

**ALCOHOLIC BEVERAGE AND CANNABIS BOARD
ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION**

NOTICE OF PROPOSED RULEMAKING

The Alcoholic Beverage and Cannabis Board (“Board”), pursuant to the authority provided by sections 6, 11, and 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 §§ 7-1671.05, 7-1671.10, and 7-1671.13); and Mayor’s Order 2020-099, dated September 30, 2020; hereby gives notice of its intent to adopt the following amendments to Subtitle C (Medical Marijuana) of Title 22 (Health) of the District of Columbia Municipal Regulations (“DCMR”).

Distribution and Sale of Non-Cannabis Goods by Cannabis Retailers

Under D.C. Official Code § 7-1671.05(a), the Board is authorized to “. . . regulate the . . . distribution, dispensing, purchase, delivery, sale, possession, [and] administration . . . of medical cannabis” and the “distribution, purchase, sale, possession, and use of paraphernalia.” While authorizing the Board to act, the law does not set any explicit prohibitions or otherwise regulate whether or how retailers or internet retailers may distribute or sell non-medical cannabis products; further, the Board has not to date taken action to promulgate rules to regulate the distribution and sale of non-medical cannabis products.

The lack of existing regulations on the distribution and sale of non-cannabis goods by cannabis retailers and internet retailers has led to uncertainty in the retail community about what non-cannabis sales are allowed and may be read by some retailers to place no restrictions on non-cannabis goods that may be distributed or sold. However, the distribution and sale of non-cannabis goods raises several compliance concerns. For example, the sale of non-cannabis items such as food or clothing may attract minors to a retailer’s premises or make the use of cannabis attractive to minors. Given the harmful impact cannabis may have on this population, the Board—and the District—has a significant interest in regulating the sale of non-medical cannabis products.

In order to address these concerns, the Board’s rulemaking makes several changes to the medical cannabis regulations. These amendments include (1) prohibiting the sale or offering of tobacco products or non-cannabis vape products by medical cannabis retailers; (2) prohibiting the sale, service or consumption of alcohol by medical cannabis retailers; (3) permitting the sale of merchandise and cannabis accessories to persons over 18 years of age, including branded merchandise and other marketing related goods; (4) permitting medical cannabis retailers to provide promotional items to patients over 18 years of age; (5) permitting the sale, service, and distribution of prepackaged, non-cannabis infused, non-alcoholic food and beverages; and (6) allowing the sale of non-cannabis infused, non-alcoholic food and beverages to a person 18 years of age or older in a separate retail area or to medical cannabis patients in a safe use treatment or summer garden.

Safe-Use and Summer Garden Facilities

The Board is concerned that the consumption of medical cannabis in authorized safe-use and

summer garden facilities may pose a risk to the health, safety, and welfare of the public if tobacco or alcohol products are sold, served, or consumed along with medical cannabis. The sale and service of alcohol or tobacco at a business with a Medical Cannabis Retailer License may also encourage nightlife activity at medical cannabis facilities, raising additional, compelling concerns regarding the impact those activities may have on the peace, order, and quiet of impacted neighbors and neighborhoods. In addition, the distribution, sale, or use of alcohol and tobacco may encourage the generation of smoke, loitering, and other issues related to the consumption of alcohol and tobacco. Finally, it is critical that retailers take steps to ensure that non-medical cannabis patients and caregivers do not have access to medical cannabis, because non-medical cannabis patients are allowed and may even be encouraged to enter these facilities for reasons other than purchasing medical cannabis.

In order to address these concerns, the Board's rulemaking generally prohibits retailers and internet retailer from selling or providing food and beverages or permitting their consumption at their premises. Nevertheless, the rules authorize a retailer to allow the sale, distribution, and consumption of food and non-alcoholic beverages in an approved safe-use treatment facility or summer garden.

Access by Minors to Cannabis Retailers

Also in this notice, the Board proposes to amend 22-C DCMR § 5707.4 to prohibit minors unaccompanied by a parent or guardian from entering the premises of retailers. These amendments will limit the ability of minors to access cannabis without the knowledge and consent of their parent or guardian and when not recommended by a physician, and more broadly reduce the exposure of minors to cannabis activity.

On October 22, 2025, the Board, by a vote of 5 to 0, adopted this Notice of Proposed Rulemaking. The Board also gives notice of its intent to adopt these proposed rules as final rules in not less than thirty (30) days after the date of publication of this notice in the *District of Columbia Register*, and upon completion of the thirty (30) day Council review period, excluding Saturdays, Sundays, legal holidays, and days of Council recess. See D.C. Official Code § 7-1671.13(b).

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

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

Section 5625, SAFE-USE TREATMENT FACILITY, is amended as follows:

A new Section 5625.8 is added to read as follows:

5625.8 The holder of a Safe-Use Treatment Facility endorsement may permit persons to eat or drink non-cannabis infused and non-alcoholic food and beverages in the safe use treatment facility if the food or beverages were brought to the safe use treatment facility by the person or delivered to the person by a third party.

Section 5626, SUMMER GARDEN ENDORSEMENT, is amended as follows:

A new Subsection 5626.8 is added to read as follows:

5626.8 The holder of a Summer Garden endorsement may permit persons to eat or drink non-cannabis infused and non-alcoholic food and beverages in the summer garden if the food or beverages were brought to the summer garden by the person or delivered to the person by a third party.

A new Section 5629, NON-CANNABIS RETAIL OPERATIONS, is added to read as follows:

5629 NON-CANNABIS RETAIL OPERATIONS

5629.1 A medical cannabis retailer or internet retailer may prepare, offer, sell, serve, and provide non-cannabis goods, merchandise, food, and beverages at or through its retail establishment only in compliance with this section and only if the retailer or internet retailer obtains all required licenses and permits authorizing such preparation, offering, sales, serving, and provision.

5629.2 A medical cannabis retailer or internet retailer may offer, sell, serve, and provide non-cannabis infused food and beverages at or through its retail establishment only if:

- (a) The food or beverage is prepackaged, non-alcoholic, and offered, sold, served, and provided for off-premises consumption; or
- (b) The offering, sale, serving, and provision is authorized by § 5629.3.

5629.3 A retailer operating a safe use treatment facility or summer garden may prepare, offer, sell, serve, and provide prepared non-cannabis infused and non-alcoholic food and beverages in its safe use treatment facility or summer garden.

5629.4 A medical cannabis retailer or internet retailer may prepare, offer, sell, and provide non-cannabis goods or merchandise at or through its retail establishment, except for:

- (a) Products containing tobacco;
- (b) Products containing nicotine;
- (c) Non-cannabis vape products; and
- (d) Alcohol.

5629.5 A medical cannabis retailer or internet retailer that prepares, offers, sells, serves, or

provides non-cannabis goods, merchandise, food, or beverages at or through its retail establishment:

- (a) Shall not prepare, offer, sell, serve, or provide any non-cannabis goods, merchandise, food, or beverages to persons under eighteen (18) years of age;
- (b) Shall prepare, offer, sell, serve, and provide the goods, merchandise, food, or beverages in a room or other area on the premises that is physically separate from any retail area where medical cannabis is distributed, displayed, sold, served, or stored, if the retailer sells or distributes non-cannabis goods, merchandise, food, or beverages to non-qualifying patients and non-licensed caregivers;
- (c) Shall not permit non-cannabis goods, merchandise, food, or beverages to be visible from public space; and
- (d) Shall not permit advertisements of non-cannabis goods, merchandise, food, or beverages on or facing the exterior of the licensed premises.

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

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

5705 PROHIBITED ACTIVITIES

A new Subsection 5705.3 is added to read as follows:

5705.3 A medical cannabis retailer or internet retailer shall not permit the possession of an open container of alcohol or the consumption of alcohol on the premises.

A new Subsection 5705.4 is added to read as follows:

5705.4 A medical cannabis retailer or internet retailer shall not permit the smoking, vaping, or use of tobacco, nicotine, or products containing tobacco or nicotine on the premises.

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

Subsection 5707.4 is amended to read as follows:

5707.4 A person under the age of eighteen (18) shall be prohibited from entering the premises of a retailer or internet retailer or from purchasing medical cannabis from an internet retailer or retailer unless he or she is a qualifying patient and is in the

presence of a parent or guardian.

All persons desiring to comment on the proposed rulemaking must submit their written comments, in writing, no later than 30 days after the date of publication of this notice in the *District of Columbia Register*, to Jonathan Berman, Interim General Counsel, Alcoholic Beverage and Cannabis Administration, by mail or hand delivery to 899 North Capitol Street, N.E., Suite 4200-A, Washington, D.C. 20002 or by email to abca.legal@dc.gov.

Copies of the proposed rulemaking can be obtained by contacting abca.records@dc.gov. The rulemaking is also available on the agency's website at <https://abca.dc.gov/>.

Persons with questions concerning the rulemaking should contact General Counsel Jonathan Berman at 202-442-4423 or email abca.legal@dc.gov.