each delivery in the METRC delivery manifest system in real-time and maintain a copy of the record as part of the internet retailer and retailer's recordkeeping requirements.

5624.11 The internet retailer or retailer shall provide a copy of its delivery manifest to the Board or ABCA investigators immediately upon request.

5624.12 An internet retailer or retailer may use the services of a courier.

5624.13 An internet retailer or retailer shall only store medical cannabis at its licensed location unless stored at a courier's licensed premise in accordance with the time restrictions provided by the Act and this title.

A new section 5625, SAFE-USE TREATMENT FACILITY, is added to read as follows:

5625 SAFE-USE TREATMENT FACILITY

5625.1 The holder of a retailer' license shall be eligible to apply for a Safe-Use Treatment Facility endorsement.

5625.2 An application for a Safe-Use Treatment Facility endorsement shall be filed as a substantial change.

5625.3 An applicant for a Safe-Use Treatment Facility shall provide an architectural map of the premises that identifies:

(a) The area to be covered by the endorsement;

(b) The location of all security cameras;

(c) All access doors and walls of the Safe-Use Treatment Facility;

(d) The location of the ventilation system and pollution or odor control unit;

(e) The smoke-free area for employees to monitor the facility; and

(f) All of the information required by section 7c(e)(2) of the Act (D.C. Official Code § 7-1671.06c(e)(2)).

5625.4 The holder of a Safe-Use Treatment Facility endorsement shall not permit odor, smoke, or by-products from the combustion of cannabis to be detectable by sense of smell in a separate residence or commercial property, whether located on the same lot or a separate lot, if emanating from the interior of the licensed premises.

5625.5 A Safe-Use Treatment Facility shall not offer disc jockeys, live bands and any other form of entertainment as provided by D.C. Official Code § 25-101(19A) and (21A). A Safe-Use Treatment Facility may offer prerecorded and background music, movies, television, radio, and other media that does not qualify as entertainment in accordance with D.C. Official Code § 25-101(19A) and (21A).

5625.6 Security cameras installed in the Safe-Use Treatment Facility shall record all areas where patients are permitted, except for the interior of bathrooms, and shall be operated in accordance with the rules governing security cameras as described in the Act and this title.

5625.7 No qualifying patient shall possess more medical cannabis than permitted by the medical cannabis quantity limit provided by the Act or this chapter.

A new section 5626, SUMMER GARDEN ENDORSEMENT, is added to read as follows:

5626 SUMMER GARDEN ENDORSEMENT

5626.1 An applicant for or the holder of a retailer's license shall be eligible to apply for a Summer Garden if also issued Safe-Use Treatment Facility endorsement.

5626.2 An application for a Summer Garden endorsement shall be filed with the initial application for licensure or as a substantial change.

5626.3 An applicant for a Summer Garden shall provide an architectural map of the premises that identifies:

(a) The area to be covered by the endorsement;

(b) The location of all security cameras;

(c) All access doors and walls of the Summer Garden; and

(d) All of the information required by section 7c of the Act (D.C. Official Code § 7-1671.06c(e)(2)).

5626.4 The holder of a Summer Garden endorsement shall not permit odor, smoke, or by-products from the combustion of cannabis to be detectable by sense of smell in the interior of a separate premise with its windows or doors closed.

5626.5 A Summer Garden may offer recorded and background music but shall not offer disc jockeys, live bands or any other form of entertainment or live performance as provided by D.C. Official Code §§ 25-101(19A) and 25-101(21A).

5626.6 Security cameras installed in the Summer Garden area shall record all areas where patients are permitted, except for the interior of bathrooms, and shall be operated in accordance with the rules governing security cameras as described in the Act and this title.

5626.7 No qualifying patient shall possess more medical cannabis than permitted by the medical cannabis quantity limit provided by the Act or this chapter.

Section 5627, MANDATORY TRAINING, is added to read as follows:

5627 MANDATORY TRAINING

5627.1 All directors, officers, members, incorporators, agents, employees, and managers shall receive training on the topics required by § 5105 at least once every three (3) years. The licensee shall maintain a written log or record on the licensed premises that must be made available to ABCA or the Board upon request for a period of at least four (4) years showing:

(a) The trainer or presenter;

(b) The date(s) and time(s) of the training;

(c) A list of the directors, officers, members, incorporators, agents, employees, and managers that attended the training; and

(d) The manner in which the training was provided (in-person class, online, etc.).

5627.2 No director, officer, member, incorporator, agent, or employee shall be required to obtain a medical cannabis training certificate from a Board-approved certified medical cannabis training provider in order to comply with § 5627.1. This subsection shall not apply to managers.

5627.3 A director, officer, member, incorporator, agent, or employee shall be initially trained on the topics required by § 5105 within thirty (30) calendar days of being registered with ABCA as either a director, officer, member, incorporator, agent or employee. This subsection shall not apply to managers.

A new section 5628, MANAGEMENT AGREEMENT, is added to read as follows:

5628.1 A licensee or applicant who enters into a management agreement with a third-party for the management of a medical cannabis business shall provide the Board with a copy of the agreement within thirty (30) calendar days of execution.

5628.2 Notice of cancellation or termination of a management agreement shall be provided in writing to the Board within thirty (30) calendar days of the cancellation or termination.

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

Section 5700, SALE AND PURCHASE OF MEDICAL CANNABIS BY DISPENSARY, is amended to read as follows:

5700 SALE, PURCHASE, AND POSSESSION OF MEDICAL CANNABIS

5700.1 A licensed internet retailer or retailer shall not receive or purchase medical cannabis from a source other than a cultivation center or manufacturer licensed in the District of Columbia.

5700.2 It is a violation for the retailer to allow a person to possess, use, or consume any cannabis or cannabis products not sold or distributed by a licensed internet retailer or retailer.

Subsections 5700.2 and 5700.3 are repealed.

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

Subsection 5703.3 is amended to read as follows:

5703.3 A licensed internet retailer, retailer, or courier shall only be permitted to deliver medical cannabis, medical cannabis products, and paraphernalia to a qualifying patient or caregiver registered in the Program or to a non-resident qualifying patient if the internet retailer, retailer, or courier complies with the following requirements:

(a) The internet retailer, retailer, or courier shall register its delivery vehicles with the Board by completing a Board-issued application form and providing all required information, which shall include each vehicle's license plate number, vehicle identification number (VIN), and its make, model and color;

(b) There shall be no limit on the number of delivery vehicles that an internet retailer, retailer, or courier may register with the Board;

(c) A delivery vehicle shall not be marked with any signage, symbols, images, or advertisement identifying the vehicle as associated with medical cannabis;

(d) A delivery vehicle shall have a functioning global positioning system (GPS) to ensure that the most direct delivery route is followed;

(e) A delivery driver shall be an employee of the internet retailer or retailer or an employee or independent contractor of the courier;

(f) The internet retailer, retailer, or courier shall register the name and medical cannabis employee registration number of each delivery driver with the Board;

(g) Each delivery driver of an internet retailer, retailer, or courier shall have an active District of Columbia medical cannabis employee registration;

(h) Each delivery driver of an internet retailer, retailer, or courier shall have their ABCA issued registration card on their person when making deliveries;

(i) The internet retailer, retailer, or courier shall implement a mechanism or process for patients and caregivers to submit copies of their registration cards and identification cards, or relevant information contained therein, to the internet retailer, retailer, or courier for verification prior to delivery, and the internet retailer, retailer, or courier shall maintain a copy of both as part of the internet retailer, retailer's or courier's recordkeeping

requirements;

(j) Prior to delivery, the internet retailer, retailer, or courier shall:

(1) Verify that the patient, or the patient and caregiver, is actively enrolled in the District's medical cannabis program or is a non-resident qualifying patient, by checking their medical cannabis registration card and comparing it to their records in order to ensure that the information matches;

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

(3) Maintain a copy of the Program or out-of-state or U.S. territory registration card and a copy of the valid government-issued identification card;

(4) Verify that the patient's requested amount does not exceed the legal medical cannabis possession and sale limits, as set by section 7(o)(1) of the Act (D.C. Official Code § 7-1671.06(o)(1)), 22-C DCMR § 301, and 22-C DCMR § 5709; and

(5) Receive and only accept an order by electronic or other means from a qualifying patient or the qualifying patient's caregiver or a non-resident qualifying patient.

(k) The internet retailer, retailer, or courier shall only make deliveries to residential or commercial building addresses located within the District that are not on federal or District government property or public or private school grounds, except as provided in section 6a(c) of the Act (D.C. Official Code § 7-1671.05a(c)), to qualifying patients and caregivers registered in the District medical cannabis program or to non-resident qualifying patients as set forth in § 5703.2 when the patient or caregiver is physically present;

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

(m) The internet retailer, retailer, or courier may make deliveries up to seven (7) days a week, but shall only make deliveries between the hours of 7:00

a.m. and 11:00 p.m.;

(n) The internet retailer, retailer, or courier shall implement a mechanism or recordkeeping process for patients and caregivers to document receipt of medical cannabis deliveries and shall maintain the records as part of the internet retailer or retailer's recordkeeping requirements. If, in an enforcement action pursuant to Chapter 10 or Chapter 62 of this subtitle, a patient or caregiver disputes receiving the medical cannabis and the internet retailer or retailer does not have documentation proving the delivery occurred, the Board shall apply a rebuttable presumption that the delivery did not occur;

(o) An internet retailer, retailer, or courier delivery driver shall only travel from the internet retailer, retailer or courier to the driver's assigned delivery address(es) and return to the internet retailer, retailer, or courier;

(p) The internet retailer, retailer, or courier shall record each delivery in the METRC delivery manifest system in real-time and maintain a copy of the record as part of the internet retailer or retailer's recordkeeping requirements; and

(q) The internet retailer, retailer, or courier shall provide a copy of its delivery manifest to the Board or ABCA investigators immediately upon request.

Subsection 5703.4 is amended to read as follows:

5703.4 A retailer may dispense medical cannabis through curbside pickup or at-the-door pickup to a qualifying patient or caregiver or non-resident qualifying patient only if the retailer holds a retailer delivery endorsement and complies with the following requirements:

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

(b) The retailer shall implement a mechanism or process for a patient or a District registered caregiver to submit a copy of the patient or registered caregiver's, medical cannabis registration card and the patient or registered caregiver's, government-issued identification card to the retailer for verification prior to dispensing. The retailer shall maintain a

copy of both as part of the retailer's recordkeeping requirements;

(c) Prior to dispensing, the retailer shall:

(1) Verify that the patient, or patient and registered caregiver, is actively registered in the District's medical cannabis program, or that the non-resident patient is actively enrolled in another state's medical cannabis program;

(2) Maintain a copy of the medical cannabis program or out of state or U.S. territory registration card and a copy of the government-issued identification card; and

(3) Verify that the patient's requested amount does not exceed the legal medical cannabis possession and sale limits, as set by section 7(o)(1) of the Act (D.C. Official Code § 7-1671.06(o)(1)), 22-C DCMR § 301, and 22-C DCMR § 5709.

(d) The retailer shall implement procedures to ensure that curbside pickup or at-the-door pickup is completed quickly and efficiently; and

(e) The retailer shall implement a mechanism or recordkeeping process for patients to document receipt of curbside pickup or at-the-door pickup and shall maintain the records as part of the retailer's recordkeeping requirements.

5703.5 At the retailer's discretion, the retailer may require electronic payment before scheduling a delivery, curbside pickup, or at-the-door pickup; may limit deliveries, curbside pickup, and or at-the-door pickup to electronic payment only.

5703.6 A cultivation center shall not be permitted to deliver medical cannabis to any premises other than the specific licensed premises of the internet retailer or retailer where the medical cannabis is to be sold for resale to qualifying patients and caregivers.

Section 5706, TIE-IN PURCHASES PROHIBITED, is amended to read as follows:

5706 TIE-IN PURCHASES PROHIBITED

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

5706.2 An internet retailer or retailer shall not require, directly or indirectly, a qualifying

patient or caregiver to purchase any type of medical cannabis, medical cannabis product, paraphernalia, or other commodity in order to purchase any other medical cannabis product.

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

Subsection 5707.8 is amended to read as follows:

5707.8 In the event of an emergency, a licensed medical cannabis business shall be permitted to provide an outside contractor with access to a limited or restricted access area for the sole purpose of making repairs when not open to the public. The licensed medical cannabis business shall be required to log in and out the outside contractor and retain with the log a photocopy of the outside contractor's government issued identification.

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

5709 MEDICAL CANNABIS SALE, DISTRIBUTION, AND DISPENSING RESTRICTIONS

5709.1 A courier, internet retailer, or retailer shall not provide a qualifying patient or caregiver more than the legal medical cannabis possession limit, as set by section 7(o)(1) of the Act (D.C. Official Code § 7-1671.06(o)(1)) and 22-C DCMR § 301.

5709.2 The maximum amount of medical cannabis an internet retailer or retailer, whether individually or in combination, may distribute, dispense, or sell to a qualifying patient directly or through their caregiver, in a 30-day period, is:

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

(b) Two hundred and forty (240) grams of medical cannabis concentrate for a patient 21 years old of age or older, or sixty (60) grams of medical cannabis concentrate for a patient between 18 and 20 years old; or

(c) Medical cannabis products in any form containing a combined total of 600,000 mg of THC.

5709.3 The maximum amount limits set forth in paragraphs (b) and (c) of this subsection shall take effect on October 2, 2023.

5709.3 It shall be an affirmative defense to a violation of 5709.2 that the District's electronic inventory tracking system did not indicate at the time of sale that the patient had reached their 30-day quantity limit at the time the transaction occurred.

5709.4 An internet retailer or retailer shall dispense medical cannabis and distribute paraphernalia only to a qualifying patient or caregiver.

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

Section 5900, CULTIVATION CENTER BOOKS AND RECORDS, is amended to read as follows:

5900 CULTIVATION CENTER AND MANUFACTURER BOOKS AND RECORDS

5900.1 Each licensed cultivation center or manufacturer shall keep and maintain upon the licensed premises true, complete, legible, and current books and records, including the following:

(a) The date of each sale to a licensee;

(b) The name, address, and license number of the licensee;

(c) The quantity of medical cannabis and paraphernalia sold to the licensee;

(d) The price charged, and the amount received for the medical cannabis from the licensee;

(e) The quantity and form of medical cannabis maintained by the business;

(f) The number of plants being grown at the cultivation center on a daily basis; and

(g) The results of the testing laboratory analysis for five (5) years from the date of the test.

5900.2 These books and records, excluding the requirement in paragraph (g) of this subsection, shall be maintained by the cultivation center or manufacturer for a period of four (4) years.

Section 5901, CULTIVATION CENTER INVOICES, is amended as follows:

The heading is amended to read as follows:

5901 CULTIVATION CENTER AND MANUFACTURER INVOICES

Subsection 5901.1 is amended to read as follows:

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

(a) The date of each sale to a licensee;

(b) The name, address, and license number of the licensee;

(c) The form and quantity of medical cannabis 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.

Section 5902, INTERNET RETAILER OR RETAILER BOOKS AND RECORDS, is amended to read as follows:

5902 COURIER AND RETAILER BOOKS AND RECORDS

5902.1 Each courier, internet retailer, and retailer shall keep and maintain upon the licensed premises, true, complete, and current books and records which include invoices that adequately and fully reflect all purchases and sales of medical cannabis made to and by the licensee.

5902.2 Records shall include and distinctly show the following information:

(a) The quantity, form, and price of medical cannabis and paraphernalia purchased from a licensee;

(b) The date and time of delivery of each purchase from a licensee;

(c) The date and time of each sale to a qualifying patient or caregiver;

(d) The quantity, form, and price of medical cannabis distributed or dispensed to the qualifying patient or caregiver;

(e) The consideration given by the qualifying patient or caregiver for the medical cannabis;

(f) The name, address, and card number of the qualifying patient or caregiver of the medical cannabis;

(g) The name, initials, or employee identification number of the person who dispensed or sold the medical cannabis; and

(h) The quantity of medical cannabis still available for sale at the licensed establishment.

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

5903 CULTIVATION CENTER AND MANUFACTURER REPORTS

5903.1 Cultivation center and manufacturer licensees shall, on or before the thirtieth (30^{th}) day of July and January, furnish to the Board on a form to be prescribed by the Board a statement under oath showing the following information:

(a) The quantity of medical cannabis or medical cannabis product manufactured during the preceding six (6) months;

(b) The quantity of each medical cannabis or medical cannabis product sold during the preceding six (6) months;

(c) The quantity of paraphernalia manufactured during the preceding six (6) months;

(d) The quantity and price of paraphernalia sold during the preceding six (6) months;

(e) The amount of medical cannabis or medical cannabis products destroyed or disposed of during the preceding six (6) months;

(f) Certification from MPD that medical cannabis that was cultivated or the medical cannabis products were relinquished for destruction or disposal;

(g) The total expenditures for manufacturing medical cannabis or medical cannabis products during the preceding six (6) months;

(h) The total amount of sales of medical cannabis or medical cannabis products during the preceding six (6) months;

(i) The licensee's gross revenue based upon its medical cannabis or medical cannabis product sales during the preceding six (6) months;

(j) The amount of sales tax reported to OTR during the preceding six (6) months;

(k) The quantity of medical cannabis or medical cannabis products still available for sale at the establishment on the date the report is filed with the Board;

(l) The name, address, home telephone number, and date of birth of each current employee; and

(m) An affidavit executed by an individual licensee, partner of an applicant partnership, or the appropriate officer of an applicant corporation, attesting to the truth of the submitted report.

Section 5904, DISPENSARY REPORTS, is amended to read as follows:

5904 COURIER AND RETAILER REPORTS

5904.1 On or before the thirtieth (30^{th}) day of July and January, a courier, internet retailer or retailer licensee shall furnish to the Board on a form to be prescribed by the Board a statement under oath showing the following information:

(a) The quantity and price of medical cannabis or medical cannabis products distributed or dispensed to qualifying patients and caregivers during the preceding six (6) months;

(b) The licensee's total expenditures for distributing or dispensing medical cannabis or medical cannabis products during the preceding six (6) months;

(c) The licensee's total amount of receipts for the sale of medical cannabis or medical cannabis products;

(d) The quantity of paraphernalia sold by the licensee during the preceding six (6) months;

(e) The licensee's gross revenue based upon its medical cannabis, medical cannabis products, and paraphernalia sales during the preceding six (6) months;

(f) The amount of sales tax reported by the licensee to OTR during the preceding six (6) months;

(g) The amount of medical cannabis or medical cannabis products that were destroyed or disposed of during the preceding six (6) months;

(h) Certification from MPD that the medical cannabis or medical cannabis products described in paragraph (g) were relinquished for destruction or disposal;

(i) The quantity of medical cannabis or medical cannabis products still available for sale at the licensee on the date the report is filed with the Board;

(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.

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

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 Board, ABCA's Enforcement Division, or any other District agency that may have jurisdiction over the establishment, including OTR, Department of Licensing and Consumer Protection, the Department of Buildings, and D.C. Fire and Emergency Medical Services Department, during the establishment's approved hours of operation.

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

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

5907 REPORTING CORPORATE OFFICER, MANAGER, AND OTHER LICENSED STAFF CHANGES

5907.1 A licensed medical cannabis business shall notify the Board within ten (10) days after a registered director, officer, member, incorporator, agent, employee, or manager ceases to work at, volunteer at, manage, or own the operation. The director, officer, member, incorporator, agent, employee, or manager shall surrender their identification card to the Board within ten (10) days of ceasing to work at, manage, own, or otherwise be associated with the operation.

Chapter 60, BOARD APPROVAL PROCEDURES, is repealed.

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

Section 6100, MANDATORY REVOCATION OR SUSPENSION, is amended to read as follows:

6100 RESERVED

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

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

6200 RESERVED

Section 6201, REVOCATION, SUSPENSION, OR FINES - GENERAL PROVISIONS, is amended as follows:

The heading is amended to read as follows:

6201 REVOCATION AND SUSPENSION – GENERAL PROVISIONS

A new subsection 6201.6 is amended to read as follows:

6201.6 Upon revocation, the remaining medical cannabis stock of the license whose license has been revoked shall be disposed of only with the approval of the Board.

Subsections 6201.7 and 6201.8 are repealed.

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

6202 RESERVED

Section 6203, SUMMARY SUSPENSION OR REVOCATION, is amended to read as follows:

6203 SUMMARY SUSPENSION OR REVOCATION

6203.1 If the Board determines, after investigation, that the operations of a licensee present an imminent danger to the health and safety of the public, the Board may summarily revoke, suspend, or restrict, without a prior hearing, the license to sell, manufacture, distribute, or deliver medical cannabis, medical cannabis products or paraphernalia in the District.

6203.2 The Board, after investigation, may also summarily revoke, suspend, or restrict the license of a licensee when the preponderance of the evidence shows that the establishment has been:

(a) The scene of a criminal assault as defined in Chapter 4 of Title 22 of the D.C. Official Code, or a crime of violence, as defined in D.C. Official Code § 23-1331(4), against a police officer, government inspector or investigator, or other governmental official, who was acting in their official capacity, when such assault occurred by patrons who were within 1,000 feet of the establishment;

(b) In violation of the District of Columbia Controlled Substances Act or the Drug Paraphernalia Act of 1982, effective September 17, 1982 (D.C. Law 4-149; D.C. Official Code § 48-1101 *et* seq.); or

(c) The scene of an assault or crime of violence, as defined in D.C. Official Code § 23-1331(4), against a patient or caregiver by the ownership, management, employees, or agents of a licensed medical cannabis business.

6203.3 The notice of summary suspension or revocation shall contain the following:

(a) A statement setting forth the reasons for the action and any proposed action, including a specification of any specific violation complained of;

(b) Reference to any particular section of the Act or this subtitle allegedly violated;

(c) A date of both a show cause status and evidentiary show cause hearing as well as the contact information for the assigned Office of Attorney General

attorney, if known;

(d) A statement that the Board may proceed *ex parte* if the registrant does not appear for the show cause hearing.

(e) A statement that operations must cease immediately, with the exception of necessary tending requirements by cultivation centers;

(f) A statement that the licensed medical cannabis business must submit to an immediate inventory of all medical cannabis items on the premises by ABCA investigators;

(g) A statement that the licensed medical cannabis business must surrender all registration cards and permits associated with the licensed medical cannabis business to the Board within twenty-four (24) hours of receiving the summary suspension notice;

(h) A statement setting forth the reasons for the summary action, including a specification of any specific violation complained of;

(i) A statement that the registrant may request an immediate hearing before the Board for the purpose of determining whether the suspension shall continue in accordance with § 6203.5; and that

(j) A statement that a person aggrieved by a final summary action may file an appeal with the District of Columbia Court of Appeals in accordance with the District of Columbia Administrative Procedure Act, effective October 21, 1968 (82 Stat.1204; D.C. Official Code § 2-501 et seq.).

6203.4 If the Board orders the suspension or revocation of a license, the Board shall post two (2) notices in conspicuous places at or near the main street entrance of the outside of the establishment. The posted notice shall state that the license has been suspended, the period of the suspension, and that the suspension is ordered because of an alleged violation of the Act or of the regulations promulgated under the Act. Any licensee willfully removing, obliterating, or defacing the notice shall be guilty of a violation of this chapter.

6203.5 A licensee may request a hearing within three (3) business days after service of notice of a summary revocation, suspension, fine, or restriction of license. The Board shall hold a hearing within two (2) business days of receipt of a timely request and shall issue a decision within three (3) business days after the hearing.

6203.6 In rendering a decision on a summary suspension hearing, the Board may suspend or restrict the license of the licensee. Additionally, after issuing a decision, the Board may hold additional proceedings to review, amend, or vacate the Board's Order, to ensure compliance with any conditions and to monitor the licensee's operations.

6203.7 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.

6203.8 If the registrant fails to request a hearing within the time and in the manner specified in the notice, the summary suspension shall become final and shall continue unless duly reversed by the Board.

6203.9 A person aggrieved by a final summary action may file an appeal in accordance with the procedures set forth in the DC APA.

6203.10 The decision rendered by the Board following a hearing conducted pursuant to this section shall be the final order in the matter. Either party may seek review of the Board's decision with the District of Columbia Court of Appeals in accordance with the DC APA.

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

6205 NOTICE TO DISTRICT AGENCIES

6205.1 The Board shall provide written notice to MPD of any decision that results in the suspension or revocation of a license held by licensed medical cannabis business.

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

Subsection 6206.1 is amended to read as follows:

6206.1 If a license held by a licensed medical cannabis business is revoked or suspended, the Board shall post two (2) notices in conspicuous places at or near the main street entrance of the outside of the establishment.

Section 6207, EXAMINATION OF PREMISES AND BOOKS AND RECORDS, is repealed.

A new section 6210, CEASE AND DESIST, is added to read as follows:

6210 CEASE AND DESIST

6210.1 The Board, in its discretion, may issue a cease-and-desist order immediately suspending a license, following the process described in § 6210.2, when one (1) of the following has occurred:

(a) The licensee has been issued a notice of summary suspension by the Department of Health;

(b) The licensee's basic business license has expired;

(c) The licensee's certificate of occupancy has been revoked or expired;

(d) The licensee's sales tax certificate has been suspended or revoked by the OTR;

(e) The corporation, limited liability company, partnership, or other entity owning the license is no longer in good standing to operate in the District;

(f) The licensee has failed to pay a Board-ordered fine or a citation by the payment deadline; or

(g) Payment has been made to ABCA with a check returned unpaid.

6210.2 The Board shall give written notice to the licensee of its intent to issue a cease-and-desist order. The licensee shall have fourteen (14) calendar days to respond to the notice. If the Board thereafter determines that one of the circumstances described in § 6210.1 has occurred, and that the licensee's failure to address the issues set forth in § 6210.1 is not for good cause, the Board shall issue the cease-and-desist order.

A new section 6211, CANCELLATION DUE TO EVICTION, is added to read as follows:

6211 CANCELLATION DUE TO EVICTION

6211.1 If the Board, after an investigation, but before a hearing, has cause to believe that a licensee has been evicted from the premises or has otherwise vacated the premises and an application for safekeeping or transfer to a new location or person has not been submitted, the Board shall issue an order cancelling the license after providing the licensee with written notice of the basis for the cancellation and 30 days to submit:

(a) A written request to the Board to hold a hearing or decision on the papers; and

(b) Evidence disputing the basis for the cancellation.

6211.2 The Board, in its reasonable discretion, may adjudicate the cancellation appeal on the papers without holding a hearing if there is no dispute regarding any material facts.

A new section 6212, CITATION APPEALS, is added to read as follows:

6212 REQUEST FOR HEARING ON CITATION

6212.1 A licensee may challenge the issuance of a citation issued by an ABCA Investigator by requesting a show cause hearing before the Board either in writing or on a form provided by ABCA. The written request for a show cause hearing must be received by ABCA within thirty (30) days from the date that the citation was issued to the establishment.

A new section 6213, OFFER-IN-COMPROMISE, is added to read as follows:

6213 OFFER-IN-COMPROMISE

6213.1 The Board may, in its discretion, accept from the licensee and the Office of the Attorney General for the District of Columbia an offer-in-compromise to resolve the charges brought by the District of Columbia against the licensee.

6213.2 An offer-in-compromise may be presented to the Board at the show cause status hearing or show cause hearing.

6213.3 The offer-in-compromise shall be consistent with the range of fines set forth in this title.

6213.4 An offer-in-compromise and settlement may be tendered to the Board at any time prior to the issuance of a decision by the Board on the contested matter.

6213.5 An offer submitted by the parties and accepted by the Board shall constitute a waiver of appeal and judicial review and other hearing rights granted by this title, the regulations, and the D.C. Administrative Procedure Act.

Chapter 63, SLIDING SCALE PROGRAM, is renumbered as Chapter 98 and the sections and subsections are renumbered as appropriate.

A new Chapter 63, PENALTIES, is added to read as follows:

CHAPTER 36 PENALTIES

6300 ABCA CIVIL PENALTY SCHEDULE

6300.1 [Reserved for Civil Penalty Chart]

6300.2 The penalties contained under this section shall become effective after the completion of the Council review described in D.C. Official Code § 7-1671.08(e), and then five (5) days after publication in the *District of Columbia Register*.

6300.3 None of the descriptions contained in the civil penalty schedule shall be construed

to expand, limit, or define any specific violation.

6300.4 Whether violations are classified as primary tier or secondary tier shall be determined with reference to the ABCA civil penalty schedule in effect when the violation was committed.

6301 PRIMARY TIER VIOLATIONS

6301.1 The Board may fine a licensee for a primary tier violation after a show cause hearing as follows:

(a) For the first primary tier violation, the fine shall be $ 1,000-$ 2,000;

(b) For the second primary tier violation within two (2) years, the fine shall be $ 2,000-$ 4,000;

(c) For the third primary tier violation in three (3) years, the fine shall be $ 4,000-$ 6,000;

(d) For the fourth primary tier violation in four (4) years, the license shall be revoked or fined no less than $30,000 and suspended for thirty (30) consecutive days; and

(e) For the fifth primary tier violation in four (4) years, the license shall be revoked.

6302 SECONDARY TIER VIOLATIONS

6302.1 The Board may fine a licensee for a secondary tier violation at a show cause hearing as follows:

(a) For the first secondary tier violation, $250-$500;

(b) For the second secondary tier violation within two (2) years, $500-$750;

(c) For the third secondary tier violation within three (3) years, $750-$1,000; and

(d) A licensee found in violation of a secondary tier violation for the fourth time within four (4) years shall be penalized according to a first primary tier violation ($1,000-2,000). Every subsequent secondary tier offense within five (5) years of the first violation shall be fined according to the schedule for primary tier violations.

6303 CITATIONS

6303.1 ABCA investigators may issue citations for primary tier, secondary tier, and other violations of the Act and this title.

6303.2 If the licensee admits guilt for a violation listed in a citation, the licensee shall only pay the minimum fine for the offense based on the type and level of the offense, as indicated in §§ 6301 and 6302.

6304 WARNINGS

6304.1 An ABCA investigator may issue an administrative written warning before the issuance of a citation for a violation.

6304.2 In not less than ten (10) business days following the issuance of an administrative written warning, an ABCA investigator shall conduct a subsequent inspection of the licensed premises to ensure that the licensee has taken corrective action for the violation found for which the administrative written warning was issued. If corrections to violations that resulted in the issuance of the administrative written warning are not completed at the time of the subsequent inspection, the ABCA investigator shall issue the licensee a citation or refer the matter to the ABC Board if:

(a) Other violations that are not entitled to a warning are observed; or

(b) The licensee already has three or more secondary tier violations.

6304.3 A licensee entitled to a mandatory administrative written warning for a first violation shall not be entitled to a mandatory administrative written warning for a second or subsequent violation of the same offense committed within four (4) years of issuance of the first mandatory administrative written warning.

6305 VIOLATION HISTORY COMPUTATION

6305.1 This section applies to all instances that require a computation of a person's or licensee's violation history.

6305.2 The review period for computing the number of a licensee's prior primary and secondary tier violations commences on the date of violation in the instant case and runs backward for the number of years specified in this section.

6305.3 The computation of violation history shall only include prior adjudicated cases whose dates of adjudication fall within the applicable review period for the instant case.

6305.4 The date of adjudication for computation purposes shall be the date:

(a) The citation was paid;

(b) A final written order finding liability has been issued by the Board;

(c) A staff settlement was paid; or

(d) The date an offer-in compromise was accepted by the Board.

6305.5 The computation shall not include:

(a) Any violation that has not been adjudicated as of the date of the violation in the instant case; or

(b) Any adjudicated case whose date of adjudication falls outside of the review period.

6305.6 A licensee shall be found liable for a second, third, or additional level primary or secondary tier violation, whichever is applicable, if one (1) of the prior violations of the same tier was adjudicated within look back period from the date of violation in the instant case.

6305.7 Each date upon which a violation is committed shall constitute a separate violation.

6305.8 When a violation requires multiple instances, a continuous course of conduct, or other ongoing acts to sustain a charge, the date of the violation shall be the last date on which any act related to the violation occurred.

6305.9 If multiple secondary tier violations are committed on the same date, they will be counted as one (1) violation for purposes of computing a licensee's violation history.

6305.10 If the Board suspends a respondent's license but stays the suspension:

(a) The stay shall commence on the date of adjudication and conclude on the one (1)-year anniversary of that date; and

(b) The stay shall be revoked and the suspension imposed upon adjudication of any subsequent violation within the stay period.

6305.11 Written warnings, either issued by the Board or by citation, are not counted as violations for computation purposes.

6306 COLLECTION OF FINES

6306.1 Any fines collected by the Board shall be paid immediately, unless otherwise ordered by the Board, to the D.C. Treasurer.

Chapter 64, TESTING LABORATORIES, is amended as follows:

Section 6401, GENERAL PROVISIONS, is amended to read as follows:

6401 GENERAL PROVISIONS

6401.1 A testing laboratory shall not be owned or operated, in whole or in part, by a director, officer, member, incorporator, agent, or employee of a cultivation center, manufacturer, internet retailer, retailer, or testing laboratory.

6401.2 No owner, member, manager, employee, or agent of a testing laboratory shall have an ownership interest in, or a direct or indirect financial interest in any other licensed medical cannabis business except for one (1) or more testing laboratories.

6401.3 A testing laboratory shall not handle, test, or analyze medical cannabis or medical cannabis products in the District of Columbia unless the laboratory has been issued a medical cannabis license.

6401.5 Medical cannabis or medical cannabis products shall be sold only after a representative sample has been tested by a registered testing laboratory and the test results have been uploaded to the District of Columbia's electronic tracking system, which verify the medical cannabis sample has received passing results.

6401.6 A testing laboratory shall not cultivate, process, manufacture, distribute, provide, or sell medical cannabis or medical cannabis products in any form.

6401.7 A testing laboratory shall not permit the consumption of medical cannabis or medical cannabis products in any form on the premises.

6401.8 A testing laboratory shall not share a facility with a licensed medical cannabis business but may operate in the same building so long as it has its own separate space.

6401.9 A testing laboratory shall not falsify, change, modify, or otherwise alter in any way the results of quantitative or other analyses performed on samples or the corresponding certificates of analysis.

6401.10 A testing laboratory shall not employ any sampling methods that do not ensure that a random sample is collected for analysis, or that could provide results that are not representative of a batch or lot from which a sample is taken.

6401.11 A testing laboratory shall not prepare samples in such a manner as to provide results that are not representative of a batch or lot from which a sample is taken.

6401.12 A testing laboratory shall not store medical cannabis or medical cannabis products in quantities greater than that which is necessary to perform required analysis.

6401.13 A testing laboratory shall not transport medical cannabis or medical cannabis products in quantities greater than that which is necessary to perform required analysis.

6401.14 A testing laboratory shall not perform analysis on any medical cannabis or medical cannabis products that has not been obtained from a licensed medical cannabis business.

6401.15 A testing laboratory shall not perform analysis on any medical cannabis or medical cannabis product that has not been identified in the real-time electronic records system.

6401.16 A testing laboratory shall not endorse, advertise, or make claims on behalf of any cultivation center, dispensary, brand or strain of medical cannabis, or brand or type of medical cannabis product.

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

6402 TESTING LABORATORY LICENSE APPLICATION

6402.1 In addition to the requirements contained in the Act and other provisions of this title, an application for a testing laboratory license shall also contain the following:

(a) A laboratory testing plan that demonstrates the applicant's knowledge, experience, training, and applicable certifications in laboratory testing techniques, and ability to provide and ensure quality assurance, quality control, proficiency testing, analytical processes, chain of custody, sample retention, space, recordkeeping, results reporting, and corrective action protocols and a timeline for obtaining accreditation, if applicable;

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

(c) Information regarding whether the applicant has qualified as a medical cannabis certified business enterprise or social equity applicant or is eligible to qualify as a medical cannabis certified business enterprise or social equity applicant.

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

Section 6407 is renumbered section 6501, and the subsections are renumbered as

appropriate.

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

Subsection 6409.20 shall be amended as follows:

6409.20 [REPEALED]

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

Subsection 6409.21, Table G, is amended by striking the number "10,000" and inserting the number "100,000" in its place.

Section 6409 is renumbered section 6502, and the subsections are renumbered as appropriate.

Section 6410, RESULT REPORTING, is amended as follows:

Section 6410 is renumbered section 6511, and the subsections are renumbered as appropriate.

A new Chapter 65, CANNABIS TESTING, is added, which shall read as follows:

A new section 6500 is added, which shall read as follows:

6500 MEDICAL CANNABIS TESTING REQUIREMENT

6500.1 Upon the issuance of a testing laboratory license, ABCA shall provide notice in the *D.C. Register* that a testing lab has become operational and that the testing requirement is in effect.

6500.2 Once notice of the issuance of a testing lab is issued in the *D.C. Register*, no medical cannabis or medical cannabis product shall be sold or distributed to an internet retailer, manufacturer, retailer, qualifying patient or caregiver until it has been tested and determined to be unadulterated as provided by this title.

6500.3 No licensee shall distribute, sell, or transfer adulterated medical cannabis to another licensee or person unless the product is being sent to a testing laboratory for the purposes of testing in compliance with the Act and this subtitle, for the purposes of disposal or destruction, complying with a court order, law enforcement investigation, or order of the Board.

6500.4 Section 6503 through 6600 shall not apply to the testing of medical cannabis samples provided by qualifying patients in accordance with the Act.

6500.5 Section 6503 through 6600 shall not apply to the testing of medical cannabis samples from cultivation centers and manufacturers for the purposes of quality assurance, research, and development in accordance with the Act so long as such samples are not dispensed, distributed, or sold to internet retailers, retailers, or the public.

A new section 6503 is added, which shall read as follows:

6503 CREATION OF BATCHES

6503.1 A cultivation center or manufacturer shall divide medical cannabis or medical cannabis products into homogenous batches not to exceed 50 pounds, and as directed by a testing laboratory.

6503.2 A cultivation center or manufacturer shall divide medical cannabis and medical cannabis products into homogenous batches as directed by a testing laboratory, and in accordance with the following size limitations:

(a) Medical cannabis or medical cannabis product batches containing concentrated medical cannabis may not exceed 50 pounds (22.7 kilograms); and

(b) Medical cannabis product batches containing medical cannabis extract or products that are infused with medical cannabis or medical cannabis extract may not exceed 70,000 unpackaged retail servings.

6503.3 A cultivation center or manufacturer shall assign a unique batch identifier to the cannabis or cannabis products, and when cannabis is harvested or trimmed,

(a) Medical cannabis flower shall be assigned to a batch containing a single strain from a single harvest date; and

(c) Medical cannabis trim may be assigned to a batch containing multiple strains and from multiple trimming dates.

6503.4 A batch may be divided into multiple containers.

6503.5 If medical cannabis or medical cannabis product yield is in excess of the batch size limitations, the yield must be divided into separate batches in accordance with this section in order to be sampled.

6503.6 All medical cannabis and medical cannabis products in each batch must be uniform throughout except for cannabis leaf trim.

6505 SAMPLE REQUIREMENTS FOR MEDICAL CANNABIS

6505.1 With the exception of pre-rolled medical cannabis, all cannabis and cannabis products must be in final form ready to be packaged upon receipt of passing results for all required tests to be sampled.

6505.2 A cultivation center or manufacturer may not alter the medical cannabis or medical cannabis product batch after sampling has occurred.

6505.3 The testing laboratory or their agent shall sample the amount of cannabis and cannabis products in increments in accordance with the tables below:

Cannabis Flower and Trim

Batch Size Range (lbs)	Batch Size Range (kg)	Minimum Sample Amount (g)	Sample Increments Representing Total Minimum Sample Amount
0-1.00	0 - 0.453592	2.50	5
1.01-10.00	0.4581283 - 4.53592	4.00	8
10.01-20.00	4.5404596 - 9.07185	7.50	15
20.01-40.00	9.0763833 - 18.1437	11.0	22
40.01-50.00	18.148231 - 22.6796	16.50	33

6505.4 If a testing laboratory or their agent requires a sample amount that exceeds the minimum sample amount for medical cannabis batch size range as specified in the table above, the testing laboratory or their agent must use sample increments of 0.5 grams.

Cannabis Products - Concentrated Cannabis

Batch Size Range (lbs)	Batch Size Range (kg)	Minimum Sample Amount (g)	Sample Increments Representing Total Minimum Sample Amount
0-1.00	0 - 0.453592	1.25	5
1.01-2.00	0.4581283 - 0.907185	2.00	8
2.01-5.00	0.9117207 - 2.26796	3.75	15
5.01-15.00	2.272498 - 6.80389	5.50	22
15.01-50.00	6.8084215 - 22.6796	8.25	33

6505.5 If a testing laboratory or their agent requires a sample amount that exceeds the minimum sample amount for the batch size range of medical cannabis or medical cannabis product containing concentrated medical cannabis, as specified in the table above, the testing laboratory or their agent must use sample increments of 0.25 grams.

Cannabis Products - Cannabis Infused Products

Batch Size Range (Unpackag	Minimum Sample Amount	Minimum Number of units for	Minimum Number of units for	Minimum Number of units for	Minimum Number of units for

ed Servings)	(Unpackaged Servings)	Sampling a 5-Serving Unit	Sampling a 10-Serving Unit	Sampling a 20-Serving Unit	Sampling a 100-Serving Unit
0-100	5	2	2	2	2
100-1,000	8	2	2	2	2
1,000-5,000	15	3	2	2	2
5,000-10,000	22	5	3	2	2
10,000-50,000	33	7	4	2	2
50,000-70,000	43	9	5	3	3

6505.6 A serving unit is a single quantity of all pre-packaged total servings for one product package of medical cannabis infused product intended for sale.

6505.7 The cultivation center or manufacturer must determine the size of a serving for each medical cannabis infused product, and the number of servings in the medical cannabis or medical cannabis product batch. If the minimum required number of sample servings does not align with the anticipated final form of the product, the testing laboratory or their agent must increase sample increments to ensure products are sampled in final form.

6505.8 If a testing laboratory or their agent requires a sample amount that exceeds the minimum sample amount for the batch size range of medical cannabis or medical cannabis product containing infused medical cannabis, as specified in the table above, the testing laboratory or their agent must use sample increments of one serving.

6506 PACKAGING OF SAMPLES FOR TESTING

6506.1 All samples of cannabis or cannabis products must be transferred to a testing facility in sealed, child-resistant, and tamper-evident containers that are supplied by a testing facility or that meet criteria specified by a testing facility.

6507 TESTING FOR RESIDUAL SOLVENTS

6507.1 Cultivation centers and manufacturers shall test all products for residual solvents and processing chemicals in accordance with this section before distributing, selling, or otherwise transferring the product to an internet retailer, manufacturer, or retailer.

6507.2 The testing laboratory shall analyze at minimum 0.25 grams of the representative sample of cannabis product or pre-rolls to determine whether residual solvents or processing chemicals are present.

6507.3 The testing laboratory shall report the result of the residual solvents and processing chemicals testing in unit micrograms per gram (µg/g) in the testing results and indicate "pass" or "fail" in the result report.

6507.4 The sample shall be deemed to have passed the residual solvents and processing chemicals testing if the presence of any residual solvent or processing chemical listed in the following tables in Category I and Category II does not exceed the indicated critical limit, except that:

(1) The critical limit for ethanol does not apply to cannabis products that are tinctures; and

(2) The critical limit for ethanol or isopropyl alcohol does not apply to cannabis products that are topical cannabis products.

Category I Residual Solvent or Processing Chemical	***CAS No.***	***Cannabis Product or Pre-Roll Critical Limit (µg/g)***
1. 1,2-Dichloroethane	107-06-2	1.0
Benzene	71-43-2	1.0
Chloroform	67-66-3	1.0
Ethylene oxide	75-21-8	1.0

Methylene chloride	75-09-2	1.0
Trichloroethylene	79-01-6	1.0

Category II Residual Solvent or Processing Chemical	***CAS No.***	***Cannabis Product or Pre-roll Action Level (µg/g)***
2. Acetone	67-64-1	5000
Acetonitrile	75-05-8	410
Butane	106-97-8	5000
Ethanol	64-17-5	5000
Ethyl acetate	141-78-6	5000
Ethyl ether	60-29-7	5000
Heptane	142-82-5	5000
Hexane	110-54-3	290
Isopropyl alcohol	67-63-0	5000
Methanol	67-56-1	3000

Pentane	109-66-0	5000
Propane	74-98-6	5000
Toluene	108-88-3	890
Total xylenes (ortho-, meta-, para-)	1330-20-7	2170

6507.5 If the sample fails residual solvents and processing chemicals testing, the batch from which the sample was collected fails residual solvents and processing chemicals testing and shall be deemed adulterated.

6508 TESTING FOR MYCOTOXIN

6508.1 Cultivation centers and manufacturers shall test all products for mycotoxin in accordance with this section before distributing, selling, or otherwise transferring the product to an internet retailer, manufacturer, or retailer.

6508.2 The testing laboratory shall analyze at minimum 0.5 grams of the representative sample of medical cannabis and medical cannabis products to determine whether mycotoxins are present.

6508.3 The testing laboratory shall report the result of the mycotoxins in unit micrograms per gram (µg/g) in the testing results and indicate “pass” or “fail” in the result report.

6508.4 The sample shall be deemed to have passed mycotoxin testing if both the following conditions are met:

(a) Total of aflatoxin B1, B2, G1, and G2 does not exceed 20 µg/kg of substance; and

(b) Ochratoxin A does not exceed 20 µg/kg of substance.

6508.5 If the sample fails mycotoxin testing, the batch from which the sample was collected fails mycotoxin testing and shall be deemed adulterated.

6509 TESTING FOR FOREIGN MATERIAL

6509.1 Cultivation centers and manufacturers shall test all products for mold, mildew, pests, and other foreign materials in accordance with this section before distributing, selling, or otherwise transferring the product to an internet retailer, manufacturer, or retailer.

6509.2 The testing laboratory shall analyze the representative sample of medical cannabis and medical cannabis products to determine whether mold, mildew, pests and other foreign material is present.

6509.3 The licensed laboratory shall report the result of the foreign material test by indicating “pass” or “fail” in the result report.

6509.4 The testing laboratory shall perform foreign material testing required by this section on the total representative sample prior to sample homogenization.

6509.5 When the testing laboratory performs foreign material testing, the laboratory shall, at minimum, do all of the following:

(a) Examine both the exterior and interior of the dried flower sample, and

(b) Examine the exterior of the cannabis product sample.

6509.6 The sample shall be deemed to have passed the foreign material testing if the presence of foreign material does not exceed:

(a) 1/4 of the total sample area covered by sand, soil, cinders, or dirt;

(b) 1/4 of the total sample area covered by mold or mildew;

(c) 1 insect fragment, 1 hair, or 1 count mammalian excreta per 3.0 grams; or

(d) 1/4 of the total sample area covered by an imbedded foreign material.

6509.7 If the sample fails foreign material testing, the batch from which the sample was collected fails foreign material testing and shall be deemed adulterated.

6510 TESTING FOR FERTILIZER AND NUTRIENTS

6510.1 Cultivation centers and manufacturers shall test all products for the presence and concentration of fertilizer and nutrients in accordance with this section before distributing, selling, or otherwise transferring the product to an internet retailer, manufacturer, or retailer.

6510.2 A leaf tissue sample or other test designed to elicit the presence and concentration of the following nutrients in the sampled medical cannabis or medical cannabis

product:

(a) Nitrogen (N);

(b) Phosphorus (P);

(c) Potassium (K);

(d) Calcium (Ca);

(e) Magnesium (Mg);

(f) Sulfur (S);

(g) Boron (B);

(h) Copper (Cu);

(i) Iron (Fe);

(j) Manganese (Mn);

(k) Zinc (Zn);

(l) Molybdenum (Mo);

(m) Sodium (Na); and

(n) Chloride (Cl).

6510.3 The cultivation center and manufacturer shall be required to disclose to the testing laboratory all fertilizers and nutrients used during the growing or production of the medical cannabis or medical cannabis product being tested.

6510.4 The testing laboratory shall further test for the presence of all fertilizers and nutrients disclosed by the cultivation center and manufacturer in accordance with the testing labs standard operating procedures.

A new Chapter 66, ADULTERATED CANNABIS, is added, which shall read as follows:

A new subsection 6601 is added, which shall read as follows:

6600 PROHIBITION ON DISTRIBUTING ADULTERATED PRODUCTS

6600.1 Medical cannabis and medical cannabis products that exceed, fail, or violate any of the testing standards, testing limits, or testing levels provided by the Act or this

chapter shall be deemed adulterated and unfit for use or consumption.

6600.2 If a sample taken from a batch exceeds, fails, or violates any of the testing standards, testing limits, or testing levels set by this chapter, the batch from which the sample was collected shall also be deemed adulterated.

6600.3 A cultivation center or manufacturer shall not sell, distribute, or otherwise transfer any portion of the batch of medical cannabis or medical cannabis products that qualify as adulterated and unfit for use or consumption in accordance with this section to an internet retailer, manufacturer, or retailer.

6600.4 A internet retailer or retailer shall not sell, distribute, or otherwise transfer any portion of the batch of medical cannabis or medical cannabis products deemed adulterated and unfit for consumption in accordance with this section to any person.

A new Chapter 67, COURIERS, is added to read as follows:

A section 6700, COURIERS, is added to read as follows:

6700 COURIERS

6700.1 A courier shall not obtain medical cannabis or medical cannabis product except when:

(a) Fulfilling an order submitted by a qualifying patient or caregiver, on behalf of a licensed internet retailer or retailer; or

(b) Obtaining medical cannabis in their personal capacity, in a manner consistent with the Act and this subtitle, for their own personal use and consumption.

6700.2 A courier may store and prepare medical cannabis or medical cannabis product obtained from a licensed internet retailer or retailer for delivery at its licensed location but shall not hold the product for more than 24 hours.

6700.3 Medical cannabis and medical cannabis products that cannot be delivered shall be returned to the internet retailer or retailer. An internet retailer or retailer that uses the services of a courier must accept returns by the courier when in operation.

6700.4 A courier may make deliveries up to seven (7) days a week, but shall only make deliveries between the hours of 9:00 a.m. and 9:00 p.m.

6700.5 A courier delivery driver shall only travel from the internet retailer and retailer to the driver's assigned delivery address(es) and return to the internet retailer, retailer, or courier.

6700.6 The courier shall record each delivery in the METRC delivery manifest system in real-time and maintain a copy of the record as part of the internet retailer and retailer's recordkeeping requirements.

6700.7 The courier shall provide a copy of its delivery manifest to the Board or ABCA investigators immediately upon request.

A new Chapter 96, MORATORIUMS, is added to read as follows:

A new section 9600, ESTABLISHMENT OF MORATORIUM is added to read as follows:

9600 ESTABLISHMENT OF MORATORIUM

9600.1 If the Board reasonably determines that it is in the public interest to do so based on the standards set forth in the Act, the Board may, by rule:

(a) Limit the number of medical cannabis business licenses of any class to be issued; or

(b) Declare a moratorium on the issuance of licenses of any class in any ward, single-member district, or ANC.

9600.2 An ANC may request the Board to issue regulations establishing a moratorium.

9600.3 A moratorium issued by the Board in accordance with this section shall have a prospective effect and shall not apply to existing licenses.

9600.4 A moratorium shall be effective for five (5) years from the date of final rulemaking, or for a lesser period as determined by the Board.

9600.5 If the Board acts on a moratorium request, a moratorium request for the same area, or an area covering substantially the same area, shall not be considered for two (2) years from the date of the Board's action.

A new section 9601, MORATORIUM PROCEDURES, is added to read as follows:

9601 MORATORIUM PROCEDURES

9601.1 The moratorium request shall be made to the Board in writing, providing:

(a) The identity of the ANC;

(b) The resolution containing the official ANC vote and statement approving of the moratorium request filed with the Board;

(c) The area of the District to be covered by the moratorium;

(d) The class or classes of licenses to be covered by the moratorium;

(e) A detailed statement of the reasons that the moratorium is appropriate under at least two (2) of the appropriateness standards set forth in the Act and this chapter; and

(g) A statement identifying whether the moratorium shall be either a ward, ANC, or single-member district.

9601.2 A moratorium may be sought for a single class of license or for any combination of the classes of licenses except for those licenses exempted by § 9600.6.

9601.3 No moratorium request to limit the number of licenses to be issued, the number of licenses issued for any single class, or the issuance of amended licenses for any single class that constitute a substantial change shall be considered by the Board unless all the requirements of subsection § 9601.1 have been met and the following conditions are satisfied:

(a) If the requested moratorium area is a single-member district, there shall exist in the area at least three (3) licensed establishments of the same class or six (6) licensed establishments of any class or combination of classes;

(b) If the requested moratorium area is an ANC, there shall exist in the area at least six (6) establishments of the same class or twelve (12) establishments of any class or combination of classes; or

(c) If the requested moratorium area is the Ward, there shall exist in the area at least nine (9) establishments of the same class or eighteen (18) establishments of any class or combination of classes.

A new section 9602, MORATORIUM NOTICE, is added to read as follows:

9602 MORATORIUM NOTICE

9602.1 If a moratorium request meets all the requirements set forth in this chapter, the Board shall provide notice to the public according to the same procedures as required by § 5425.

A new section 9603, MORATORIUM HEARING, is added to read as follows:

9603 MORATORIUM HEARING

9603.1 The Board shall hold a public hearing to review a proposed moratorium. The public hearing shall be a rulemaking hearing under section 6 of the DC APA and

not in the nature of a contested case under section 10 of the DC APA.

9603.2 At the public hearing, any interested person may appear to give oral or written testimony in support of, or in opposition to, the moratorium request.

9603.3 In addition to receiving testimony from the public, the Board shall request formal comments from the following persons or agencies:

(1) The Councilmembers within whose wards the requested moratorium area is located;

(2) The ANCs within whose boundaries the requested moratorium area is located and any other ANC abutting the proposed moratorium area;

(3) The Assistant City Administrator for Economic Development, or their designee;

(4) The Office of Planning, or its successor agency; and

(5) The District Commander of the Metropolitan Police Department in which the requested moratorium zone is located.

9603.4 In deciding on a moratorium request, the Board shall consider the extent to which the testimony and comments show that the requested moratorium is appropriate under at least two (2) of the appropriateness standards set forth in the Act and this title.

9603.5 The Board may grant the moratorium request:

(1) In whole or in part;

(2) By enlarging or decreasing the moratorium area; or

(3) By limiting the moratorium to no more than one class of license.

9603.6 The Board may deny the moratorium request in its entirety.

9603.7 The decision of the Board shall be final and shall be issued in writing, including each member's vote.

A new Chapter 97, HEARING PROCEDURES, is added to read as follows:

A new section 9700, HEARING PROCEDURES - APPLICABILITY, is added to read as follows:

9700 HEARING PROCEDURES - APPLICABILITY

9700.1 This chapter shall apply to all hearings held before the Board, including:

(a) Roll call hearings or status hearings regarding the issuance, transfer, or renewal of a license, or the making of substantial changes to a licensee's business operations under authority of the Act;

(b) Protest hearings regarding the issuance, transfer or renewal of a license, or the making of substantial changes to a licensee's business operations under authority of the Act;

(c) Fact finding hearings on any matter governed by the Act regarding an applicant for a license or a licensee; and

(d) Show cause hearings, summary suspension hearings, or summary revocation hearings regarding the revocation or suspension of a license issued under the Act.

9700.2 The Board may, for good cause shown and in the interest of justice or to prevent hardship, waive any provision of this chapter which is not required by the Act in any proceeding after duly advising the parties of its intention to do so.

9700.3 The following hearings held before the Board shall be conducted in the same manner as hearings conducted pursuant to D.C. Official Code § 2-509:

(a) Protest hearings;

(b) Show cause hearings;

(c) Summary suspension or summary revocation hearings;

(d) Cease and desist hearings;

(e) Contested fact finding hearings in which the Board may suspend or revoke one's license or issue an order or interpretation that may impact the rights of a licensee or applicant; and

(g) Qualifications hearings.

9700.4 The following hearings held before the Board shall be deemed discretionary hearings:

(a) Uncontested fact-finding hearings, including the request to extend a license safekeeping; and

(b) Rulemaking hearings.

9700.5 The provisions of this chapter are intended to be consistent with the DC APA (D.C. Official Code § 2-501 *et seq.*). If there is any conflict between this chapter and the DC APA, the DC APA shall govern.

9700.6 To the extent that there is any conflict within this chapter, provisions of specific application shall supersede those of general application.

A new Section 9701, CONTINUANCES, is added to read as follows:

9701 CONTINUANCES

9701.1 A hearing may be continued for good cause.

9701.2 A written motion for a continuance shall be filed with the Board at least six (6) calendar days before the scheduled hearing date and served upon all parties at least six (6) calendar days before the hearing. To be granted, the motion shall, in the opinion of the Board, set forth good and sufficient cause for continuance or demonstrate that an emergency exists.

9701.3 A continuance shall not waive the requirements governing the time in which to file objections, petitions, or other pleadings.

9701.4 The Board may, on motion of any party or on its own motion, continue a hearing to permit an ANC to vote on a material issue in the hearing, upon a determination that the interests of justice will be served by the granting of the continuance to any party, or for administrative convenience.

9701.5 The Board may waive the provisions of this section if all parties agree to a continuance, to prevent hardship, in the interest of justice, or for administrative convenience.

9701.6 An attorney who knows or should know of a scheduling conflict shall immediately, but no later than two (2) days before the scheduled hearing, file a motion for continuance with the Board, with copies submitted to the opposing party or parties. A scheduling conflict with another tribunal may be considered good cause for continuing the proceeding.

A new Section 9702, WITNESSES, is added to read as follows:

9702 WITNESSES

9702.1 A party shall have the right to call and examine witnesses.

9702.2 Except as provided in § 9702.3, at any proceeding before the Board in a contested case, the Board may hear as witnesses all persons residing within and outside the

neighborhood who desire to be heard.

9702.3 The Board may exclude any irrelevant or unduly repetitious evidence or testimony.

A new Section 9703, RULE ON WITNESSES, is added to read as follows:

9703 RULE ON WITNESSES

9703.1 At the request of a party, or on its own motion, the Board shall order witnesses excluded so that they will not hear the testimony of other witnesses.

9703.2 The following persons shall not be excluded from hearings before the Board:

(a) The applicant or the licensee;

(b) The designated representative for a party to a proceeding; or

(c) Any person whose presence is shown by a party to be essential to the presentation of their case.

A new section 9704, EXAMINATION OF WITNESSES, is added to read as follows:

9704 EXAMINATION OF WITNESSES

9704.1 In any proceeding before the Board, each party shall have the right to present in person or by counsel or designated representative, the party's case or defense, including oral and documentary evidence, to submit rebuttal evidence, and to cross-examine witnesses, unless the matter at issue has been dismissed by the Board.

9704.2 In a protest hearing in which there is more than one (1) protest, and the Board has required the protestants to designate one (1) person to conduct the protestant's case, the designated individual shall present the protestant's case, give the opening and closing statements, and examine and cross-examine witnesses on behalf of the protestants.

9704.3 Any member of the Board may question any witness at any time during or after examination or cross-examination, subject to objection by a party.

9704.4 Any oral or documentary evidence may be received, but the Board shall exclude irrelevant, immaterial, or unduly repetitious evidence.

9704.5 The Board may impose a time limitation on oral arguments and witness testimony as it deems appropriate.

9704.6 The Board shall afford all parties the opportunity to present oral argument unless limited in accordance with § 9704.2.

A new section 9705, PARTIES, INTERVENTION, AND RIGHT TO BE HEARD, is added to read as follows:

9705 PARTIES, INTERVENTION, AND RIGHT TO BE HEARD

9705.1 The parties to a show cause hearing shall be the following:

(a) The respondent, licensee, permittee, or applicant; and

(b) The District of Columbia.

9705.2 The parties to a protest hearing shall be the applicant and the protestants and their designated representatives, if any.

9705.3 The parties to a fact-finding hearing shall be the licensee, permittee, or applicant for a license, and such other persons whose appearance the Board deems necessary and who are designated by the Board as parties.

9705.4 The Board may, in its discretion, permit interested persons other than parties, as defined in this chapter, to intervene in a proceeding for such general or limited purpose as the Board may specify.

9705.5 A person permitted to intervene under this section shall comply with all conditions fixed by the Board and shall not be considered a party to the proceedings.

A new section 9706, COMPUTATION OF TIME FOR FILINGS, is added to read as follows:

9706 COMPUTATION OF TIME FOR FILINGS

9706.1 Whenever a party to a proceeding under this chapter has the right or is required to perform some act within a specified time period after the service of notice upon the party, and the notice is served upon that party by mail, three (3) days shall be added to the prescribed period.

9706.2 Except as otherwise provided by law, any time period prescribed by this chapter may, for good cause shown, be extended by the Board with notice to all parties.

9706.3 For purposes of computing time that is stated in days or a longer unit of time, exclude the day of the event that triggers the computation of time.

9706.4 For purposes of computing time that is stated in days or a longer unit of time,

every day, including intermediate Saturdays, Sundays and legal holidays is counted. Count the last day of the period, but if the last day is a Saturday, Sunday or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday or legal holiday.

9706.5 For purposes of computing time that is stated in hours, begin counting every hour immediately at the conclusion of the event that triggers the period, including hours during intermediate Saturdays, Sundays and legal holidays. If the time period would end on a Saturday, Sunday, or legal holiday, the time period continues to run until the same time on the next day that is not a Saturday, Sunday, or legal holiday.

9706.6 Unless a different time is set by a statute, regulation or Board order, the last day of a specified time period is at midnight for electronic filing, and at the close of business on the last day for filing by any other means.

A new section 9707, SERVICE OF PAPERS, is added to read as follows:

9707 SERVICE OF PAPERS

9707.1 Any papers filed with the Board or on opposing parties in a contested case shall be served by personal delivery, first class U.S. mail, registered or certified mail, or by electronic mail. Proof of service shall be shown as required by the regulations.

9707.2 Any papers required to be served upon a party may be served upon the party or the party's designated representative.

9707.3 When a party has appeared through a representative, who has filed a written notice of appearance service shall be made upon the representative of record.

9707.4 Service upon a party or the party's designated representative may be made in the following manner:

(a) By personal delivery;

(b) By use of a process server;

(c) By registered or certified mail;

(d) By electronic mail; or

(e) As otherwise authorized by law.

9707.5 Service upon a party shall be completed upon any of the following acts:

(a) Handing the paper to the person to be served;

(b) Leaving the paper at the licensed premises with the owner, manager, or other employee of the establishment;

(c) Leaving the paper at the party's usual place of residence with some individual of suitable age and discretion residing therein;

(d) Deposit of the paper in the U.S. Mail, by registered or certified mail, properly stamped and addressed;

(e) By electronic mail at the e-mail address on file with ABCA;

(f) Deposit of the paper in the U.S. Mail, by first class mail, properly stamped and addressed, by an attorney of record; or

(g) By an action in conformity with an order of the Board in any proceeding.

9707.6 Proof of service shall state the name and address of the person served, the manner of service, and the date of service.

9707.7 Proof of service shall be shown by one of the following:

(a) Written acknowledgement of the person served or that person's representative;

(b) The certificate of the person making the service;

(c) A return receipt, if served by registered or certified mail; or

9707.8 Service shall also be deemed proper upon a showing that the party actually received delivery of the notice or paper, irrespective of the delivery method.

A new section 9708, SERVICE OF PAPERS, is added to read as follows:

9708 APPEARANCE AND REPRESENTATION

9708.1 An individual may represent himself or herself in any proceeding before the Board.

9708.2 An attorney may represent any party before the Board by submitting a Notice of Appearance or completing ABCA's Attorney/Representative Designation Form to the Board.

9708.3 In addition to this chapter, the District of Columbia Rules of Professional Conduct shall govern the conduct of all attorneys appearing before the Board.

9708.4 An authorized officer, director, partner, or employee may represent a corporation, partnership, limited partnership, or other legal entity before the Board. Parties appearing before the Board pursuant to this section may be required to demonstrate that authority.

9708.5 Any party appearing before the Board in any proceeding may bring an interpreter of their choice.

9708.6 If it appears to the Board that the facts or issues in a matter before it are so intricate or involved that, in the interests of justice, of conserving time, or of facilitating preparation of an adequate record, a party ought to be represented by an attorney, the Board may urge the party to obtain counsel and shall allow the party a reasonable time, not to exceed fourteen (14) calendar days, to do so, as long as the rights of the other parties to the hearing are not substantially and adversely affected.

9708.7 Any person authorized to appear pursuant to this section may sign any paper required or permitted by the Act, this chapter, or any other statute or regulation to be filed with the Board.

A new section 9709, SERVICE OF PAPERS, is added to read as follows:

9709 NOTICE OF APPEARANCE

9709.1 A non-lawyer representative shall submit a signed statement containing that person's name, address, e-mail address, telephone number, and the nature of the representation, or ABCA's Attorney/Representative Designation Form prior to appearing before the Board.

9709.2 The written statement or the Attorney/Representative Designation Form required by this chapter shall be made a part of the Board's record of the proceeding and shall be served on all parties to the proceeding.

9709.3 Any attorney appearing as counsel in any proceeding shall submit a Notice of Appearance containing their name, e-mail address, office address, office telephone number, D.C. Bar number, and nature of the representation or ABCA's Attorney/Representative Designation Form to the Board.

9709.4 In the case of law students who appear before the Board under the direction of an accredited law school clinical program, the supervising attorney shall register with the Board.

A new section 9710, SCHEDULING AND CONDUCT OF HEARINGS: GENERAL PROVISIONS, is added to read as follows:

9710 SCHEDULING AND CONDUCT OF HEARINGS: GENERAL PROVISIONS

9710.1 The Board shall not schedule any hearing until the applicant has submitted, in writing to the Board, all information and documents required by the Act and the regulations.

9710.2 Before a person may be heard to object to approval of an application, the person shall have notified the Board and the applicant or licensee, by any of the means listed in § 5433, of their intent to object, and of the grounds for the objection, prior to the end of the protest period.

9710.3 Decorum and good order shall be maintained at all times during hearings, and the Board may exclude or order the removal from the hearing room of any person who refuses to comply with a reasonable order of the Board.

9710.4 The Chairperson of the Board shall preside over all proceedings conducted by the Board under the authority of the Act and this chapter.

9710.5 The Chairperson of the Board shall conduct all proceedings in accordance with the provisions of this chapter, the Act, and the District of Columbia Administrative Procedures Act.

9710.6 The Chairperson of the Board shall have the authority to:

(a) Open and close a meeting or hearing;

(b) Administer oaths and affirmations;

(c) Regulate the course of the hearing and the conduct of the parties and their representative; and

(d) Take any other action in accordance with the above provisions in furtherance of a fair and orderly hearing.

9710.7 In the event the Chairperson is unable or unavailable to preside over a hearing or meeting, the Chairperson may designate a member of the Board to act as the presiding officer in the Chairperson's absence.

A new section 9711, EVIDENCE: GENERAL RULES, is added to read as follows:

9711 EVIDENCE: GENERAL RULES

9711.1 Any party objecting to the admission of evidence shall state the grounds relied upon for the objection.

9711.2 Formal exceptions to the rulings of the Board made during the course of a hearing shall not be required.

9711.3 The parties may, by stipulation in writing filed with the Board, or in the record at a hearing, agree upon any facts relevant to a proceeding, or upon the substance of the testimony which would be given by a witness.

9711.4 The Board, in its discretion, may require additional evidence on any matter covered by stipulation.

A new section 9712, BURDEN OF PROOF, is added to read as follows:

9712 BURDEN OF PROOF

9712.1 In all protest hearings before the Board, the applicant shall have the burden of proof to show by substantial evidence in the record that the licensing action meets the appropriate standards in accordance with this title.

9712.2 In all show cause proceedings before the Board, the District of Columbia shall have the burden of proof to show by substantial evidence in the record that the respondent has committed a violation of the Act or this chapter.

A new section 9713, OPENING AND CLOSING STATEMENTS, is added to read as follows:

9713 OPENING AND CLOSING STATEMENTS

9713.1 In all protest hearings before the Board, the applicant shall open and close the case insofar as presentation of evidence and argument are concerned.

9713.2 In all show cause proceedings before the Board, the District of Columbia shall open and close the case insofar as presentation of evidence and argument are concerned.

A new section 9714, OFFERS OF PROOF, is added to read as follows:

9714 OFFERS OF PROOF

9714.1 Any offer of proof made in connection with an objection to any ruling of the Board which rejects or excludes proffered oral testimony shall consist of a statement for the record of the substance of the evidence which the party contends would be established by the testimony.

9714.2 If the excluded evidence is documentary, a copy of the written evidence shall be marked for identification and shall constitute the offer of proof.

9714.3 The document shall be retained by the Board as part of the record for purposes of an appeal.

A new section 9715, DOCUMENTARY EVIDENCE, is added to read as follows:

9715 DOCUMENTARY EVIDENCE

9715.1 Documentary evidence offered at any hearing before the Board shall, if received by the Board, be retained by the Board.

9715.2 Any party who intends to offer documentary evidence at a hearing shall, seven (7) calendar days prior to the hearing, disclose the evidence to the opposing party. Absent good cause, failure to disclose documentary evidence seven (7) calendar days prior to the hearing may result in the Board excluding the evidence.

9715.3 The Board may, in its discretion, permit the withdrawal of original documents received into evidence and the substitution of certified copies in lieu of the originals.

9715.4 When relevant and material matters offered into evidence are contained in a book or other document which also contains other matters not material or relevant, the person offering the evidence shall plainly designate the matters offered, and the immaterial and irrelevant parts shall be excluded and segregated insofar as practicable.

9715.5 All exhibits that a party intends to introduce at a hearing must be identified on and attached to an exhibit form. Parties shall include the exhibit form, including copies of the exhibits, with the Protest Information Form.

9715.6 Exhibits reasonably anticipated to be used for impeachment need not be included on or attached to the exhibit form.

9715.7 If a document is readily available to the general public, a party need only provide a complete citation to the source of the document and how the document may be accessed.

9715.8 The Board may exclude at the hearing any exhibit(s) not disclosed on the exhibit form if the Board finds that the opposing party has been prejudiced by the failure to disclose or if there has been a knowing failure to disclose.

9715.9 The Board shall have the discretion to receive documentary evidence from the parties not already listed or attached to the exhibit form upon a finding of good cause.

9715.10 The investigative report and attachments shall be part of the Board's record, and it shall not be necessary for the parties to formally move for admission of the

investigative report or portions of it into the evidentiary record.

9715.11 The exhibit form and any attachments shall be served on all parties and the Board's Office of General Counsel seven (7) days prior to the hearing.

9715.12 If a PowerPoint presentation or similar presentation is used by the parties, a paper copy of the exhibit shall be filed with the Board.

A new section 9716, RECORDS IN PROCEEDINGS, is added to read as follows:

9716 RECORDS IN PROCEEDINGS

9716.1 When any part of the record in any other proceeding before the Board, a criminal or civil action, or a proceeding before any administrative agency is offered in evidence, a certified true copy of that part of that record shall be presented to the Board as an exhibit, except in the following instances:

(a) It is described in a manner which makes it readily identifiable, and the offeror agrees to supply copies at a later time as required by the Board;

(b) There is a stipulation on the record that it may be incorporated by reference and the Board directs the incorporation; or

(c) It is described in a manner which makes it readily identifiable in the files of the Board.

A new section 9717, MOTIONS, is added to read as follows:

9717 MOTIONS

9717.1 Any party to a protest may seek relief from the Board against an opposing party by filing a motion with the Board. Unless otherwise specified, motions shall conform to the following requirements:

(a) Be in writing;

(b) Served upon the other parties to the protest by electronic mail or the first-class U.S. Postal Service; and

(c) Filed with the Board.

9717.2 Any party may file a response in opposition to a motion within seven (7) calendar days after service of the motion. In the case of motions for continuances which have been filed by a party on the sixth (6th) calendar day before a scheduled hearing, responses shall either be made in writing and served by personal delivery on all parties prior to the hearing or shall be made orally on the date of the

hearing.

9717.3 A response to a motion shall not include a motion for other affirmative relief against the moving party.

9717.4 If a party filing an opposition submits a motion for other affirmative relief, it shall be done by separate pleading.

9717.5 A reply may be filed within three (3) calendar days after service of a response in opposition to a motion, but the reply shall not re-argue propositions presented in the motion, nor present matters which are not strictly in reply to the opposition.

9717.6 A request for reinstatement of the license application or the protest must be filed with the Board within ten (10) days after receipt of the order after dismissal for failure to appear. In reviewing the request for reinstatement of the license application or the protest, the Board shall consider whether, in the discretion of the Board, the party has shown good cause for their failure to appear in accordance with § 5432.5.

9717.7 No further pleading shall be filed except by leave of the Board.

A new section 9718, POST-HEARING SUBMISSIONS, is added to read as follows:

9718 POST-HEARING SUBMISSIONS

9718.1 No document or other information shall be accepted for the record after the close of a hearing except as follows:

(a) Unless accompanied by a Motion to Re-open the Record demonstrating good cause and the lack of prejudice to any party;

(b) Until all parties are afforded due notice and an opportunity to rebut the information; or

(c) Upon official notice of a material fact not appearing in the evidence in the record in accordance with section 10(b) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1207; D.C. Official Code § 2-509(b)).

9718.2 The Board shall afford parties an opportunity to file Proposed Findings of Fact and Conclusions of Law within thirty (30) calendar days after receipt of the transcript from the hearing. The Board may, in its discretion, grant an extension to file Proposed Findings of Fact and Conclusions of Law for good cause. An extension granted by the Board shall not exceed twenty (20) calendar days after the initial deadline.

9718.5 A copy of the Proposed Findings of Fact and Conclusions of Law shall be served on each party.

9718.6 Proposed Findings of Fact and Conclusions of Law shall be limited to the record and shall not include new legal issues that were not raised during the hearing.

A new section 9719, DECISIONS OF THE BOARD, is added to read as follows:

9719 DECISIONS OF THE BOARD

9719.1 Unless otherwise required, within ninety (90) calendar days after the close of the record, the Board shall render its written decision accompanied by Findings of Fact and Conclusions of Law.

9719.2 Findings of Fact and Conclusions of Law shall consist of a concise statement of the Board's conclusions on each contested issue of fact and shall be based solely upon evidence contained in the record and facts of which the Board properly took judicial notice.

9719.3 Findings of Fact and Conclusions of Law shall be supported by and in accordance with reliable, probative, and substantial evidence.

9719.5 All written decisions of the Board shall be available for public inspection and copying at a reasonable cost.

A new section 9720, RECONSIDERATION, REHEARING, REARGUMENT, AND STAY, is added to read as follows:

9720 RECONSIDERATION, REHEARING, REARGUMENT, AND STAY

9720.1 A motion for reconsideration, rehearing, reargument, or stay of a decision or order of the Board shall be filed with the Board, and a copy shall be served on each party and intervenor.

9720.2 A motion for reconsideration shall state briefly the matters of record alleged to have been erroneously decided, the grounds relied upon, and the relief sought.

9720.3 If a motion is based in whole or in part on a new matter, that new matter shall be set forth in the motion stating that the petition could not by due diligence have known or discovered the new matter prior to the date the case was presented to the Board for a decision.

9720.4 The Board may, in its discretion, permit or require oral argument upon a motion filed under this section.

A new section 9721, EX PARTE COMMUNICATIONS, is added to read as follows:

9721 EX PARTE COMMUNICATIONS

9721.1 If a proceeding is a contested case within the meaning of the DC APA (D.C. Official Code § 2-502(8)), the following restrictions shall apply:

(a) A person shall not make or knowingly cause to be made to a member of the Board an ex parte communication relevant to the merits of the proceeding; and

(b) No member of the Board shall make or cause to be made to any interested persons outside the Board an ex parte communication relevant to the merits of the proceeding.

9721.2 The prohibitions set forth in this section shall apply upon the filing of a protest against an application for an original, transfer, substantial change or renewal license, or upon the issuance of notice to appear for a show cause hearing.

9721.3 For purpose of this section, "ex parte communication" does not include an inquiry regarding the Board's procedure or practice, or a request for a status report on a matter, proceeding, or notice of a meeting or hearing.

A new section 9722, TRANSCRIPTS OF HEARINGS, is added to read as follows:

9722 TRANSCRIPTS OF HEARINGS

9722.1 Hearings shall be recorded and transcribed under the direction of the Board.

9722.2 Changes in the official transcript may be made only in cases of material error.

9722.3 A motion to correct the transcript shall be filed with the Board within ten (10) calendar days of the date the transcript is available to the movant. Copies of the motion shall be served on all parties.

9722.4 If no objections to the motion are filed within five (5) days after service of the motion, the Board may correct the transcript.

9722.5 The Board shall have final authority to dispose of all motions for correction of the record.

A new section 9723, POST HEARING MOTIONS, is added to read as follows:

9723 POST HEARING MOTIONS

9723.1 A petition for reconsideration, rehearing, reargument, or stay of a decision or order of the Board may be filed by a party within ten (10) days after the date of

receipt of the Board's final order.

9723.2 The filing of a post hearing motion shall not stay the final order unless the stay is specifically ordered by the Board.

9723.3 A stay of a decision shall be granted only upon good cause, which shall consist of unusual or exceptional circumstances.

A new section 9724, WAIVER, is added to read as follows:

9724 WAIVER

9724.1 The Board may, for good cause shown and in the interests of justice or to prevent hardship, waive any of the provisions contained in this chapter in any proceeding after duly advising the parties of its intention to do so.

Chapter 98, SLIDING SCALE PROGRAM, is amended as follows:

Section 9800, SLIDING SCALE PROGRAM, is amended and replaced as follows:

9800 SLIDING SCALE PROGRAM

9800.1 An internet retailer or retailer shall make available discounted cannabis on a sliding scale to qualifying patients determined eligible pursuant to § 1300.4 of this title. The term "make available" in this section means that a licensee violates this section if a qualified patient eligible for discounted medical cannabis requests the discount and is denied by the licensee.

9800.2 A qualifying patient who establishes their qualifications under § 1300.4 of this subtitle, shall be entitled to purchase medical cannabis directly, or through a caregiver, on a sliding scale from an internet retailer or retailer in the District of Columbia.

9800.3 An internet retailer or retailer shall sell medical cannabis to a qualifying patient, who is registered to purchase medical cannabis 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.

9800.6 It shall be an affirmative defense to a violation of § 9800.1 that the sale or dispensing of medical cannabis or medical cannabis products to the qualified patient denied a sliding scale discount would be in violation of the law (e.g., intoxicated, failed to present adequate identification).

Chapter 99, DEFINITIONS, is amended as follows:

Section 9900, DEFINITIONS, is amended as follows:

In subsection 9900.1 the definition for Pesticide is deleted.

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

Adulterated – Describes medical cannabis or a medical cannabis product that exceeds, fails, or violates any of the testing standards, testing limits, or testing levels of various substances set by the Act or this title.

Applicant – means, as the context requires, the individual applicant, each member of an applicant partnership or limited liability company, or each of the principal officers, directors, and shareholders of an applicant corporation, or, if other than an individual, the applicant entity.

DC APA – means the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1207; D.C. Official Code § 2-501 *et seq*.).

Gun offense – means

(a) A conviction for the sale, purchase, transfer, receipt, acquisition, possession, use, manufacture, carrying, transportation, registration, or licensing of a firearm under Chapter 45 of Title 22, or an attempt or conspiracy to commit any of the foregoing offenses;

(b) A conviction for violating D.C. Official Code § 7-2502.01, § 7-2504.01, § 7-2505.01, § 7-2506.01, or § 7-2509.06, or an attempt or conspiracy to commit any of those offenses;

(c) A conviction for a firearms-related violation of the provisions in D.C. Official Code § 22-402 (assault with a dangerous weapon), § 22-2603.02 (unlawful possession of contraband), or § 22-2803(b) (carjacking); or

(d) Violations in other jurisdictions of any offense with an element that involves the violations listed in subparagraphs (a) – (c) of this paragraph.

Fraud – means a conviction for violation of sections 121 through 127h of the District of Columbia Theft and White Collar Crimes Act of 1982, effective December 1, 1982 (D.C. Official Code § 22-3221 – 22-3227.08) or any conviction in another jurisdiction with an element that involves these violations.

Locality - means the area within 600 feet of an establishment.

Management agreement - means an operational agreement between the licensee and a third-party allowing the third party to manage the establishment on behalf of the licensee for a fee.

Medical Cannabis Business – a licensed courier, cultivation center, internet retailer, manufacturer, retailer, testing laboratory, or any other business operating pursuant to a license

authorized by the Act and this title. This term does not refer to personal licenses such as those for qualified patients, caregivers, authorized practitioners, managers, employees, and agents.

METRC – means the electronic track and trace platform provided by the Marijuana Enforcement Tracking Reporting Compliance (METRC) company.

Non-Resident Cardholder – a non-resident of the District of Columbia that is deemed a qualified patient once issued a medical cannabis patient card from ABCA so long as the card is valid and unexpired. This term does not include a nonresident qualifying patient who is registered in another jurisdiction's medical cannabis program.

Overconcentration - means the existence of multiple licensed establishments in a single locality, section, or portion of the District of Columbia that adversely impacts that locality, section, or portion of the District of Columbia, taking into account the appropriateness standards.

Portion - means the area within 1,800 feet of an establishment.

Real-time electronic records system – means the electronic database designated by ABCA for use by the medical cannabis industry to track in real-time the planting, harvesting, processing, distribution, and sale of cannabis. The electronic database designated by ABCA is METRC.

Section - means the area within 1,200 feet of an establishment unless the context indicates that the term "section" was not used to refer to a physical area.

In subsection 9900.1 the following definitions are amended as follows:

ABCA – Alcoholic Beverage and Cannabis Administration

Board – Alcoholic Beverage and Cannabis Board

Director -- means the Director of the Alcoholic Beverage and Cannabis Administration or their designee or designees.

Drug-related offense – means any offense that involves the possession, distribution, manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell or transfer cannabis or any substance the possession of which is prohibited by the Controlled Substances Act, Title 21 of the United States Code (Controlled Substance Act), or any equivalent state or foreign government law creating criminal penalties for the sale, distribution, possession, or use of illegal drugs or narcotics.

Medical Cannabis - means cannabis cultivated, manufactured, possessed, distributed, dispensed, obtained, or administered in accordance with the Act and this title and all types of products containing medical cannabis such as infused beverages, concentrates, dried leaf, edibles, kief, oils, tinctures, and pre-rolls.

Tamper Evident – means a container or packaging having an indicator or barrier to entry which, if breached or missing, can reasonably be expected to provide visible evidence to consumers that tampering has occurred. If a breached or missing indicator or barrier would not, in and of itself, provide consumers with such evidence, the packaging may still qualify as tamper-evident if, in conjunction with such device, a printed statement is prominently displayed on the product label to alert the consumer of the original presence of the indicator or barrier.

Tamper Proof – means a container or packaging that, once sealed, clearly shows whether it has been opened.

In subsection 9900.1, the definition for Panel, Dispensary, and Medical Marijuana are deleted.

In subsection 9900.1 the definition for Qualifying patient is amended as follows:

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

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