

OFFICE OF THE CITY ADMINISTRATOR

NOTICE OF SECOND PROPOSED RULEMAKING

The City Administrator, on behalf of the Mayor, pursuant to section 14 of the Legalization of Marijuana for Medical Treatment Initiative of 1999 (Act), effective February 25, 2010 (D.C. Law 13-315; 57 DCR 3360), as amended by the Legalization of Marijuana for Medical Treatment Amendment Act of 2010, effective July 27, 2010 (D.C. Law 18-210; 57 DCR 4798), Mayor’s Order 1988-16 (January 22, 1988), and Mayor’s Order 2010-138 (August 3, 2010), hereby gives notice of the Mayor’s intent to adopt this rule, in final, in not less than forty-five (45) days from the publication of this notice in the *D.C. Register*, or upon approval of this rulemaking by the Council, whichever occurs later. The proposed rulemaking will amend Title 22 of the District of Columbia Municipal Regulations (DCMR) by adding a new Subtitle C entitled “Medical Marijuana”.

The rulemaking contains revisions made as a result of considering comments submitted following the publication of the first proposed rulemaking in the D.C. Register on August 6, 2010 at 57 DCR 7003. The proposed rules appear in two main parts. The first part details the process and procedure that qualifying patients, caregivers, and physicians must follow before any individual may become registered to obtain and use medical marijuana. The second part details the process and procedure that candidates for registration as dispensaries or cultivation centers must follow to apply for such registrations, and the operating requirements they will need to perform upon a receiving a registration for such a facility.

These proposed rules do not deal with all aspects of the Act, but rather are focused on dealing with those issues that must be addressed at the beginning of the implementation of the Act. Comments for this rulemaking should address its specific provisions.

Title 22 of the DCMR is amended by adding a new Subtitle C to read as follows:

SUBTITLE C MEDICAL MARIJUANA

100	APPLICABILITY AND SANCTIONS
200	GENERAL PROVISIONS
300	USE BY QUALIFYING PATIENT, TRANSPORTATION BY CAREGIVER, AND LIMITATIONS ON MEDICAL MARIJUANA
400	DISPOSAL OF MEDICAL MARIJUANA BY QUALIFYING PATIENTS AND CAREGIVERS
500	QUALIFICATION FOR REGISTRATION
501	RESIDENCY
502	QUALIFYING PATIENTS APPLICATION
600	LIMITATIONS ON CAREGIVERS
601	CAREGIVER QUALIFICATIONS
602	CAREGIVER APPLICATION
603	MARIJUANA OBTAINED FROM DESIGNATED DISPENSARY
700	ISSUANCE OF REGISTRATION CARDS
701	CONTENTS OF REGISTRATION CARD
702	RENEWAL OF REGISTRATION CARDS

800 QUALIFICATIONS TO BE RECOMMENDING PHYSICIAN
801 FORM OF RECOMMENDATION
802 RECORDS MAINTAINED BY PHYSICIAN AND DEPARTMENT
803 NO OFFICE AT DISPENSARY OR CULTIVATION CENTER
804 NOTIFICATION OF END OF QUALIFYING MEDICAL CONDITION OR TREATMENT
805 TRAINING PROGRAM FOR RECOMMENDING PHYSICIANS
900 DENIAL OF APPLICATIONS FOR PATIENT AND CAREGIVER REGISTRATIONS
1000 NOTICE OF POTENTIAL JEOPARDY
1001 SUSPENSION AND REVOCATIONS OF REGISTRATIONS
1002 HEARINGS
1100 MEDICAL MARIJUANA PROGRAM RECORDS
1200 ANNOUNCED AND UNANNOUNCED INVESTIGATIONS AND INSPECTIONS
1300 REGISTRATION, RENEWAL, AND REPLACEMENT FEES
4900 DEFINITIONS
5000 EXTENSION OF EXPIRATION DATES OF PROTESTED REGISTRATIONS
5001 MEASURING DISTANCES
5002 COMPUTATION OF TIME
5100 REGISTRATION PERIODS
5101 RENEWAL PERIODS
5102 REGISTRATION, LICENSE, AND PERMIT FEES
5103 APPLICATION FEES
5104 MEDICAL MARIJUANA CERTIFICATION PROVIDER PERMIT
5105 MANAGER CERTIFICATION
5106 NOTICE TO ADVISORY NEIGHBORHOOD COMMISSIONS
5107 POSTED NOTICE TO PUBLIC
5108 COMMENTS FROM ANCS LOCATED IN THE AFFECTED WARD
5109 NON-TRANSFERABLE REGISTRATION CARDS
5200 LIMITATION ON THE NUMBER OF DISPENSARIES AND CULTIVATION CENTERS
5201 REGISTRATION APPLICATIONS NEAR SCHOOLS AND RECREATION CENTERS
5300 DENIAL OF REGISTRATION FOR VIOLATIONS OF LAW
5301 CERTIFICATE OF OCCUPANCY AND PERMITS
5302 REGISTRATION APPROVAL BEFORE ISSUANCE OF CERTIFICATE OF OCCUPANCY
5400 GENERAL QUALIFICATIONS FOR ALL APPLICANTS
5401 SELECTION PROCESS
5402 SELECTION CRITERIA
5403 APPLICATION FORMAT AND CONTENTS
5404 DISPENSARY REGISTRATION APPLICATION REQUIREMENTS
5405 CULTIVATION CENTER REGISTRATION REQUIREMENTS
5406 CULTIVATION CENTER AND DISPENSARY REGISTRATION ISSUANCE
5407 DIRECTOR, OFFICER, MEMBER, INCORPORATOR, AND AGENT

	REGISTRATION REQUIREMENTS
5408	EMPLOYEE REGISTRATION REQUIREMENTS
5409	MANAGER'S LICENSE REQUIREMENTS
5410	CRIMINAL BACKGROUND CHECKS
5411	REGISTRATION PROHIBITED IN RESIDENTIAL USE DISTRICT
5412	RESTRICTIONS ON HOLDING A CONFLICT OF INTEREST
5413	RENEWAL PROCESS
5414	ADDITIONAL CONSIDERATIONS FOR TRANSFER TO NEW OWNER
5415	INVOLUNTARY TRANSFERS
5416	DENIED OR WITHDRAWN APPLICATIONS
5417	LIMITATION ON SUCCESSIVE APPLICATIONS AFTER DENIAL
5500	TRADE NAMES AND CORPORATE NAMES
5501	CORPORATE AND PARTNERSHIP CHANGES
5502	FILING REQUIREMENTS
5600	INSTRUCTIONS TO REGISTRANTS
5601	POSTING OF IDENTIFICATION REQUIREMENT BY DISPENSARY
5602	HOURS OF OPERATION AND SALE
5603	LOCKING AND SECURING OF MEDICAL MARIJUANA DURING NON-OPERATING HOURS
5604	MANAGER'S LICENSE
5605	DESTRUCTION AND DISPOSAL OF UNUSED OR SURPLUS MEDICAL MARIJUANA AND REPORTING THEFT
5606	NOTICE OF CRIMINAL CONVICTION OF DIRECTOR, OFFICER, MEMBER, INCORPORATOR, AGENT OR EMPLOYEE
5607	LABELING AND PACKAGING OF MEDICAL MARIJUANA
5608	INGESTIBLE ITEMS
5609	PERMITTED FORMS OF MEDICAL MARIJUANA
5610	VIDEO SECURITY AND ALARM SYSTEM
5611	STORAGE
5612	PRODUCTION OF VALID PHOTO IDENTIFICATION REQUIRED
5613	TEMPORARY SURRENDER OF REGISTRATION—SAFEKEEPING
5614	CO-LOCATION AND INTEGRATION
5615	POINT-OF-SALE SYSTEM
5616	SIGN REQUIREMENTS
5617	OUTDOOR LIGHTING REQUIREMENTS
5618	MINIMUM STAFFING LEVELS
5619	LIMITED ACCESS AREAS
5620	MANUFACTURING STANDARDS
5621	TRANSPORT OF MEDICAL MARIJUANA
5700	MANDATORY REVOCATION OF DIRECTOR, OFFICER, MEMBER, INCORPORATOR, AGENT, AND EMPLOYEE REGISTRATION
5701	MANDATORY REVOCATION
5702	MANDATORY SUSPENSION
5703	NOTICE TO DISTRICT AGENCIES
5800	SALE AND PURCHASE OF MEDICAL MARIJUANA BY DISPENSARIES
5801	SALE OF MEDICAL MARIJUANA BY CULTIVATION CENTERS
5802	UNSEALED PACKAGES IN COMMERCIAL OR PUBLIC VEHICLES

5803	DELIVERY OF MEDICAL MARIJUANA
5804	PLANT LIMITATIONS
5805	PROHIBITION REGARDING ON-PREMISE CONSUMPTION
5806	TIE-IN PURCHASES PROHIBITED
5807	MINIMUM AGE REQUIREMENTS
5808	COMPENSATION OR GIFTS TO PHYSICIANS
5809	MEDICAL MARIJUANA AND PARAHERNALIARESTRICTIONS
5810	VISIBILITY
5900	SIGN ADVERTISING
5901	PROHIBITED STATEMENTS
6000	CULTIVATION CENTER BOOKS AND RECORDS
6001	CULTIVATION CENTER INVOICES.
6002	DISPENSARY BOOKS AND RECORDS
6003	CULTIVATION CENTER REPORTS
6004	DISPENSARY REPORTS
6005	SLIDING SCALE REGISTRATION
6006	RETENTION AND INSPECTION OF BOOKS AND RECORDS
6007	REPORTING DIRECTOR, OFFICER, MEMBER, INCORPORATOR, AGENT, EMPLOYEE, AND MANAGER CHANGES
6100	REVIEW OF REGISTRATION APPLICATIONS
6101	HEARING CONTINUANCES
6102	BOARD DECISIONS
6103	RECONSIDERATION REQUESTS
6104	JUDICIAL REVIEW
6200	REVOCATION, SUSPENSION, OR FINES – GENERAL PROVISIONS
6201	SHOW CAUSE HEARINGS
6202	SUMMARY SUSPENSION HEARINGS
6203	REQUEST FOR SUSPENSION OR REVOCATION OF REGISTRATION BY CHIEF OF POLICE
6204	NOTICE OF SUSPENSION OR REVOCATION TO PUBLIC
6205	EXAMINATION OF PREMISES AND BOOKS AND RECORDS
9900	DEFINITIONS

SUBTITLE C MEDICAL MARIJUANA

**CHAPTER 1 DEPARTMENT OF HEALTH GENERAL
PROVISIONS**

100 APPLICABILITY AND SANCTIONS

- 100.1 This chapter shall apply to applicants for and holders of a qualifying patient or caregiver registration to possess, use, administer, or dispense medical marijuana in the District of Columbia, and to recommending physicians who provide written recommendations for the use of medical marijuana under the Act.
- 100.2 No person shall possess, use, administer, or dispense marijuana in any form for the purpose of a medical use unless the person is registered with the District of Columbia government under the Act.

- 100.3 Any person who possesses or uses marijuana or its paraphernalia in a manner not authorized by the Act or without a medical marijuana registration card shall be subject to criminal prosecution and sanctions.
- 100.4 Any person who makes a fraudulent representation to a law enforcement official of any fact or circumstance relating to the person's use or possession of medical marijuana or use of paraphernalia to avoid arrest or prosecution shall be subject to a criminal fine not to exceed one thousand dollars (\$1,000.00); which shall be in addition to any other penalties that may apply.
- 100.5 The Department may impose civil fines and sanctions for any infraction under chapters 1 through 49 of this subtitle, not to exceed two thousand (\$2,000.00) per first offense violation.

CHAPTER 2 CONDITIONS OF REGISTRATION

200 GENERAL PROVISIONS

- 200.1 A registration identification card shall not be transferable.
- 200.2 A registration identification card issued under this chapter is the property of the District of Columbia and shall be surrendered upon demand of the Director.
- 200.3 As part of the registration process, applicants shall sign a written statement certifying that the applicant assumes any and all risk or liability that may result under District of Columbia and federal laws from the possession, use, administration, or dispensing of medical marijuana. The applicant shall further acknowledge that he or she understands that the medical marijuana laws and enforcement thereof of the District of Columbia and the Federal government are subject to change at any time.
- 200.4 As part of the registration process, a qualifying patient shall designate the dispensary from which he or she will receive medical marijuana, and this designation shall appear on the qualifying patient's registration card and, if applicable, the caregiver's registration card.
- 200.5 A qualifying patient may change his or her designated dispensary by providing fourteen (14) calendar days written notice to the Department on a patient change of information form provided by the Department as set forth in § 200.4 of this chapter.
- 200.6 Within fourteen (14) calendar days of any change in the qualifying patient's name, address, caregiver, recommending physician, or designated dispensary, a qualifying patient who has been issued a registration identification card shall:
- (a) Submit a completed patient change of information form to the Department, and include as applicable:

- (1) Designation of a new dispensary;
- (2) Designation of a new caregiver; or
- (3) A recommendation form from the new recommending physician;
- (b) Surrender his or her current registration identification card to the Department;
- (c) Immediately notify his or her caregiver of the change;
- (d) Pay the required fee to receive a new registration identification card; and
- (e) Be issued a new registration card that reflects the change.

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

- (a) Submit a written request for a new registration identification card to the Department on a form provided by the Department;
- (b) Surrender his or her registration identification card;
- (c) Pay the required fee to receive a new registration identification card; and
- (d) Be issued a new registration identification card that reflects the change.

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

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

200.9 Within fourteen (14) calendar days of receiving notice that a qualifying patient has changed his or her caregiver, or that the patient no longer suffers from a qualifying medical condition or treatment, the Department shall send written notice via U.S. Postal Service certified mail to the caregiver's address on file with the Department. The caregiver's protections under the Act shall expire ten (10) days after delivery of the notice or the caregiver's failure to claim the notice.

200.10 Within fourteen (14) calendar days after receiving notice that a qualifying patient

has designated a different individual to serve as his caregiver or that qualifying patient no longer suffers from a qualifying medical condition or treatment, the caregiver shall:

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

200.11 In the event that a qualifying patient or a caregiver experiences the theft, loss, or destruction of his or her registration card, he or she shall:

- (a) Within twenty-four (24) hours after discovery, provide verbal notification to the Director or his or her designee;
- (b) Submit the required written notification reporting forms to the Department within seventy-two (72) hours after the initial discovery;
- (c) Pay the required fee; and
- (d) Be issued a new registration identification card.

200.12 Within fourteen (14) calendar days after any change in a caregiver's name or address, he or she shall:

- (a) Notify the Department in writing of the change; and
- (b) Pay the required fee, and be issued a new registration identification card, if applicable.

CHAPTER 3 USE OF MEDICAL MARIJUANA

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

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

- (a) Obtaining a signed, written recommendation from a physician in accordance with this chapter; and
- (b) Registering with the Department.

300.2 A qualifying patient or caregiver shall only possess, administer, or dispense medical marijuana, or possess or use paraphernalia, obtained from the registered dispensary designated on his or her registration identification card.

- 300.3 A qualifying patient or caregiver shall only transport medical marijuana in a container or sealed package bearing the label received from the dispensary.
- 300.4 A qualifying patient or caregiver shall not administer or use medical marijuana at a dispensary or cultivation center.
- 300.5 Medical marijuana shall not be administered by or to a qualifying patient anywhere other than:
- (a) The qualifying patient's residence, if permitted, or
 - (b) At a medical treatment facility when receiving medical care for a qualifying medical condition, if permitted by the medical facility.
- 300.6 Notwithstanding § 300.5, a qualifying patient shall not use medical marijuana at a time or in a location within his or her residence when such use would result, or is likely to result, in exposure to the medical marijuana or the medical marijuana smoke that may adversely affect the health, safety, or welfare of a minor.
- 300.7 For purposes of determining whether a dwelling or dwelling unit is the qualifying patient's residence as defined by the Act, when at issue, the Department may consider documentation and information of the same nature and type as is required to prove District residency under this subtitle.
- 300.8 A qualifying patient who is a minor shall only possess and administer medical marijuana if the parent or legal guardian of the minor has signed a written statement affirming that the parent or legal guardian:
- (a) Understands the qualifying medical condition or qualifying medical treatment of the minor;
 - (b) Understands the potential benefits and potential adverse effects of the use of medical marijuana in general, and specifically, in the case of the minor;
 - (c) Consents to the use of medical marijuana for the treatment of the minor's qualifying medical condition or treatment of the side effects of the minor's qualifying medical treatment; and
 - (d) Consents to, or designates another adult to, serve as the caregiver for the qualifying patient and the caregiver controls the acquisition, possession, dosage, and frequency of use of medical marijuana by the qualifying patient.
- 300.9 The maximum amount of medical marijuana any qualifying patient or caregiver may possess at any time is:
- (a) Two (2) ounces of dried medical marijuana; or

- (b) The equivalent of two (2) ounces of dried medical marijuana when sold in any other form.

300.10 Nothing in the Act or this subtitle shall be construed as permitting a qualifying patient to:

- (a) Undertake any task under the influence of medical marijuana when doing so would constitute negligence or professional malpractice; or
- (b) Operate, navigate, or be in actual physical control of any motor vehicle, aircraft, or motorboat while under the influence of medical marijuana.

CHAPTER 4 DISPOSAL OF MEDICAL MARIJUANA

400 DISPOSAL OF MEDICAL MARIJUANA BY QUALIFYING PATIENTS AND CAREGIVERS

400.1 A qualifying patient or caregiver who is no longer registered with the program or eligible for registration with the program shall within fourteen (14) calendar days after he or she ceases to be registered or eligible for registration with the department return any unused medical marijuana in his or her possession to the District of Columbia Metropolitan Police Department.

400.2 A qualifying patient or caregiver whose registration has been summarily suspended or revoked by the Department shall within twenty-four (24) hours after receiving notice of the suspension or revocation return any unused medical marijuana in his or her possession to the District of Columbia Metropolitan Police Department.

400.3 A qualifying patient or caregiver who is no longer registered with the Department shall not transfer, share, give, or deliver any unused medical marijuana in his or her possession to another qualifying patient or caregiver for medical use or destruction whether or not the person is registered with the District's Medical Marijuana Program.

400.4 A qualifying patient or caregiver shall not dispose of medical marijuana in any manner other than permitted under this chapter.

CHAPTER 5 QUALIFYING PATIENTS

500 QUALIFICATION FOR REGISTRATION

500.1 To qualify for a patient registration identification card, an applicant shall:

- (a) Be a bona fide resident of the District of Columbia at the time of application and remain a bona fide resident during treatment with medical marijuana;

- (b) Have a qualifying medical condition or be undergoing a qualifying medical treatment;
- (c) Have a signed, written physician's recommendation for the use of medical marijuana meeting the requirements of this chapter; and
- (d) If the qualifying patient is a minor, the signed written consent of his or her parent or legal guardian.

501 RESIDENCY

501.1 For purposes of this subtitle, a patient shall be a resident of the District of Columbia if the individual:

- (a) Is physically present in the District of Columbia;
- (b) Has taken verifiable actions to make the District his or her home indefinitely with no present intent to reside elsewhere; and
- (c) Is not merely present in the District for the sole purpose of obtaining medical marijuana.

501.2 In proving bona fide District residency, an applicant shall submit at least two (2) of the following items:

- (a) Proof of payment of District of Columbia personal income tax, in the name of the applicant, for the tax period closest in time to the application date;
- (b) A property deed for a District of Columbia residence showing the applicant as an owner or co-owner;
- (c) A valid unexpired lease or rental agreement in the name of the applicant on a District of Columbia residential property;
- (d) A pay stub issued less than forty-five (45) days prior to the application date which shows evidence of the applicant's withholding of District income tax;
- (e) A voter registration card with an address in the District of Columbia;
- (f) Current official documentation of financial assistance received by the applicant from the District Government including, but not limited to Temporary Assistance for Needy Families (TANF), Medicaid, the State Child Health Insurance Program (SCHIP), Supplemental Security Income (SSI), housing assistance, or other governmental programs;
- (g) Current official military housing orders showing the applicant's residency

in the District;

- (h) A current motor vehicle registration in the name of the applicant evidencing District residency;
- (i) A valid unexpired District motor vehicle operator's permit or other official non-driver identification in the name of the applicant;
- (j) Utility bills (excluding telephone bills) from a period within the two (2) months immediately preceding the application date in the name of the applicant on a District of Columbia residential address; or
- (k) Any other reasonable form of verification deemed by the Director or the Director's agent to demonstrate proof of current residency.

502

QUALIFYING PATIENTS APPLICATION

502.1

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

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

- (g) Designation of the individual who will serve as his or her caregiver, if applicable; and
- (h) Payment of the required application fee.

502.2

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

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

the use of medical marijuana, in general, and specifically, in the case of the minor;

- (3) Consents to the use of medical marijuana for the treatment of the minor's qualifying medical condition or treatment of the side effects of the minor's qualifying medical treatment; and
- (4) Consents to, or has designated another adult to, serve as the caregiver for the qualifying patient and that the caregiver will control the acquisition, possession, dosage, and frequency of use of medical marijuana by the qualifying patient; and

(i) Payment of the required application fee.

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

CHAPTER 6 CAREGIVERS

600 LIMITATIONS ON CAREGIVERS

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

601 CAREGIVER QUALIFICATIONS

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

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

602 CAREGIVER APPLICATION

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

include:

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

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

603 MARIJUANA OBTAINED FROM DESIGNATED DISPENSARY

603.1 A caregiver shall only obtain medical marijuana for the qualifying patient from the dispensary designated on his or her registration identification card and shall not:

- (a) Grow or cultivate medical marijuana for the qualifying patient;
- (b) Purchase medical marijuana through street vendors; or
- (c) Obtain medical marijuana from other registered qualifying patients and caregivers.

603.2 If the qualifying patient changes his or her designated dispensary, or makes a change to the information set forth on his or her registration card, both the qualifying patient and the caregiver must surrender their registration identification cards to the Department and obtain new registration identification cards reflecting the change.

CHAPTER 7 REGISTRATION CARDS

700 ISSUANCE OF REGISTRATION CARDS

700.1 Upon receipt and approval of a valid and complete application, the Department shall issue a registration identification card to a qualifying patient or caregiver in accordance with the Act and this subtitle.

700.2 Subject to § 600.3, a registration identification card issued pursuant to this chapter shall expire one (1) year after the date of issuance, and may be renewed in accordance with the renewal provisions under this chapter.

700.3 Unless timely renewed in accordance with the renewal provisions under this chapter, upon expiration of a registration, a qualifying patient or caregiver shall immediately cease from the use or possession of medical marijuana until he or she is issued a new registration identification card from the Department.

701 CONTENTS OF REGISTRATION CARD

701.1 A qualifying patient registration identification card shall contain:

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

701.2 A caregiver registration identification card shall contain:

- (a) The date of issuance and expiration date;
- (b) The caregiver's full, legal name, and the qualifying patient's full, legal name;
- (c) The registration identification number for the caregiver and the qualifying patient;

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

702 RENEWAL OF REGISTRATION CARDS

702.1 Not later than sixty (60) days prior to the expiration of a registration identification card, the qualifying patient or caregiver may apply for renewal of his or her registration identification card as follows:

- (a) Submit a completed renewal application to the Department on the required forms and include:
 - (1) One (1) clear photocopy of a U.S., state or District government-issued photo ID, such as a driver's license, as proof of identity;
 - (2) Proof of District residency by meeting the requirements set forth in § 501.2, if applicable;
 - (3) A signed and dated written physician's recommendation for the use of medical marijuana meeting the requirements of this chapter, that is dated not more than ninety (90) days prior to the application date;
- (b) Designate the dispensary where the qualifying patient will receive his or her medical marijuana; and
- (c) Pay the required application fee.

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

- (a) One (1) clear photocopy of U.S., state or District government-issued photo ID issued to the parent or legal guardian, such as a driver's license, as proof of identity;
- (b) Proof of the minor and parent or legal guardian's District residency by meeting the requirements set forth in § 104.3;
- (c) A signed and dated written physician's recommendation for the use of medical marijuana meeting the requirements of this chapter, that is dated

not more than ninety (90) days prior to the application date;

- (d) Designation of the individual who will serve as the minor's caregiver;
- (e) Designation of the dispensary where the qualifying patient will receive his or her medical marijuana;
- (f) The signed, written statement of the minor's parent or legal guardian affirming that he or she:
 - (1) Understands the qualifying medical condition or qualifying medical treatment of the minor;
 - (2) Understands the potential benefits and potential adverse effects of the use of medical marijuana, in general, and specifically, in the case of the minor;
 - (3) Consents to the use of medical marijuana for the treatment of the minor's qualifying medical condition or treatment of the side effects of the minor's qualifying medical treatment; and
 - (4) Consents to, or has designated another adult to, serve as the caregiver for the qualifying patient and that the caregiver will control the acquisition, possession, dosage, and frequency of use of medical marijuana by the qualifying patient; and
- (g) Payment for the required application fee;

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

CHAPTER 8 RECOMMENDING PHYSICIANS

800 QUALIFICATIONS TO BE RECOMMENDING PHYSICIAN

800.1 A physician who is licensed in good standing to practice medicine or osteopathy in the District of Columbia may recommend the use of medical marijuana to a qualifying patient if the physician:

- (a) Is in a bona fide physician-patient relationship with the qualifying patient;
- (b) Has completed a full assessment of the patient's medical history and current medical condition, including a personal physical examination, not more than ninety (90) days prior to making the recommendation;
- (c) Has responsibility for the ongoing care and treatment of the patient, provided that such ongoing treatment shall not be limited to or for the primary purpose of the provision of medical marijuana use or consultation

solely for that purpose; and

- (d) Makes the recommendation based upon the physician's assessment of the qualifying patient's:
 - (1) Medical history;
 - (2) Current medical condition; and
 - (3) A review of other approved medications and treatments that might provide the qualifying patient with relief from a qualifying medical condition or the side effects of a qualifying medical treatment.

801 FORM OF RECOMMENDATION

801.1 A physician's recommendation that a qualifying patient may use medical marijuana shall be written on a form provided by the Department and include the following:

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

802 RECORDS MAINTAINED BY PHYSICIAN AND DEPARTMENT

802.1 A physician recommending the use of medical marijuana to a qualifying patient shall maintain a record for each qualifying patient which shall:

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

802.2 The Department shall maintain a confidential record, which shall not be subject to requests under the Freedom of Information Act, of each recommending physician for the purpose monitoring compliance with the Act.

803 NO OFFICE AT DISPENSARY OR CULTIVATION CENTER

803.1 A physician recommending the use of medical marijuana to a qualifying patient shall not have a professional office located at a dispensary or cultivation center or receive financial compensation from a dispensary or cultivation center.

804 NOTIFICATION OF END OF QUALIFYING MEDICAL CONDITIONOR

TREATMENT

804.1 A physician shall notify the Department in writing within fourteen (14) calendar days after advising a qualifying patient that he or she no longer suffers from a qualifying medical condition or treatment.

805 TRAINING PROGRAM FOR RECOMMENDING PHYSICIANS

805.1 The Department shall make available an educational program for physicians on the medical indications, uses, and side effects of medical marijuana and the District's medical marijuana program, and may charge a fee for the training program.

805.2 The program shall be made available to physicians licensed to practice medicine or osteopathy in the District of Columbia who recommend or intend to recommend the use of medical marijuana to qualifying patients.

805.3 If approved by the District of Columbia Board of Medicine, the program may be used to satisfy continuing education requirements for the practice of medicine for the number of credits approved by the board.

CHAPTER 9 DENIAL OF APPLICATIONS

900 DENIAL OF APPLICATIONS FOR PATIENT AND CAREGIVER REGISTRATIONS

900.1 The Department may deny an application or renewal application for a qualifying patient or caregiver registration identification card only if:

- (a) The application is incomplete and the applicant fails to provide the missing information or documents within the time period allotted by the Department; or
- (b) The Department determines after further inquiry or investigation that the information provided was false, misleading, forged, or altered.

900.2 Denial by the Department of an application or renewal application for a qualifying patient or caregiver registration identification card shall be deemed a final Department action which may be appealed to the District of Columbia Office of Administrative Hearings within thirty (30) days of receiving the notice of denial.

CHAPTER 10 ENFORCEMENT ACTIONS

1000 NOTICE OF POTENTIAL JEOPARDY

1000.1 Participation in the District's medical marijuana program by a qualifying patient or caregiver does not relieve the qualifying patient or caregiver from:

- (a) Criminal prosecution or civil penalties for activities not authorized by the Act or this chapter, including but not limited to:
 - (1) Possession of marijuana in any location other than:
 - (A) The qualifying patient's registered dispensary;
 - (B) The qualifying patient's residence, if permitted; or
 - (C) A medical treatment facility when receiving medical care for a qualifying medical condition, if permitted by the medical facility;
 - (2) Possession, distribution or transfer of marijuana or use of marijuana:
 - (A) In a school bus;
 - (B) On school grounds or property;
 - (C) At the qualifying patient's or caregiver's place of employment;
 - (D) At a public park, recreation center, youth center or other public place;
 - (E) To a person not approved by the Department pursuant to this chapter;
 - (F) Outside the District of Columbia; or
 - (G) That exceeds the allotted amount of medical marijuana authorized in § 300.9 of this Subtitle;
 - (3) Transporting or attempting to transport marijuana:
 - (A) To or from any place other than directly between the dispensary and the patient's residence or a medical facility where the patient is permitted to use marijuana;
 - (B) In a container other than that prescribed by § 300.3 of this Subtitle; or
 - (C) Into or out of the District of Columbia;
- (b) Liability for damages or criminal prosecution for acts committed or

omitted while under the influence of marijuana; or

- (c) For violation of any District of Columbia law or regulation that was not expressly repealed or limited by the provisions of the Act or this Subtitle.

1001 SUSPENSION AND REVOCATION OF REGISTRATIONS

1001.1 Violation of any provision of the Act or this subtitle may result in the summary suspension of the qualifying patient's or caregiver's registration identification card, or a notice of intent to suspend or revoke the qualifying patient's or caregiver's registration identification card, and all lawful privileges under the Act.

1001.2 Except in the case of a summary suspension, the Director shall give a registrant written notice and an opportunity to be heard prior to taking any final action which would:

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

1001.3 The notice shall contain the following:

- (a) A statement of the proposed action;
- (b) A statement setting forth the reasons for the proposed action, including a specification of any specific violation complained of;
- (c) Reference to any particular section of the Act or rules allegedly violated;
- (d) A statement that the registrant may request a hearing before the Office of Administrative Hearings to contest the proposed action by delivering, within thirty (30) days of service of the notice, a certified letter addressed to the Director containing a request for a hearing or hand delivery same to the Office of the Director (receipt required for proof of delivery); and
- (e) A statement that if the registrant does not request a hearing within thirty (30) days after service of the notice of the proposed action, the Director may take the proposed action without further notice, and the suspension or revocation shall be final without a hearing.

1001.4 A notice, order, decision, or pleading required by this chapter to be served upon a party shall be served upon the party or upon the representative designated by the party or by law to receive service of papers. If a party has appeared through counsel, service may be made upon the counsel of record.

1001.5 Service on a respondent shall be directed to the last known address of the respondent on file with the Director and shall be completed by one of the

following methods:

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

1001.6 Proof of service, stating the name and address of the person on who service is made and the manner and date of service, may be shown by one of the following methods:

- (a) Written acknowledgement by the party or other person served in accordance with § 1001.5(b) or by the party's counsel;
- (b) The certificate of the serving party or that party's counsel; or
- (c) A return receipt if service is made by certified mail.

1001.7 If service is by personal delivery, it shall be deemed to have been served at the time when delivery is made to the party or other person served in accordance with § 1001.5.

1001.8 If service is by certified mail, it shall be deemed to have been made on the date shown on the return receipt showing delivery of the notice to the party or refusal of the party to accept delivery.

1001.9 If the party is no longer at the last known address as shown by the records of the Director, and no forwarding address is available, service shall be deemed to have been made on the date the return receipt bearing that notification is received by the Director.

1002 HEARINGS

1002.1 A qualifying patient or caregiver whose registration has been summarily suspended, may request an immediate hearing for the purpose of determining whether the suspension shall continue. The Respondent shall file the request within seventy-two (72) hours of the action. The hearing shall be held within seventy-two (72) hours after receiving the request unless otherwise agreed by the parties to be held at a later date.

1002.2 A qualifying patient or caregiver who has received a notice of intent to take action to suspend or revoke, may request a hearing for the purpose of review of such action. The respondent shall file the request for a hearing within thirty (30) calendar days after the notice of contemplated action is received.

1002.3 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.

1002.4 If the respondent does not mail or submit a written request for a hearing within the time and in the manner specified in the notice, the Director may, without a hearing, take the action contemplated in the notice.

1002.5 The Director shall notify the respondent in writing of the final action taken.

1002.6 If a hearing is timely requested, the Director shall within five (5) business days, except in the case of a summary suspension, forward the request to the Office of Administrative Hearings to conduct a hearing on the notice.

1002.7 The proceedings shall thereafter be subject to the Civil Infractions Act and all further correspondences and notices shall thereafter be communicated directly between the Office of Administrative Hearings and the respondent, including notice of the date, time and location of the hearing and the name of the hearing officer.

1002.8 Unless otherwise authorized by the Director, any notice from or to the Director shall be made by personal delivery or sent by certified mail, return receipt requested.

CHAPTER 11 CONFIDENTIALITY OF RECORDS

1100 MEDICAL MARIJUANA PROGRAM RECORDS

1100.1 Applications and supporting information submitted by qualifying patients and caregivers shall be confidential and subject to the protections of the federal Health Insurance Portability and Accountability Act (HIPAA) of 1996, as amended.

1100.2 The Department shall maintain a confidential list of the persons to whom the Department has issued registration identification cards.

1100.3 Individual names and other personally identifying information on the list:

- (a) Shall be confidential and not be considered a public record; and
- (b) Shall not subject to disclosure, except to authorized employees of the Department as necessary to perform official duties of the Department.

1100.4 The Department shall verify to law enforcement personnel whether a registry identification card is valid by confirming the information that is printed on the registration identification card.

1100.5 The Department may notify law enforcement personnel about falsified or fraudulent information submitted to the Department.

CHAPTER 12 INVESTIGATIONS AND INSPECTIONS

1200 ANNOUNCED AND UNANNOUNCED INVESTIGATIONS AND INSPECTIONS

- 1200.1 The Department may conduct announced and unannounced investigations and inspections of cultivation centers and dispensaries, as related to the Department's purview, mission and function, for the purpose of determining the suitability of any facility or location with respect to sanitation and health, and to determine compliance with the Act and its regulations by any registered cultivation center or dispensary.
- 1200.2 During an inspection or investigation of a dispensary, the Department may review the dispensary's confidential records, including its dispensing records and information which contains the names and addresses of qualifying patients, caregivers, and recommending physicians.
- 1200.3 During an inspection or investigation of a cultivation center, the Department may review the cultivation center's confidential records, as necessary and appropriate to the Department's purview and authority, to determine compliance with the Act and its regulations.
- 1200.4 All qualifying patients and caregivers shall provide the Department or the Department's agent with immediate access to any material and information necessary for determining compliance with the Act and this chapter.
- 1200.5 Failure by a qualifying patient or caregiver to provide the Department with immediate access to any requested material or information to determine compliance with the Act or chapters 1 through 49 of this subtitle, may result in sanctions against the qualifying patient or caregiver up to and including revocation of registration and referral to local law enforcement.
- 1200.6 Failure by a dispensary or cultivation center to provide the Department with immediate access to any requested material or information as part of an inspection or investigation under the Act and this chapter, may result in the imposition of a civil fine as well as referral to the Board for further sanctions.

CHAPTER 13 FEES

1300 REGISTRATION, RENEWAL, AND REPLACEMENT FEES

- 1300.1 The registration, renewal and replacement fees are as follows:
- (a) Initial registration fee for a qualifying patient \$100.00

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

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

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

1300.3 A qualifying patient or caregiver whose income is equal to or less than two hundred percent (200%) of the federal poverty level may apply for registration at a rate that is twenty-five percent (25%) of the published standard registration fee by submitting proof, to the satisfaction of the Director, of the following:

- (a) That he or she is a current Medicaid or DC Alliance recipient; or
- (b) Documentation verifying that his or her total gross income, including child support payments, alimony and rent payments received, and any other income received on a regular basis, is equal to or less than two hundred percent (200%) of the federal poverty level, as defined by the U.S. Department of Health and Human Services.

1300.4 In verifying income for the purposes of this chapter, an individual may submit the following:

- (a) Earnings statements received within the previous thirty (30) days;
- (b) District of Columbia or Federal tax filing returns for the most recent tax year;
- (c) For newly employed applicants, a verifiable copy of an offer of

employment that states the amount of salary to be paid;

- (d) A copy of a Social Security or worker's compensation benefit statement;
- (e) Proof of child support or alimony received;
- (f) Any other unearned income **or assets**, including but not limited to, stocks, bonds, annuities, private pension and retirement accounts; or
- (g) Any other item(s) of proof deemed by the Director or the Director's agent reasonably calculated to demonstrate a person's current income.

1300.5 An individual shall submit the required verifying information set forth in § 1300.4 for each renewal or request for a replacement card in order to receive the reduced fee.

CHAPTER 49 DEFINITIONS

4900 DEFINITIONS

4900.1 As used in chapters 1 through 49 of this subtitle the following terms shall have the meanings ascribed:

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

Act- means the Legalization of Marijuana for Medical Treatment Initiative of 1999 (Act), effective February 25, 2010 (D.C. Law 13-315; 57 DCR 3360), as amended by the Legalization of Marijuana for Medical Treatment Amendment Act of 2010, effective July 27, 2010 (D.C. Law 18-210; 57 DCR 4798).

Board - the hearing board delegated by the Mayor to conduct registration, licensing, and enforcement proceedings involving cultivation centers and dispensaries.

Bona fide physician-patient relationship- means a relationship between a physician and patient in which the physician:

- (a) Has completed a full assessment of the patient's medical history and current medical condition, including a personal physical examination; and
- (b) Has responsibility for the ongoing care and treatment of the patient.

Caregiver- means a person who:

- (a) Is designated by a qualifying patient as the person authorized, on the

qualifying patient's behalf, to possess, obtain from a dispensary, dispense and assist in the administration of medical marijuana;

- (b) Is registered with the Department as the qualifying patient's caregiver;
- (c) Is not currently serving as the caregiver for another qualifying patient; and
- (d) Is at least eighteen (18) years of age.

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

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

Cultivation Center- means a facility operated by an organization or business registered with the Mayor pursuant to section 6 from or at which medical marijuana is cultivated, possessed, manufactured, and distributed in the form of medical marijuana, and paraphernalia is possessed and distributed to dispensaries.

Department- means the Department of Health.

Director- means the Director of the Department of Health.

Dispensary- means a facility operated by an organization or business registered with the Mayor pursuant to section 6 from or at which medical marijuana is possessed and dispensed and paraphernalia is possessed and distributed to a qualifying patient or a caregiver.

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

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

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

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

container.

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

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

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

Paraphernalia- means:

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

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

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

Qualifying medical condition-means:

- (a) Human immunodeficiency virus;
- (b) Acquired immune deficiency syndrome;
- (c) Glaucoma;
- (d) Conditions characterized by severe and persistent muscle spasm, such as multiple sclerosis;
- (e) Cancer; or
- (f) Any other condition, as determined by rulemaking, that is:
 - (1) Chronic or long lasting;
 - (2) Debilitating or interferes with the basic functions of life; and
 - (3) A serious medical condition for which the use of medical

marijuana is beneficial:

- (1) That cannot be effectively treated by any ordinary medical or surgical measure; or
- (2) For which there is scientific evidence that the use of medical marijuana is likely to be significantly less addictive than the ordinary medical treatment for that condition.

Qualifying medical treatment- means:

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

Qualifying patient- means a resident of the District who has a qualifying medical condition or is undergoing a qualifying medical treatment.

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

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

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

5000 EXTENSION OF EXPIRATION DATES OF PROTESTED REGISTRATIONS

- 5000.1 Cultivation center and dispensary third year renewal registrations that are undergoing the thirty (30) day ANC comment period shall be extended as provided by this section.
- 5000.2 If the Board has not issued a decision on the matter, and the registration has expired, the registration shall continue in effect until such time as the Board has rendered a final decision.
- 5000.3 In the case of applications for the renewal of a registration or for transfer to a new

owner, the registration shall continue in effect until the Board has rendered a final decision.

5000.4 In the case of applications for the renewal of a registration and for transfer to a new location, the registration 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.

5001 MEASURING DISTANCES

5001.1 In establishing the distance between one or more places, (such as the actual distance of a cultivation center or dispensary from a school or recreation center, as defined in the Act), the distance shall be measured linearly by the Board and shall be the shortest distance between the property lines of the places.

5001.2 If a boundary line measured by the Board touches upon any portion of a parcel or lot, the parcel or lot shall be within the area being identified by the Board.

5002 COMPUTATION OF TIME

5002.1 In computing any period of time specified in this title, the day of the act, event, or default shall not be counted, and the last day of the period shall be counted unless it is a Saturday, Sunday, legal holiday, or day on which the Board's offices are officially closed, in which event the time period shall continue until the next day that is not a Saturday, Sunday, legal holiday, or day on which the Board's offices are not closed.

CHAPTER 51 REGISTRATION, LICENSE, AND PERMIT CATEGORIES

5100 REGISTRATION PERIODS

5100.1 Each registration issued by the Board shall be valid for one (1) year, except in the following circumstances:

- (a) When suspended or revoked; and
- (b) When the registration takes effect on a date in between the dates established by the Board for the regular renewal registration period, in which case the registration shall be valid only until the end of the registration period.

5101 RENEWAL PERIODS

5101.1 The renewal period for each registration listed below shall occur annually with the following dates:

Registration Class	Registration Period	Ending Year
Cultivation Center	Oct. 1 to Sept. 30	2011
Dispensary	Oct. 1 to Sept. 30	2011

5101.2 In addition to the initial application, the Mayor shall provide notice for public comment to all ANCs located in the affected ward once every three years on an applicant for a dispensary or cultivation center's third renewal. The first renewal notice shall be provided by the Board to ANCs located in the affected ward in 2014.

5102 REGISTRATION, LICENSE, AND PERMIT FEES

5102.1 All registration, permit, and license fees shall be paid by credit card, certified check, money order, business check, attorney's check, or personal check payable to the DC Treasurer. Applicants shall pay the fees specified by the Board in the following manner:

- (a) The fee shall be paid at the time an application is filed, but shall be returned to an applicant, minus the prescribed processing fee, if the application is denied.

5102.2 The Board may impose a late fee upon an applicant that fails to timely renew their registration, permit, or license in the amount of fifty dollars (\$50) for each day after the due date of payment. The total amount of the late fee to be paid shall not exceed the annual cost of the registration. The Board may suspend a previously approved registration until the renewal fee is paid. A cultivation center or dispensary that has not timely renewed its registration shall not be permitted to sell medical marijuana with an expired registration.

5102.3 The Board may suspend a registration, permit, or license where payment was made by the applicant with a check returned unpaid. The applicant, in addition to any late fees imposed by the Board pursuant to § 5102.2, shall also be charged with a one hundred dollar (\$100) returned check fee.

5102.4 The annual fee for a medical marijuana dispensary registration shall be ten thousand dollars (\$10,000). This fee shall also cover any audit and inspection costs incurred by the Board.

5102.5 The annual fee for a cultivation center registration shall be five thousand dollars (\$5,000). This fee shall also cover any audit and inspection costs incurred by the Board.

5102.6 The annual fee for each director, officer, member, incorporator, or agent registration shall be two hundred dollars (\$200).

5102.7 The annual fee for an employee registration shall be seventy five dollars (\$75).

5102.8 The annual fee for a medical marijuana certification provider permit shall be one

hundred dollars (\$100).

5102.9 The annual fee for a Manager's license shall be one hundred and fifty dollars (\$150).

5102.10 The fee for a duplicate registration or replacement of a lost registration shall be twenty-five dollars (\$25).

5103 APPLICATION FEES

5103.1 The processing fee for the filing of an application for a medical marijuana dispensary shall be five thousand dollars (\$5,000).

5103.2 The processing fee for the filing of an application for a medical marijuana cultivation center shall be five thousand dollars (\$5,000).

5103.3 The fee for the transfer of a medical marijuana dispensary or cultivation center to a new owner shall be three thousand dollars (\$3,000).

5103.4 The fee for the transfer of a registration to a new location shall be one thousand dollars (\$1,000). This fee shall also cover any audit and inspection costs incurred by the Board.

5103.5 The fee for a change of director, officer, member, incorporator, or agent shall be one hundred dollars (\$100).

5103.6 The fee for a corporate or trade name change shall be one hundred dollars (\$100).

5103.7 The fee for a transport permit shall be twenty-five dollars (\$25).

5104 MEDICAL MARIJUANA CERTIFICATION PROVIDER PERMIT

5104.1 A person or entity wishing to become a medical marijuana certification provider shall obtain a medical marijuana certification provider permit which shall allow the holder to provide a medical marijuana training and education certification program in the District of Columbia. For purposes of this section, a "medical marijuana certification provider" shall mean any person or entity approved by the Board to conduct a medical marijuana and education training program as set forth in § 5104.2. A medical marijuana provider permit shall be valid for three (3) years.

5104.2 A medical marijuana provider shall include the following subjects in its education training program submitted to the Board for approval:

- (a) The effect medical marijuana use has on the body and behavior, especially as to driving ability, and that driving under the influence of marijuana is prohibited under the Act;
- (b) Procedures for the proper handling and dispensing of medical marijuana to

qualified patients and caregivers;

- (c) Methods of recognizing and communicating with underage qualifying patients and caregivers;
- (d) Prevention techniques involving effective identification and carding procedures;
- (e) Explanation of the Legalization of Marijuana for Medical Treatment Amendment Act of 2010 and Federal law relating to marijuana and ensuring compliance with this title and District law;
- (f) Advertising, promotion, and marketing of medical marijuana; and
- (g) Security and theft prevention.

5104.3 Independent contractors, private individuals, or educational institutions which seek approval to provide training shall proceed as follows:

- (a) Submit a letter of intent to the Board which must include a copy of all training materials, curriculum, and examinations, along with the annual fee for the entire three-year permit period.
- (b) The Board will schedule a presentation of the applicant's program for evaluation by a designated staff person who will prepare a written evaluation report on the program's compliance with the training standards.
- (c) Should the designated staff person find that the applicant meets the requirements of this section; the application will then be placed before the Board for consideration at its next regularly scheduled meeting.
- (d) The Board shall make the final determination as to the qualifications of the applicant and compliance of the applicant's program with § 5104.2. The Board may hold a fact-finding hearing to obtain additional information regarding the applicant's program prior to issuing its decision.
- (e) Approval of a medical marijuana training and education program shall expire after three years from the date of the course obtaining approval. The applicant shall resubmit a program to the Board for approval as part of its application to renew its certification provider permit.

5105 MANAGER CERTIFICATION

5105.1 An applicant for a Manager's license shall submit a copy of his or her certificate showing completion of a medical marijuana training and education program from a Board approved training provider with his or her Manager's license application.

5105.2 An applicant for a Manager's license, who has been selected by a cultivation

center or dispensary to serve as a licensed manager but who has not completed a medical marijuana training and education program may be issued a temporary Manager's license by the Board for a period not to exceed thirty (30) days upon the submission of a signed written statement on a form provided by the Board from the applicant attesting that he or she will complete a medical marijuana training and education program and submit a copy of his or her certificate within the 30-day period. The medical marijuana training and education certificate requirement shall not take effect until sixty (60) days from the effective date of these regulations.

5106 NOTICE TO ADVISORY NEIGHBORHOOD COMMISSIONS

- 5106.1 Upon the initial selection of a completed application by a four member panel or a third year renewal for a dispensary or cultivation center, or an application to transfer the dispensary or cultivation center to a new location, the Mayor shall give written notice through the mail of the registration application to all ANCs in the affected ward. Notice shall be given by the Mayor to all ANCs in the affected ward at least thirty (30) days prior to the approval of a location for a dispensary or cultivation center.
- 5106.2 The written notice shall contain the legal name and trade name of the applicant, the street address of the establishment for which registration is sought, the type of registration sought, and a description of the nature of the operation the applicant has proposed. The description shall include the proposed hours of operation for the dispensary or cultivation center.
- 5106.3 The notice shall also state: (1) the final day that comments must be received by the Mayor from the ANCs in the affected ward and (2) the public hearing date to be held by the Board.
- 5106.4 The recommendations of ANCs in the affected ward of a location for a dispensary or cultivation center registration application shall be given great weight by the Board.
- 5106.5 The Mayor shall give notice to each ANC in the affected ward by first-class mail, and addressed to the following persons:
- (a) The ANC office, with a copy for each ANC member;
 - (b) The ANC chairperson, at his or her home address of record; and
 - (c) The ANC member in whose single-member district the establishment is or will be located, at his or her home address of record.
- 5106.6 Notice required to be provided by the Mayor to each ANC office, ANC Chairperson, and ANC single member district Commissioner, shall be sent to the ANC address on file with the Board of Elections and Ethics.

5106.7 The Mayor shall publish the notices required under this section in the District of Columbia Register.

5107 POSTED NOTICE TO PUBLIC

5107.1 The Mayor shall post two (2) notices indicating that an application for a cultivation center or dispensary registration has been filed in conspicuous places on the outside of the establishment for the duration of the ANC's thirty (30) day comment period.

5107.2 The notices shall state: (1) the information contained in § 5106.3; (2) the final day of the ANC's comment period; (3) the contact information for the ANC where the establishment is located; and (4) the telephone number and mailing address of the Board.

5107.3 An applicant who fails to maintain the posted notices continuously during the ANC comment period shall be guilty of a violation of this chapter.

5107.4 If the Board determines that the notices posted at an applicant's establishment have not remained visible to the public for a full thirty (30) days, the Board shall require the reposting of the notices and shall restart the thirty (30) day ANC comment period, unless the applicant has fully performed all other notice requirements and the Board determines that the public has received sufficient notice of the application.

5108 COMMENTS FROM ANCS LOCATED IN THE AFFECTED WARD

5108.1 Comments submitted by an ANC located in the affected ward for Board consideration shall relate to the ANC's concerns or support regarding the proposed location including but not limited to: (1) the potential adverse impact of the proposed location to the neighborhood, (2) an overconcentration or lack of cultivation centers or dispensaries in the affected ward, and (3) its proximity to substance abuse treatment centers, day care centers, and halfway houses.

5109 NON-TRANSFERABLE REGISTRATION CARDS

5109.1 All persons required to register with the Board shall receive and wear on their person while working in a restricted access area at a cultivation center or dispensary a non-transferable uniform registration identification card from the Board. It shall be a violation of this title for a person to not wear their non-transferable registration identification card while working in a restricted access area of a cultivation center or dispensary.

5109.2 The non-transferable registration card shall be presented by a director, officer, member, incorporator, agent and employee of a cultivation center or dispensary to law enforcement or a Board investigator to confirm that the person is authorized to cultivate, dispense, distribute, or possess medical marijuana, or manufacture, possess, or distribute paraphernalia.

CHAPTER 52 REGISTRATION LIMITATIONS

5200 LIMITATION ON THE NUMBER OF DISPENSARIES AND CULTIVATION CENTERS

- 5200.1 The number of dispensaries registered to operate in the District of Columbia shall not exceed five (5).
- 5200.2 The number of cultivation centers registered to operate in the District of Columbia shall not exceed ten (10).

5201 REGISTRATION APPLICATIONS NEAR SCHOOLS AND RECREATION CENTERS

- 5201.1 The three hundred foot (300 ft.) distance shall be measured in accordance with the provisions of § 5001.1 of this title.

CHAPTER 53 GENERAL REGISTRATION REQUIREMENTS

5300 DENIAL OF REGISTRATION FOR VIOLATIONS OF LAW

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

5301 CERTIFICATE OF OCCUPANCY AND PERMITS

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

5302 REGISTRATION APPROVAL BEFORE ISSUANCE OF CERTIFICATE OF OCCUPANCY

- 5302.1 The Board is authorized, in its discretion, to approve the granting of a registration for a cultivation center or dispensary, subject to all other requirements of the Act or this title, to an applicant prior to the issuance of a certificate of occupancy for the building in which the registered premises shall be located, if the Board finds to its satisfaction the following:
 - (a) That an applicant for registration has entered into a bona fide agreement with the owner of a building proposed to be constructed or remodeled;
 - (b) That, under the bona fide agreement, the applicant has agreed to lease,

purchase, or otherwise occupy all or a portion of the building for the applicant's use in carrying on the business which would be authorized by the registration;

- (c) That the agreement provides that so much of the proposed building to be occupied for business purposes registered under this chapter is to be constructed or remodeled in accordance with specifications set forth in the agreement;
- (d) That the agreement describes the quarters as reasonably adequate and appropriate for the business to be carried on under the authority of the registration;
- (e) An initial written determination by DCRA which reflects that the zoning of the premises to be registered will allow the issuance of the registration; and
- (f) That the applicant shall not engage in the purchase or sale of medical marijuana unless and until a certificate of occupancy and all other business licenses have been issued for the business.

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

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

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

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

5302.4 Applicants for registration under § 5302.1 shall pay the appropriate registration

fee, as set forth in this title, and approval by the Board shall remain effective until the end of the appropriate registration period set out in this title. If the applicant has not opened his or her business by the time the registration period ends, the Board may, in its discretion, extend its approval through such further period as it deems proper upon payment by the applicant of all or any portion of the registration renewal fee.

CHAPTER 54 REGISTRATION APPLICATIONS

5400 GENERAL QUALIFICATIONS FOR ALL APPLICANTS

5400.1 Before issuing, transferring to a new owner, or renewing a registration, permit, or license for either a business applicant or an individual applicant, the Board shall determine that the applicant meets all of the following criteria:

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

5400.2 The Board shall not register either a business applicant or an individual applicant that has failed to file required District tax returns or owes more than \$100 in outstanding debt to the District as a result of the items specified in § 47-2862(a)(1) through (9), subject to the exceptions specified in § 47-2862(b).

5401 SELECTION PROCESS

5401.1 The Mayor shall publish a notice of open application for cultivation center and dispensary registrations that includes the application requirements. Notices shall appear, at a minimum, in the DC Register. Applicants may apply for both a cultivation center and dispensary but must file a separate application for each

registration sought. An applicant may apply for more than one cultivation center registration but may apply for only one dispensary registration. The notice from the Mayor shall contain the start date and deadline for receipt of applications and the process for obtaining application materials. The application materials provided by the Mayor shall include a checklist regarding which documentation must be submitted by the applicant to be considered a complete application and warrant review by a four (4) member panel.

- 5401.2 A four member panel shall be convened consisting of one representative from the Department, MPD, OAG, and a staff person designated by the Board to evaluate and score each application. Each panel member shall score each application on a two hundred (200) point scale. An applicant's overall score is based upon the quality of the applicant's submission by adding up the four scores of each panel member and dividing by four. A dispensary applicant may also submit an educational materials plan, which shall be worth up to twenty (20) additional bonus points. A cultivation center applicant may also submit an environmental plan, which shall be worth up to twenty (20) additional bonus points. The maximum points for each criterion are indicated in section 5402 of these rules. To be considered responsive, an application must have at least one hundred sixty (160) points. The panel shall set forth through consensus comments the basis of the scoring decision for each criterion.
- 5401.3 The four member panel shall select no more than ten (10) cultivation center and five (5) dispensary registration applications. The selection decision shall be made in writing to the successful applicants. Notice shall also be provided by the Mayor to applicants that are not selected. The applications selected by the four member panel shall be placarded by the Mayor with notice given to each ANC in the affected Ward. In the event that a selected cultivation center or dispensary application is subsequently denied by the Board, the applicant who received the next highest score from the four member panel who was not initially accepted, shall be selected and scheduled to be placarded with notice given to each ANC in the affected ward.
- 5401.4 An applicant submitting a cultivation center or dispensary registration application to be considered by the panel shall be required to submit two hundred dollars (\$200) of the five thousand dollar (\$5,000) application fee, which shall be non-refundable, at the time the cultivation center or dispensary application is filed with the Mayor. An applicant who has been selected by the scoring panel shall be required to pay the remaining four thousand eight hundred dollars (\$4,800) of the application fee at the time the application is scheduled to be placarded and notice given to each ANC in the affected ward.

5402 SELECTION CRITERIA

- 5402.1 Each application shall address all criteria and measures, even when no point values are assigned. This shall include the applicant providing all of the information required by §§ 5400, 5402, and 5403. The failure by an applicant to address all of the required criteria and measures will result in the application

being considered non-responsive and not accepted for review by the four member panel. The required criteria and measures shall include the following:

(a) Dispensary Criteria

(1) Suitability of the Proposed facility (Up to 50 points)

(A) Measure 1: The applicant demonstrates that the proposed location will provide adequate lighting, display a professional office or business setting, and be convenient for qualifying patients and caregivers. (up to 25 points)

(B) Measure 2: The applicant demonstrates that the proposed building and facility is suitable for the dispensing of medical marijuana. The applicant demonstrates that the proposed facility will possess adequate storage facilities, and adequate space and facilities to monitor the sale of medical marijuana to qualifying patients and caregivers. (up to 25 points)

(2) Proposed Staffing Plan and Knowledge of District and federal law relating to marijuana (Up to 20 points)

(A) Measure 1: The applicant fully describes a staffing plan that will provide and ensure adequate staffing and experience during accessible business hours, safe dispensing, adequate security and theft prevention, and the maintenance of confidential information, including the identity of qualifying patient information. (up to 10 points)

(B) Measure 2: The applicant shall provide an operations manual that demonstrates compliance with the District's medical marijuana rules. The operations manual shall also contain information regarding the applicant's knowledge of federal law relating to medical marijuana. The applicant shall also submit a notarized written statement on a form provided by the Mayor indicating that they have read the Act and this title and have knowledge of District and federal law relating to marijuana. (up to 10 points)

(3) Security Plan (Up to 50 points)

The applicant shall submit a security plan which shall include a floor plan.

(A) Measure 1: The applicant's security plan fully demonstrates the applicant's ability to prevent the theft or diversion of medical marijuana. The security plan shall also describe how it intends to prevent the diversion of medical marijuana to anyone who is

not a registered qualifying patient or designated caregiver and how the plan will assist with MPD and Board enforcement. (up to 20 points)

(B) Measure 2: The applicant demonstrates that its plan for record keeping, tracking and monitoring inventory, quality control and security and other policies and procedures will discourage unlawful activity. (up to 10 points)

(C) Measure 3: The applicant's security plan shall describe the enclosed, locked facility that will be used to secure or store medical marijuana, including when the location is closed for business, and its security measures, and the steps taken to ensure that medical marijuana is not visible to the public. (up to 10 points)

(D) Measure 4: The applicant's security plan demonstrates compliance with § 5404.2 or § 5405.2 and describes the applicant's plan to coordinate with and dispose of unused or surplus medical marijuana with MPD. (up to 10 points)

(4) Inventory and Cultivation Plan (Up to 10 points)

(A) Measure 1: The applicant shall describe its plan for maintaining an inventory of medical marijuana sufficient to ensure that it will be able to serve the needs of all registered qualifying patients who have made the applicant's facility their designated dispensary.

(5) Product Safety and Labeling Plan (Up to 40 points)

(A) Measure 1: The applicant shall describe its plan for providing safe and accurate packaging and labeling of medical marijuana. The Applicant shall describe how it intends to dispense medical marijuana to a qualifying patient or caregiver for transport in a secure manner. (up to 20 points)

(B) Measure 2: The applicant shall describe its plan for testing or verifying medical marijuana received from a cultivation center and ensuring that all medical marijuana is free of contaminants. (up to 20 points)

(6) Applicant's business plan, marketing plan and services to be offered (up to 30 points)

(A) Measure 1: The applicant shall provide a business plan that describes how the dispensary will operate on a long-term basis. This shall include the applicant providing a detailed description

about the amount and source of the equity and debt commitment for the proposed dispensary that demonstrates the immediate and long-term financial feasibility of the proposed financing plan, the relative availability of funds for capital and operating needs, and the financial capability to undertake the project. (up to 10 points)

(B) Measure 2: The applicant or its directors, officers, members, or incorporators demonstrates experience in business management and/or having medical industry or horticulturalist experience. (up to 10 points)

(c) Measure 3: The business plan shall include a start-up timetable which provides an estimated time from registration of the dispensary to full operation, and the assumptions used for the basis of those estimates. (up to 10 points)

(7) Educational Materials Plan (up to 20 bonus points)

(A) Measure 1: The applicant shall describe its proposed plan for providing educational materials and/or information to qualifying patients, caregivers, and training its staff regarding the administration of marijuana.

(b) Cultivation Center Criteria

(1) Suitability of the Proposed facility (Up to 50 points)

(A) Measure 1: The applicant demonstrates that the proposed facility is suitable for the cultivation of medical marijuana, sufficient in size, power allocation, air exchange and air flow, interior layout, lighting, and sufficient both in the interior and exterior to handle the bulk agricultural manufacturing of medical marijuana, product handling, storage, trimming, packaging and shipping. (up to 25 points)

(B) Measure 2: The applicant demonstrates the ability to continue to meet qualifying patient demand by expanding the cultivation facility in a quick and efficient manner with minimal impact on the environment and the surrounding community. (up to 25 points)

(2) Proposed Staffing Plan and Knowledge of District and federal law relating to marijuana (Up to 20 points)

(A) Measure 1: The applicant fully describes a staffing plan that will provide and ensure adequate staffing and experience for all accessible business hours, safe growing and cultivation,

adequate security and theft prevention, and the maintenance of confidential information, including the identity of qualifying patient information. (up to 10 points)

(B) Measure 2: The applicant shall provide an operations manual that demonstrates compliance with the District's medical marijuana rules. The operations manual shall also contain information regarding the applicant's knowledge of federal law relating to medical marijuana. The applicant shall also submit a notarized written statement on a form provided by the Mayor indicating that they have read the Act and this title and have knowledge of District and federal law relating to marijuana. (up to 10 points)

(3) Security Plan (Up to 50 points)

The applicant shall submit a security plan which shall include:

(A) Measure 1: The layout of the applicant's cultivation center to include a comprehensive floor plan, camera layout and recording/storage/playback plan, and how staff and entrances will be monitored. The applicant's security plan also demonstrates its ability to prevent the theft or diversion of medical marijuana and how the plan will assist with MPD and Board enforcement. (up to 10 points)

(B) Measure 2: The applicant demonstrates that its plan for record keeping, tracking and monitoring inventory, quality control and security and other policies and procedures will discourage unlawful activity. (up to 10 points)

(C) Measure 3: The applicant's security plan shall describe the enclosed, locked facility that will be used to secure or store medical marijuana, including when the location is closed for business, and its security measures, and the steps taken to ensure that medical marijuana is not visible to the public. (up to 10 points)

(D) Measure 4: The applicant shall describe its transportation plan regarding how the cultivation center intends to safely and securely deliver medical marijuana to registered dispensaries. (up to 10 points)

(E) Measure 5: The applicant's security plan demonstrates compliance with § 5404.2 or § 5405.2 and describes the applicant's plan to coordinate with and dispose of unused or surplus medical marijuana with MPD. (up to 10 points)

(4) Cultivation Plan (Up to 30 points)

- (A) Measure 1: The applicant shall describe its plan to provide a steady supply of medical marijuana to registered dispensaries. (up to 10 points)
- (B) Measure 2: The applicant demonstrates knowledge of organic growing methods to be used in the growing and cultivation of marijuana. The applicant shall describe the various strains to be cultivated. (up to 10 points)
- (C) Measure 3: The applicant demonstrates the steps that will be taken to ensure the quality of the marijuana, including the purity and consistency of the medical marijuana to be provided to dispensaries. (up to 10 points)

(5) Product Safety and Labeling Plan (Up to 30 points)

- (A) Measure 1: The applicant shall describe its plan for providing safe and accurate packaging and labeling of medical marijuana. (up to 15 points)
- (B) Measure 2: The applicant shall describe its plan for testing medical marijuana and ensuring that all medical marijuana is free of contaminants. (up to 15 points)

(6) Applicant's business plan and services to be offered (up to 30 points)

- (A) Measure 1: The applicant shall provide a business plan that describes how the cultivation center will operate on a long-term basis. This shall include the applicant providing a detailed description about the amount and source of the equity and debt commitment for the proposed cultivation center that demonstrates the immediate and long-term financial feasibility of the proposed financing plan, the relative availability of funds for capital and operating needs, and the financial capability to undertake the project. (up to 10 points)
- (B) Measure 2: The applicant or its directors, officers, members, or incorporators demonstrates experience in business management and/or having medical industry or horticulturalist experience. (up to 10 points)
- (C) Measure 3: The business plan demonstrates a start-up timetable which provides an estimated time from registration of the dispensary to full operation, and the assumptions used for the basis of those estimates. (up to 10 points)

(7) Environmental Plan (up to 20 bonus points)

(A) Measure 1: The applicant demonstrates an environmental plan of action to minimize the carbon footprint, environmental impact, and resource needs for the production of medical marijuana. Describe any plans for: (1) the use of alternative energy; (2) the treatment of waste water and runoff; (3) scrubbing or treatment of exchanged air; and (4) the co-location of growing facilities and/or the means of packaging or production.

5402.2 In evaluating initial applicants selected by the four member panel for dispensary and cultivation center registration or an application to transfer a cultivation center or dispensary to a new location, the Board shall also consider the following factors:

- (a) Whether the applicant is the true and actual owner of the business for which the registration is sought, and 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; and
- (b) Whether the cultivation center or dispensary will be managed by the applicant either in person or by a Board-licensed manager.

5402.3 A registration application for a cultivation center or dispensary shall not be approved for any establishment located within three hundred (300) feet of a preschool, primary or secondary school, or recreation center.

5402.4 A registration application for a cultivation center or dispensary shall not be approved for any outlet, property, establishment, or business that sells motor vehicle gasoline or that holds a Motor Vehicle Sales, Service, and Repair endorsement under D.C. Official Code § 47-2851.03(c)(9) [now § 47-2851.03(a)(9)] or an Environmental Materials endorsement under § 47-2851.03(c)(4) [now § 47-2851.03(a)(4)] to its master [basic] business license.

5402.5 A registration application for a cultivation center or dispensary shall not be approved for any location that also sells alcoholic beverages.

5402.6 A registration application for a cultivation center or dispensary shall not be approved for an establishment intending to operate any other type of business at the proposed location. A dispensary may sell or provide paraphernalia, literature, posters, and other educational materials related to the medical marijuana program.

5403 APPLICATION FORMAT AND CONTENTS

5403.1 The business application of a person applying for a cultivation center or dispensary registration shall include:

- (a) In the case of an individual applicant, the trade name of the business, if applicable, and the name and address of the individual; in the case of a partnership or limited liability company applicant, the trade name of the business, if applicable, and the names and addresses of each member of the partnership or limited liability company; and in the case of a corporate applicant, the legal name, trade name, place of incorporation, principal place of business, and the names and addresses of each of the corporation's principal officers, directors, and shareholders holding, directly or beneficially, one percent (1%) or more of its common stock;
- (b) The name and address of the owner of the establishment for which the registration is sought and the premises where it is located;
- (c) Whether registration is sought for a cultivation center **or** dispensary;
- (d) The proximity of the cultivation center or dispensary to the nearest public or private, preschool, primary or secondary school or recreation center, and the name of the school or recreation center;
- (e) The size and design of the cultivation center or dispensary;
- (f) A detailed description of the nature of the proposed operation, including the following:
 - (1) The location of all restricted access areas; and
 - (2) The hours during which the cultivation center or dispensary plans to operate;
- (g) An affidavit that complies with D.C. Official Code § 47-2863(b);
- (h) Documents or other written statements or evidence establishing to the satisfaction of the Board that the person applying for the license meets all of the qualifications set forth in § 5400.1; and
- (i) The applicant shall sign a written statement on a form provided by the Mayor attesting that the applicant assumes any and all risk or liability that may result under District of Columbia and federal laws from the operation of a medical marijuana cultivation center or dispensary. The applicant shall further acknowledge that it understands that the medical marijuana laws and enforcement thereof of the District of Columbia and the Federal government are subject to change at any time and that the District of Columbia shall not be liable as a result of these changes.

5403.2

The applicant shall sign a notarized statement certifying that the application is complete and accurate. Any person who knowingly makes a false statement on an application, or in any accompanying statement under oath that the Board may

require, shall be guilty of the offense of making false statements. The making of a false statement, whether made with or without the knowledge or consent of the applicant, shall, in the discretion of the Board, constitute sufficient cause for denial of the application or revocation of the registration. The making of false statements shall also constitute a criminal offense under D.C. Official Code § 22-2514.

- 5403.3 An applicant for a cultivation center or dispensary registration, shall submit two (2) statements, in such form as the Board shall require, as to the following:
- (a) The applicant is the true and actual owner of the business for which the registration is sought; 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 registered establishment will be managed by the applicant in person or by a licensed manager approved by the Board.
- 5403.4 An applicant for any registration shall advise the Board, in the application, as to the source of funds used to acquire or develop the business for which the registration is sought, provided, however, that independent documentation concerning the source of such funds shall not be required as part of the application nor shall the applicant be required to file copies of closing documents in connection with the purchase of a registered business in the absence of a Board order.
- 5403.5 An application for transfer to a new owner filed with the Board must contain both a Bill of Sale and a Purchase and Sale Agreement.
- 5403.6 An applicant for a cultivation center or dispensary shall also file with the Board plans and specifications for the interior of the building if the building to be occupied is in existence at the time. If the building is not in existence, the applicant shall file a plot plan and a detailed sketch for the interior and the architect's drawing of the building to be constructed.

5404 DISPENSARY REGISTRATION APPLICATION REQUIREMENTS

- 5404.1 In addition to the requirements in § 5403, an application for a dispensary shall also contain the following:
- (a) A proposed staffing plan;
 - (b) A proposed security plan containing the criteria set forth in § 5404.2;
 - (c) A product safety and labeling plan that covers the information contained in § 5607;
 - (d) A cultivation plan;

- (e) A written statement regarding the suitability of the proposed facility; and
- (f) A notarized written statement from the applicant that he or she has read the Act and this title and have knowledge of District and federal law relating to marijuana.

5404.2 The applicant for a dispensary shall file a written security plan with the Board. A written security plan shall include at least the following elements:

- (a) A statement on the type of security training provided for, and completed by, establishment personnel, including:
 - (1) Conflict resolution training and other security training to be provided to staff;
 - (2) Procedures for handling violent incidents, other emergencies, and calling the Metropolitan Police Department;
 - (3) The applicant's procedures for preventing unregistered individuals from purchasing marijuana;
 - (4) The establishment's procedures for documenting medical marijuana transactions;
 - (5) How the applicant intends to use and maintain an incident log;
 - (6) The establishment's procedures for preventing the use of medical marijuana on the registered premises;
 - (7) The number and location of cameras used by the establishment;
 - (8) Security measures taken by the applicant to prevent individuals from entering the limited access area portion of the registered premises;
 - (9) The applicant's closing procedures after the cessation of business each day;
 - (10) The applicant's plan to prevent theft or the diversion of medical marijuana, including maintaining all medical marijuana in a secure, locked room that is accessible only to authorized persons; and
 - (11) The type of alarm system and outdoor lighting to be used by the applicant.

5404.3 Upon receipt of a written security plan for an initial dispensary application, the Mayor shall forward the security plan electronically to MPD for an assessment by MPD. MPD shall complete its assessment of the security plan within thirty (30)

days of receipt from the Mayor. The Board shall not issue a dispensary registration until MPD's completion of its security plan assessment and submission of that assessment in writing to the Mayor.

5405 CULTIVATION CENTER REGISTRATION REQUIREMENTS

5405.1 In addition to the requirements in § 5403, an application for a cultivation center shall also contain the following:

- (a) A proposed staffing plan;
- (b) A proposed security plan containing the criteria set forth in § 5405.2;
- (c) A cultivation plan that covers where medical marijuana will be cultivated and stored;
- (d) A product safety and labeling plan that covers the information contained in § 5607;
- (e) A written statement regarding the suitability of the proposed facility; and
- (f) A notarized written statement from the applicant that they have read the Act and this title and have knowledge of District and federal law relating to marijuana.

5405.2 The applicant for a cultivation center shall file a written security plan with the Board. A written security plan shall include at least the following elements:

- (a) A statement on the type of security training provided for, and completed by, establishment personnel, including:
 - (1) Conflict resolution training and other security training to be provided to staff;
 - (2) Procedures for handling violent incidents, other emergencies, and calling the Metropolitan Police Department;
 - (3) The establishment's procedures for documenting medical marijuana transactions;
 - (4) The establishment's procedures for preventing unregistered businesses from purchasing medical marijuana;
 - (5) How the applicant intends to use and maintain an incident log;
 - (6) The establishment's procedures for preventing the use of medical marijuana on the registered premises;

- (7) The number and location of cameras used by the establishment;
- (8) Security measures taken by the applicant to prevent individuals from entering the limited access area portion of the registered premises;
- (9) The applicant's closing procedures after the cessation of business each day;
- (10) The applicant's plan to prevent theft or the diversion of medical marijuana, including maintaining all medical marijuana in a secure, locked room that is accessible only to authorized persons;
- (11) The type of alarm system and outdoor lighting to be used by the applicant; and
- (12) The applicant's transportation plan for delivering medical marijuana from the cultivation center to dispensaries.

5405.3 Upon receipt of a written security plan for an initial cultivation center application, the Mayor shall forward the security plan electronically to MPD for an assessment by MPD. MPD shall complete its assessment of the security plan within thirty (30) days of receipt from the Mayor. The Board shall not issue a cultivation center registration until MPD's completion of its security plan assessment and submission of that assessment in writing to the Mayor.

5406 CULTIVATION CENTER AND DISPENSARY REGISTRATION ISSUANCE

5406.1 A registration for a cultivation center or dispensary shall not be issued by the Board until all approvals or assessments required under this title have been obtained from MPD, DCRA, and the Department.

5407 DIRECTOR, OFFICER, MEMBER, INCORPORATOR, AND AGENT REGISTRATION REQUIREMENTS

5407.1 The application for a director, officer, member, incorporator, or agent registration shall include: (1) written statements or evidence establishing to the satisfaction of the Board that the applicant meets all of the registration qualifications; and (2) a copy of the applicant's medical marijuana training and education certificate. The medical marijuana and education certificate requirement shall not take effect until sixty (60) days from the effective date of these regulations. An individual who has been approved by the Board as a director, officer, member, incorporator, or agent shall not also be required to register as an employee or manager.

5407.2 An applicant for a non-profit or for-profit corporation, partnership, or limited liability company shall identify all of its directors, officers, members, or incorporators on its registration application. An applicant for a dispensary or

cultivation center may submit simultaneously registration applications for individual directors, officers, members, incorporators and agents at the time its dispensary or cultivation center registration application is filed.

5408 EMPLOYEE REGISTRATION REQUIREMENTS

5408.1 The application for an employee registration shall include: (1) written statements or evidence establishing to the satisfaction of the Board that the applicant meets all of the registration qualifications; and (2) a copy of the applicant's medical marijuana training and education certificate. The medical marijuana and education certificate requirement shall not take effect until sixty (60) days from the effective date of these regulations.

5409 MANAGER'S LICENSE REQUIREMENTS

5409.1 The application for a manager registration shall include: (1) a notarized written statement from the applicant that they have read the Act and this title and have knowledge of District and federal law relating to marijuana; (2) written statements or evidence establishing to the satisfaction of the Board that the applicant meets all of the registration qualifications; and (3) a copy of the applicant's medical marijuana training and education certificate. The medical marijuana and education certificate requirement shall not take effect until sixty (60) days from the effective date of these regulations. An individual who has been approved by the Board as a manager shall not also be required to register as an employee.

5410 CRIMINAL BACKGROUND CHECKS

5410.1 Each applicant required to be registered or licensed under the Act and this title shall be required to undergo a criminal background check conducted by MPD prior to being registered or licensed. In the case of an applicant for a non-profit or for-profit corporation, partnership, or limited liability company, a criminal background check shall be conducted on all of its directors, officers, members, incorporators, or agents. The criminal background check shall include both a local and FBI investigation. The applicant shall be responsible for paying the applicable fee to MPD.

5411 REGISTRATION PROHIBITED IN RESIDENTIAL USE DISTRICT

5411.1 No registration shall be issued to a cultivation center or dispensary located in a residential-use district as defined in the zoning regulations and shown in the official atlases of the Zoning Commission for the District.

5412 RESTRICTIONS ON HOLDING A CONFLICT OF INTEREST

5412.1 The holder of a cultivation center registration shall not be permitted to register for more than one (1) medical marijuana dispensary.

5413 RENEWAL PROCESS

5413.1 The Board shall give at least thirty (30) days notice to all ANCs in the affected ward prior to renewing for the third time a registration application for either a cultivation center and/or dispensary. If proper notice has been given to all ANCs in the affected ward, and no objection to the renewal is filed, the Board shall approve the registration application unless the Board finds the applicant's record of compliance warrants denying the renewal application.

5413.2 The Board shall consider the applicant's record of compliance with the Act and this title and the regulations promulgated under this title and any conditions placed on the registration during the period of licensure by the Board in deciding whether to approve a registration request.

5414 ADDITIONAL CONSIDERATIONS FOR TRANSFER TO NEW OWNER

5414.1 In deciding whether to transfer a cultivation center or dispensary registration to a new owner, the Board shall consider only the applicant's qualifications.

5414.2 A transfer application shall be required for any voluntary or involuntary transaction which results in (1) the transfer to an individual of one percent (1%) or more of the legal or beneficial ownership of (A) the registered establishment, or (B) the entity owning or controlling the registered establishment, or (2) a change in stock ownership or partnership interest of one percent (1%) or more, within any 12 month period, shall require application for transfer of the registration to new owners from the Board.

5414.3 An application to transfer a registration to a new owner shall be filed by the transferee and approved by the Board before the consummation of the transfer.

5414.4 An applicant requesting the transfer of a registration to a new owner shall submit documents and other written statements and evidence requesting written approval of the transfer and establishing to the satisfaction of the Board that the new owner meets all of the qualifications set forth in § 5400.1.

5414.5 The current registration holder shall submit an affidavit which complies with D.C. Official Code § 47-2863(b).

5413.6 If the Board finds that the current registration holder is in violation of this title or regulations promulgated under this title, the Board shall deny the application for transfer.

5415 INVOLUNTARY TRANSFERS

5415.1 The Board may transfer the registration of a cultivation center or dispensary upon the request of a bona fide purchaser of the registration who made the purchase at any of the following:

- (a) A marshal's sale;

- (b) A trustee's sale under foreclosure of a chattel deed of trust;
- (c) A trustee's or receiver's sale in bankruptcy proceedings;
- (d) Any other sale conducted upon the order of a court of competent jurisdiction;
- (e) A sale under Article 9 of the Uniform Commercial Code;
- (f) Upon the death of an individual who is a registration holder or who has a stock ownership or partnership interest of one percent (1%) or more in the registered business; or
- (g) A tax sale under Chapter 13 or 13A of Title 47.

5415.2 Bona fide purchasers shall be required to file a transfer of ownership application, pay any outstanding registration fees, and meet all of the requirements of § 5400.1.

5416 DENIED OR WITHDRAWN APPLICATIONS

5416.1 The service charge fee for processing an application which has not been selected, or denied or withdrawn shall be two hundred dollars (\$200).

5417 LIMITATION ON SUCCESSIVE APPLICATIONS AFTER DENIAL

5417.1 A second and each subsequent registration application for either a cultivation center or dispensary that has had its registration revoked by the Board shall not be considered for the same person or persons within five (5) years of the Board's revocation.

CHAPTER 55 REGISTRATION CHANGES

5500 TRADE NAMES AND CORPORATE NAMES

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

5500.2 A dispensary or cultivation center registered under the Act may file a written request with the Board to add an additional trade name at a location currently authorized for the sale of medical marijuana. The Board in its discretion may approve the use of an additional trade name. Any additional trade name approved by the Board shall appear on the establishment's written registration.

5500.3 A dispensary or cultivation center registered under the Act shall not use or display a trade name, corporate name, or sign bearing the words "pharmacy",

“apothecary”, “drug store”, or other phrase that implies that the practice of any health profession occurs on the premises.

- 5500.4 Any trade name requested by an applicant shall not be identical or confusingly similar to one currently used under a previously issued or existing registration.
- 5500.5 The Mayor shall provide written notice to the Department and MPD of any Board approved trade name changes. Such notice shall contain both the previous and current Board approved trade name.
- 5500.6 A dispensary shall be required to provide written notice of any trade name change to all of its registered qualified patients and caregivers within ten (10) days of being notified of Board approval. The dispensary, law enforcement personnel, and Board investigators shall recognize the qualifying patient’s or caregiver’s registration containing the previous trade name as valid until the qualified patient or caregiver’s current registration expires or a new registration card is issued by the Department.

5501 CORPORATE AND PARTNERSHIP CHANGES

- 5501.1 If there is a change in corporate officers, directors, limited or general partners in a partnership, or persons owning or controlling one percent (1%) or more of the common stock of a corporate registration, the corporation or partnership shall submit to the Board within fifteen (15) calendar days the minutes or other instrument giving the names and addresses of any new officer, director, partner or person holding one percent (1%) or more of the stock.
- 5501.2 Within fifteen (15) calendar days of the change, the corporation or partnership shall furnish to the Board any data pertaining to the personal and business history of any new officer, director, stockholder, general or limited partner in a partnership, or other person that the Board may require.
- 5501.3 The fee for a change of officer, director, stockholder, or general or limited partner in a partnership shall be one hundred dollars (\$100).
- 5501.4 If there is a change in the general partners of a limited partnership or in the limited partnership owning or controlling one percent (1%) or more of the partnership interest of a limited partnership registration, the limited partnership 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 partnership interests.

5502 FILING REQUIREMENTS

- 5502.1 If the applicant knowingly makes a false statement in its application, the Board may, in its discretion, order the registration holder to show cause why its registration should not be fined, suspended, or revoked, or may deny the registration application, or treat the registration holder as a new applicant.

5502.2 If the registration holder fails to adhere to any filing requirements set out in § 5302, the Board may, in its discretion, order the registration holder to show cause why the registration should not be suspended or revoked, or impose a civil fine based upon the primary tier schedule set forth in § 5700 of this title, or deny the application for transfer.

CHAPTER 56 GENERAL OPERATING REQUIREMENTS

5600 INSTRUCTIONS TO REGISTRANTS

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

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

5601 POSTING OF IDENTIFICATION REQUIREMENT BY DISPENSARY

5601.1 The notice required to be posted by the dispensary shall state that no person shall be sold medical marijuana who does not produce both: (1) a valid registration card issued by the Department and (2) a valid government issued photo identification document displaying proof of age that matches the name on the registration card.

5602 HOURS OF OPERATION AND SALE

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

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

5602.3 The Board may, by written Order, further limit the hours of operation for a cultivation center or dispensary on a case-by-case basis in response to written comments or testimony received from an ANC in the affected ward.

5603 LOCKING AND SECURING OF MEDICAL MARIJUANA DURING NON-

OPERATING HOURS

5603.1 A registered dispensary or cultivation center shall keep all medical marijuana located on the premises in a separate storage area which is securely closed and locked during all hours when the establishment is prohibited from operating or is closed.

5604 MANAGER'S LICENSE

5604.1 In the absence of an owner, a cultivation center or dispensary shall have a Board approved manager present at the registered premises during the hours that the cultivation center or dispensary is open.

5604.2 An applicant for a Manager's license shall submit an application to the Board on the prescribed form and pay the required fee.

5604.3 If a registered cultivation center or dispensary has designated a person to manage the licensed business, each manager shall be the holder of a valid Manager's license which shall be renewable every two (2) years.

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 § 5409 and the approval of the Board.

5604.6 Prior to issuance of a Manager's license, an applicant shall certify that he or she has obtained and read a copy of the Act and this title.

5604.7 A registered cultivation center or dispensary shall notify the Board within seven (7) calendar days of discovering any manager's arrest or conviction for any crime other than minor traffic violations.

5604.8 Failure by the applicant to comply with § 5604.7, may, in the discretion of the Board, cause the applicant's registration to be suspended or revoked.

5604.9 A registered cultivation center or dispensary may file a written request with the Board that an applicant for a Manager's license who has not completed a medical marijuana training and education certification program be issued a temporary Manager's license. The written request 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. Such temporary authority shall cease after thirty (30) days or upon the approval or denial of the Manager's license application.

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

- 5605.1 A cultivation center or dispensary shall destroy or dispose of unused or surplus medical marijuana and its by-products by providing it to MPD for destruction.
- 5605.2 All unused or surplus medical marijuana and its by products shall be weighed and documented and submitted to MPD on a form provided by MPD prior to being delivered to MPD by the cultivation center or dispensary for destruction.
- 5605.3 A cultivation center or dispensary that has had its registration not renewed or revoked, or is going out of business may obtain approval from the Board by submitting a written request to sell and transport medical marijuana to another cultivation center or dispensary. The Board shall notify MPD of such approval prior to any medical marijuana being transported to another cultivation center or dispensary.
- 5605.4 A cultivation center or dispensary shall report any stolen or lost medical marijuana by filing a police report by calling 911 or with the Police District where the registered business resides either in person or in writing within twenty-four (24) hours of becoming aware of the theft or loss.
- 5605.5 For purposes of this section, “unused or surplus medical marijuana” shall be defined as any harvested or unharvested marijuana, both processed and unprocessed, which is possessed by a cultivation center or dispensary and includes:
- (a) Any marijuana returned to a dispensary or cultivation center after being distributed to patient;
 - (b) Any marijuana plants possessed by a cultivation center in excess of the plant limitation contained in 22C DCMR § 5804.1;
 - (c) Any marijuana that has spoiled or is unusable for medical purposes;
 - (d) Any marijuana possessed by a dispensary in excess of the amount needed to supply all of the dispensary’s qualified patients for a one month period, as indicated in D.C. Official Code § 13-315(7)(e)(3)
 - (e) Any marijuana that has or appears to have been tampered with.
- 5605.6 The Board, in its discretion, may allow a dispensary to possess a surplus of medical marijuana for a period of time, if it is shown that there is a likelihood that additional qualifying patients or caregivers will register with the dispensary.
- 5606 NOTICE OF CRIMINAL CONVICTION OF DIRECTOR, OFFICER, MEMBER, INCORPORATOR, AGENT OR EMPLOYEE**
- 5606.1 A registered dispensary or cultivation center shall immediately notify the Board in writing if the registration holder discovers that any director, officer, member,

incorporator, agent, or employee has at any time prior to or during his or her employment been convicted of a misdemeanor for a drug-related offense or a felony. For purposes of this section, "immediately" shall mean notifying the Board within seven (7) days of discovering the criminal conviction.

5607

LABELING AND PACKAGING OF MEDICAL MARIJUANA

5607.1

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

- (a) The name of the cultivation center where the medical marijuana was produced;
- (b) The name of the dispensary where the medical marijuana was dispensed;
- (c) The quantity of medical marijuana contained within;
- (d) The cannabinoid profile of the medical marijuana contained within, including the THC level;
- (e) Any other ingredient or ingredients besides medical marijuana contained within;
- (f) The name of the recommending physician;
- (g) The dispensing date that the medical marijuana was transferred to the qualified patient or caregiver;
- (h) The qualifying patient's name and registration card number; and

- (i) A statement that the product is for medical use and not for resale or transfer to another person.

- 5607.2 All medical marijuana sold or otherwise distributed by a cultivation center shall be packaged and labeled in a manner that advises the purchaser that it contains marijuana, specifies the amount of marijuana in the product, and that the marijuana is intended for medical use solely by the patient to whom it is sold, and that any re-sale or re-distribution of the medical marijuana to a third person is prohibited.
- 5607.3 The label shall include all ingredients contained in the product, in order from most abundant to least abundant. The label for ingestible items shall identify potential food allergy ingredients, including milk, eggs, fish, shellfish, tree nuts, peanuts, wheat and soybeans. The product shall be packaged in a sealed container that cannot be opened without obvious damage to the packaging.
- 5607.4 The label shall contain the following warning: “There may be health risks associated with the ingestion or use of this product.” Please consult your physician if you have any questions or concerns.
- 5607.5 All medical marijuana shall be labeled with a list of all chemical additives, including but not limited to non-organic and organic pesticides, herbicides and fertilizers that were used in the cultivation and production of the medical marijuana.
- 5607.6 A cultivation center may place a trade or product name on the medical marijuana container prior to transporting it to a dispensary.
- 5607.7 The label shall not contain any of the following information:
- (a) Any false or misleading statement or design;
 - (b) Any seal, flag, crest, coat of arms, or other insignia likely to mislead the qualified patient to believe that the product has been endorsed, made, or used by the District government,
- 5607.8 A cultivation center or dispensary shall not alter, obliterate, or destroy any label attached to a medical marijuana container.
- 5607.9 A dispensary shall place for transport purposes packaged and labeled medical marijuana in a separate sealed container prior to dispensing medical marijuana to a qualified patient or caregiver. This separate sealed container shall comply with these regulations and include a label containing the following required information contained in § 5607.1: (1) the dispensing date the medical marijuana was transferred to the qualifying patient or caregiver; and (2) the qualifying patient’s name and registration card number.
- 5607.10 A dispensary shall submit its labeling to the Mayor for approval and record. The

Mayor shall transmit the final dispensary labeling designs to MPD.

5608 INGESTIBLE ITEMS

5608.1 The production of any medical marijuana distributed by a dispensary in an edible form, or other form which is intended to enter the body of a patient, shall be prepared at a cultivation center facility that meets all requirements of a retail food establishment, including any Department licensing and/or certification requirements. The production of any product containing medical marijuana shall comply with all District of Columbia health regulations relating to the production, preparation, and sale of prepared food items.

5609 PERMITTED FORMS OF MEDICAL MARIJUANA

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

5610 ELECTRONIC RECORDING SECURITY AND ALARM SYSTEM

5610.1 A dispensary or cultivation center shall be required to operate and maintain in good working order a twenty-four (24) hour, seven (7) days a week, electronic recording security system on the premises that complies with the following minimum standards:

- (a) Visually records and monitors all building entrances and exits, all parking lot areas, rear alley areas immediately adjacent to the building, and covers the entire inside of the facility, including all limited access areas, including all areas where medical marijuana is cultivated, stored, dispensed, or destroyed; The cultivation center or dispensary shall instruct the company or individuals installing the surveillance cameras to maximize the quality of facial and body images and to avoid backlighting and physical obstructions;
- (b) Cameras shall possess infrared capabilities and the ability to zoom in and out. Cameras shall have a minimum resolution of five hundred lines per inch and a minimum light factor requirement of seven tenths (0.7) LUX. Light sensitive lenses or the installation of additional lighting may be required to increase picture clarity and brightness. Cameras shall be calibrated and focused to maximize the quality of the recorded image;
- (c) The recording device shall be defined as a “high density recorder” by manufacturer specifications. The device shall be a digital video recorder or similar technology that displays a current date and time stamp in the recording;
- (d) A display monitor with a minimum screen size of twelve (12) inches shall

be connected to the electronic recording security system at all times;

- (e) Electronic recording security systems are required to be maintained in good working order at all times. The owner of a cultivation center or dispensary shall instruct each manager, employee, or agent overseeing the functioning of the video recording security system to immediately report any malfunctioning or technical problems with the system;
- (f) Security recordings shall be retained by the cultivation center or dispensary for a minimum of thirty (30) days. The recording system for the security cameras must be located in a locked, tamper-proof compartment. A cultivation center or dispensary shall be prohibited from taping over existing security video from the last thirty (30) days; and
- (g) Upon request, the recording shall be turned over to MPD or the Board.

5610.2 A dispensary or cultivation center shall install, maintain, and use an operational professionally monitored hard-wired robbery and burglary alarm system.

5611 STORAGE

5611.1 A cultivation center or dispensary shall be required to install and use a safe for overnight storage of any processed marijuana, and cash on the registered premises, with the safe being incorporated into the building structure or securely attached thereto.

5612 PRODUCTION OF VALID PHOTO IDENTIFICATION REQUIRED

5612.1 A dispensary shall refuse to sell or deliver medical marijuana to any person who fails to produce both a valid registration card issued by the Department and a valid government issued photo identification document displaying proof of age that matches the name on the registration card.

5613 TEMPORARY SURRENDER OF REGISTRATION—SAFEKEEPING

5613.1 A registered cultivation center or dispensary that discontinues its operations for any reason shall surrender its registration to the Board for safekeeping within three (3) calendar days of discontinuing its operations. The Board shall hold the registration until the establishment resumes business or the registration is transferred to a new owner. If the licensee has not initiated proceedings to resume operations or transfer the license within two (2) years, the Board shall deem the registration abandoned and cancel the registration.

5613.2 The Board shall extend the period of safekeeping beyond two (2) years only for reasonable cause, such as fire, flood, other natural disaster; rebuilding or reconstruction; or to complete the sale of the establishment.

- 5613.3 This section shall not relieve a registered cultivation center or dispensary from the responsibility for renewing the registration upon its expiration.
- 5613.4 If a cultivation center or dispensary notifies the Board that the establishment has ceased to do business under the registration or if the Board cancels the registration under this section, the registration shall be marked as "canceled."
- 5613.5 A registration suspended by the Board under this title shall be stored with the Board.

5614 CO-LOCATION AND INTEGRATION

- 5614.1 Nothing in this title shall preclude two or more cultivation centers from locating in the same building, provided that they maintain (1) separate books and records, and (2) their own secure and distinct licensed premises that is separated at a minimum by a fixed boundary.
- 5614.2 A cultivation center and dispensary may be located in the same building provided that they share the same Board approved ownership but shall maintain separate books and records and a separate secure space and provided that qualified patients and caregivers are prohibited from entering any portion of the cultivation center area.

5615 POINT-OF-SALE SYSTEM

- 5615.1 The Board may require a dispensary to purchase and participate in a point-of-sale computer system for purposes of: (1) verifying that a qualified patient or caregiver is registered, (2) verifying which dispensary a qualified patient is registered, and (3) tracking the quantity and date of each medical marijuana sale.

5616 SIGN REQUIREMENTS

- 5616.1 A dispensary shall post at its building entrance in a conspicuous place, a sign from the Board which states the following:
- (a) Persons under the age of eighteen (18) are precluded from entering the premises unless they are a qualified patient and are in the presence of a parent or guardian; and
 - (b) Smoking, ingesting or consuming marijuana on the premises or in the vicinity of the dispensary is prohibited. Marijuana shall be used only by the qualifying patient in his or her home, the facility where he or she resides, or a medical facility when receiving medical care for a qualifying medical condition, if permitted by the medical facility.
- 5616.2 A dispensary shall post a sign provided by the Board that is either visible from the point of entry or the point of sale, which indicates the following:

- (a) The obligation of the qualified patient or caregiver to produce a valid registration card issued by the Department;
- (b) The obligation of the qualified patient or caregiver to produce a valid government issued photo identification document displaying proof of age that matches the name on the registration card;
- (c) The use of medical marijuana may impair a person’s ability to drive a motor vehicle, aircraft, or motorboat, ride a bicycle, or operate heavy machinery; and
- (d) The sale and use of marijuana and the diversion of marijuana for non-medical purposes, including to a third party, is a crime in violation of District law.

5616.3 A cultivation center or dispensary shall post a sign provided by the Board at all areas of ingress and egress to limited access areas, which reads: “Access to this area is restricted to persons registered with the Board visibly displaying a registration identification card.”

5617 OUTDOOR LIGHTING REQUIREMENTS

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

5617.2 Outdoor lighting shall be hooded or oriented so as to deflect light away from adjacent properties.

5618 MINIMUM STAFFING LEVELS

5618.1 A dispensary shall be staffed with at least two persons during its hours of operation.

5618.2 A cultivation center shall be staffed with at least two persons when employees are present inside of the cultivation center.

5619 LIMITED ACCESS AREAS

5619.1 Medical marijuana shall only be grown, cultivated, stored, weighed, displayed, packaged, sold, or possessed for sale, only in a limited access area under the control of the cultivation center or dispensary. A cultivation center or dispensary shall permit only those persons registered with the Board to enter the limited access area.

5619.2 A limited access area, including all areas of ingress and egress, shall be

designated by the cultivation center or dispensary on its application. The limited access area shall be either a building, room, or other contiguous area upon the registered premises.

- 5619.3 A cultivation center or dispensary shall post a sign provided by the Board at all areas of ingress and egress identifying the limited access area.
- 5619.4 Persons registered by the Board shall wear their registration identification issued by the Mayor at all times while working or entering the limited access area.
- 5619.5 It shall be a violation of this title for a registered or non-registered person to be located within a limited access area unless the person's registration identification is visibly displayed.

5620 MANUFACTURING STANDARDS

- 5620.1 In the course of producing and growing medical marijuana, a cultivation center is forbidden from using any of the following substances or techniques:
- (a) Synthetic pesticides (e.g. defoliants and desiccants, fungicides, insecticides and rodenticides), or wood preservatives (e.g. arsenate);
 - (b) Fertilizer or composted plant and animal material that contains a substance prohibited by this section;
 - (c) Sewage sludge, in any form, as a soil amendment;
 - (d) Synthetic growth regulators;
 - (e) Synthetic allopathic veterinary drugs, including antibiotics and parasiticides;
 - (f) Synthetic processing substances, aids and ingredients, and food additives and processing aids including sulphates, nitrates and nitrites;
 - (g) Equipment, packaging materials and storage containers, or bins that contain synthetic fungicide, preservative or fumigant;

(h) Any pesticide, fungicide, fertilizer, rodenticides, or drugs banned by the Department of Agriculture or Food and Drug Administration; or any other substances or techniques deemed unlawful by the Board.

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

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

5621 TRANSPORT OF MEDICAL MARIJUANA

5621.1 A cultivation center shall obtain from the Board a transport permit to transport within the District of Columbia medical marijuana to registered dispensaries. An original transport permit shall be required for each vehicle being designated by the cultivation center or its contracted agent to be authorized to deliver medical marijuana to registered dispensaries.

5621.2 A cultivation center or its contracted agent shall not transport medical marijuana within the District of Columbia without an original transport permit. A cultivation center shall permit only an employee, director, officer, member, incorporator, or agent registered with the Board or its contracted agent to transport medical marijuana to a registered dispensary.

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

CHAPTER 57 ENFORCEMENT, INFRACTIONS, AND PENALTIES

5700 MANDATORY REVOCATION OF DIRECTOR, OFFICER, MEMBER, INCORPORATOR, AGENT, AND EMPLOYEE REGISTRATION

5700.1 The Board shall revoke the registration of a director, officer, member, incorporator, agent or employee of a cultivation center or dispensary who is found by the Board or a District or Federal Court, to have violated any provision specifically contained in the Act. The Board may suspend or revoke the registration of a director, officer, member, incorporator, agent or employee of a cultivation center or dispensary found by the Board or a District or Federal Court, to be in violation of this title.

5701 MANDATORY REVOCATION

5701.1 The Board shall revoke the registration of a registration holder as a result of any

of the following events during the period for which the registration was issued:

- (a) The registration holder has been convicted of one or more violations of the Act or the regulations issued under this title and the penalties set forth in Chapter 57 or established by the Board require revocation;
- (b) Except for the sale of medical marijuana or drug paraphernalia related to the sale of medical marijuana, the registration holder has knowingly engaged, permitted, or condoned inside or outside of the establishment:
 - (1) The illegal sale, or negotiations for sale, or the use, of any controlled substance identified in the District of Columbia Controlled Substances Act; or
 - (2) The possession or sale, or negotiations for sale, of drug paraphernalia in violation of the Controlled Substances Act or Chapter 11 of Title 48. Successive sales, or negotiations for sale, over a continuous period of time shall be deemed evidence of knowledge; or
- (c) The registration holder has been convicted of a felony or a misdemeanor for a drug-related offense.

5701.2 The Board may revoke the registration of a registration holder as a result of any of the following events during the period for which the registration was issued:

- (a) The registration holder knowingly or recklessly sells or distributes medical marijuana to an unregistered patient;
- (b) The registration holder knowingly or recklessly purchases marijuana from an unregistered cultivation center or dispensary;
- (c) The registration holder knowingly or recklessly makes a false or misleading statement to the Board or in any affidavit or application that they submit to the Mayor;
- (d) The registration holder unlawfully interferes or impedes in an inspection of their premises conducted by a Board investigator or MPD;
- (e) The registration holder permits or encourages the consumption of medical marijuana on their premises. Repeated violations for permitting the consumption of medical marijuana on the registered premises shall be considered evidence of encouragement.

5702.2 A cultivation center may request that a Board or Department investigator put on protective gear prior to entering a cultivation center.

5702 MANDATORY SUSPENSION

5702.1 The Board shall summarily suspend the registration of a cultivation center or dispensary upon a finding that a director, officer, member, incorporator, agent or employee of a cultivation center or dispensary has violated any provision specifically contained in the Act. The Board shall remove the suspension once the Board is satisfied that the director, officer, member, incorporator, agent or employee is no longer affiliated or employed with the cultivation center or dispensary.

5703 NOTICE TO DISTRICT AGENCIES

5703.1 The Board shall provide written notice to the Department and MPD of any Board decision that results in the suspension or revocation of the cultivation center's or dispensary's registration.

5703.2 The Board shall provide written notice to the Department and MPD of any Board decision to transfer a registered dispensary to a new location. Such notice shall contain both the previous and current Board approved location.

5703.3 A dispensary shall be required to provide written notice of any location change to all of its registered qualified patients and caregivers within ten (10) days of being notified of Board approval.

CHAPTER 58 PROHIBITED AND RESTRICTED ACTIVITIES

5800 SALE AND PURCHASE OF MEDICINAL MARIJUANA BY DISPENSARIES

5800.1 It shall be unlawful for a registered medical marijuana dispensary to receive or purchase medical marijuana from a source other than a cultivation center registered in the District of Columbia.

5800.2 A dispensary shall not be permitted to offer for sale, sell, or solicit an order for medical marijuana in person except within the registered premises. Nothing in this subsection shall preclude a dispensary from providing (1) educational information regarding medical marijuana to a physician or (2) necessary information to qualifying patients over the telephone or on-line including the availability at the dispensary of particular types of medical marijuana recommended by the qualifying patient's physician.

5800.3 A dispensary shall not be permitted to receive purchase medical marijuana from a person other than a cultivation center registered in the District.

5801 SALE OF MEDICAL MARIJUANA BY CULTIVATIONCENTERS

5801.1 A cultivation center shall not be permitted to sell medical marijuana to qualified patients or caregivers. It shall be a violation of this title for a cultivation center to sell medical marijuana to qualified patients or caregivers.

5801.2 It shall be unlawful for a cultivation center to sell or distribute medical marijuana to a person or entity other than a dispensary registered in the District of Columbia.

5801.3 It shall be unlawful for a cultivation center to sell medical marijuana from plants not grown at a registered location in the District of Columbia.

5802 UNSEALED PACKAGES IN COMMERCIAL OR PUBLIC VEHICLES

5802.1 No driver of a commercial or public vehicle in the District of Columbia shall have in his or her possession, while in or on the vehicle, any opened or unsealed package containing medical marijuana.

5803 DELIVERY OF MEDICAL MARIJUANA

5803.1 A dispensary shall not be permitted to transport or deliver medical marijuana to a qualified patient or caregiver or from a cultivation center. It shall be a violation of this title for a dispensary to transport or deliver medical marijuana to either a qualified patient or caregiver or from a cultivation center.

5803.2 A cultivation center shall not be permitted to deliver medical marijuana to any premises other than the specific registered premises of the dispensary where the medical marijuana is to be sold.

5804 PLANT LIMITATIONS

5804.1 A cultivation center shall be permitted to possess and cultivate up to ninety-five (95) living marijuana plants at any one time for the sole purpose of producing medical marijuana in a form permitted under this title. A dispensary shall not be permitted to possess or sell marijuana plants. It shall be a violation of this title for a dispensary to possess or sell marijuana plants or for a cultivation center to sell marijuana plants to a dispensary.

5805 PROHIBITION REGARDING ON-PREMISE CONSUMPTION

5805.1 A cultivation center or dispensary shall not permit the consumption of medical marijuana at the registered premises in any form. The dispensary or cultivation center shall dispense or distribute medical marijuana in a closed container that shall not be opened after sale, or the contents consumed, on the premises where sold. A dispensary may exhibit for display purposes only clear jars of medical marijuana to assist qualified patients in making informed purchase making decisions.

5805.2 It shall be a violation of this title for a cultivation center or dispensary to have on the registered premises any medical marijuana or marijuana paraphernalia that

shows evidence of the medical marijuana having been consumed or partially consumed.

5806 TIE-IN PURCHASES PROHIBITED

5806.1 A cultivation center shall not require, directly or indirectly, a dispensary to purchase any type of medical marijuana or other commodity in order to purchase any other medical marijuana product.

5807 MINIMUM AGE AND ENTRY REQUIREMENTS

5807.1 A person under twenty-one (21) years of age shall not be employed by a dispensary to sell or dispense medical marijuana.

5807.2 A person under twenty-one (21) years of age shall not be employed by a cultivation center to grow or cultivate medical marijuana.

5807.3 A person under the age of eighteen (18) shall be precluded from purchasing medical marijuana from a dispensary unless he or she is a qualified patient and is in the presence of a parent or guardian.

5807.4 A dispensary may prohibit an individual who is not a qualifying patient, caregiver, or on official government business from entering or remaining on the registered premises.

5808 COMPENSATION OR GIFTS TO PHYSICIANS

5808.1 It shall be a violation of this title for a cultivation center or dispensary, or a director, officer, member, incorporator, agent, or employee of a cultivation center or dispensary to provide financial compensation, an office, or anything of value to a physician who recommends the use of medical marijuana.

5808.2 A cultivation center shall not be permitted to hold educational seminars, classes, or discussions regarding medical marijuana for physicians.

5809 MEDICAL MARIJUANA AND PARAPHERNALIA RESTRICTIONS

5809.1 A dispensary shall not provide a qualified patient or caregiver more than two (2) ounces of dried medical marijuana either at one time or within a thirty (30) day period.

5809.2 A dispensary shall dispense medical marijuana and distribute paraphernalia only to a qualifying patient or caregiver, if the qualifying patient is registered to receive medical marijuana from that dispensary.

5810 VISIBILITY

5810.1 A dispensary or cultivation center shall not permit medical marijuana or

paraphernalia to be visible from any public or other property not owned by the dispensary or cultivation center.

CHAPTER 59 ADVERTISING

5900 SIGN ADVERTISING

5900.1 Advertisements relating to the prices of medical marijuana shall not be displayed in the window of a registered establishment.

5900.2 Advertisements relating to medical marijuana shall not be displayed on the exterior of any window or on the exterior or interior of any door.

5900.3 No sign advertising medical marijuana on the exterior of, or visible from the exterior of, any licensed establishment or elsewhere in the District shall be illuminated at any time.

5901 PROHIBITED STATEMENTS

5901.1 A registered cultivation center or dispensary shall not use any picture or illustration that depicts a child or immature person, or objects (such as toys), suggestive of the presence of a child, and any statement, design, device, picture, or illustration designed to be especially appealing to children or immature persons.

5901.2 A statement that is known by the dispensary or cultivation center to be false or misleading with respect to advertised price charged to the qualified patient, ingredients of medical marijuana, source of manufacturer, or statements as to health benefits, shall be prohibited.

5901.3 A statement that encourages the use or purchase of medical marijuana without a registration card shall be prohibited.

CHAPTER 60 RECORDS AND REPORTS

6000 CULTIVATION CENTER BOOKS AND RECORDS

6000.1 Each registered cultivation center 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 dispensary;
- (b) The name, address, and registration number of the dispensary;
- (c) The quantity of medical marijuana and paraphernalia sold to the dispensary;
- (d) The price charged and the amount received for the medical marijuana from

the dispensary;

- (e) The quantity and form of medical marijuana maintained at the cultivation center on a daily basis; and
- (f) The amount of plants being grown at the cultivation center on a daily basis;

6000.2 These books and records shall be maintained by the cultivation center for a period of three (3) years.

6001 CULTIVATION CENTER INVOICES.

6001.1 With each sale of medical marijuana, the cultivation center shall cause to be made in duplicate an invoice of the sale showing the following information:

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

6001.2 With each sale, the invoice shall be prepared in duplicate, and shall be consecutively numbered.

6001.3 All invoices and delivery slips shall be systematically filed and maintained for a period of four (4) years from date of delivery.

6002 DISPENSARY BOOKS AND RECORDS

6002.1 Each registered dispensary 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 marijuana made to and by the dispensary.

6002.2 Records shall include and distinctly show the following information:

- (a) The quantity, form, and price of medical marijuana and paraphernalia purchased from a cultivation center in each purchase;
- (b) The date and time of delivery of each purchase from a cultivation center;

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

6002.3 All invoices and delivery slips shall be systematically filed and maintained for a period of four (4) years from date of delivery and shall show a true, accurate, legible, and complete statement of terms and conditions on which each purchase was made.

6003 CULTIVATION CENTER REPORTS

6003.1 This section shall apply to registered cultivation centers.

6003.2 Registration holders subject to this section shall, on or before the 30th 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 each medical marijuana product manufactured by the cultivation center during the preceding six (6) months;
- (b) The quantity of each medical marijuana product sold by the cultivation center during the preceding six (6) months;
- (c) The quantity of paraphernalia manufactured by the cultivation center during the preceding six (6) months;
- (d) The quantity and price of paraphernalia sold by the cultivation center during the preceding six (6) months;
- (e) The amount of medical marijuana destroyed or disposed of during the preceding six (6) months;
- (f) Certification from MPD that medical marijuana that was cultivated was relinquished for destruction or disposal;
- (g) The cultivation's center's total expenditures for manufacturing medical

marijuana during the preceding six (6) months;

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

6003.3 The making of a false statement on a submitted report, with the knowledge of the registered cultivation center, shall constitute grounds on which the Board may deny the renewal of the registration, or subsequently revoke the registration, when the renewal of the registration is based wholly or in part on the contents of the false statement.

6004 DISPENSARY REPORTS

6004.1 This section shall apply to registered dispensaries.

6004.2 On or before the 30th 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 and price of medical marijuana distributed or dispensed to qualified patients and caregivers during the preceding six months;
- (b) The dispensary's total expenditures for distributing or dispensing medical marijuana during the preceding six months;
- (c) The dispensary's total amount of receipts for the sale of medical marijuana;
- (d) The quantity of paraphernalia sold by the dispensary during the preceding six months;
- (e) The dispensary's gross revenue based upon its medical marijuana sales

during the preceding six months;

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

6004.3 The making of a false statement on a submitted report, with the knowledge of the registered dispensary, shall constitute grounds on which the Board may deny the renewal of the registration, or subsequently revoke the registration, when the renewal of the registration is based wholly or in part on the contents of the false statement.

6005 SLIDING SCALE REGISTRATION

6005.1 A registered dispensary shall be required to devote two percent (2%) of its gross revenue from medical marijuana to the sliding scale registration program set forth in this title to assist in providing medical marijuana to eligible qualifying patients who are unable to afford it. The dispensary's gross revenue shall be based upon its medical marijuana sales during the preceding six months as reported to the Board in § 6004.1. The dispensary shall be required to devote two percent (2%) of its gross revenue from medical marijuana to the program every six months and shall occur by July 31st and January 31st of each year.

6005.2 The gross revenue amount to be contributed by the dispensary to the sliding scale registration program shall be subject to audit by the Board.

6006 RETENTION AND INSPECTION OF BOOKS AND RECORDS

6006.1 The books and records referred to in this chapter, including the original and duplicate invoices, shall be open to inspection by the Board or its designated agent, and the OTR, during the establishment's approved hours of operation.

6006.2 A cultivation center 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.

6006.3 A dispensary shall keep and maintain all book 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.

6007 REPORTING DIRECTOR, OFFICER, MEMBER, INCORPORATOR, AGENT, EMPLOYEE, AND MANAGER CHANGES

6007.1 A cultivation center or dispensary shall notify the Mayor within ten (10) days after a registered director, officer, member, incorporator, agent, employee, or manager ceases to work at, manage, own, or otherwise be associated with the operation. The director, officer, member, incorporator, agent, employee, or manager shall surrender his or her identification card to the Mayor within ten (10) days of ceasing to work at, manage, own, or otherwise be associated with the operation.

CHAPTER 61 BOARD REVIEW PROCEDURES

6100 REVIEW OF REGISTRATION APPLICATIONS

6100.1 Except as otherwise provided herein, Board actions and procedures shall be governed by Chapter 5 of Title 2.

6100.2 The Board may meet in panels of at least three (3) members for the purpose of conducting hearings and taking official actions on medical marijuana applications. Three members shall constitute a quorum.

6100.3 For the purposes of this section, the Board may permit the applicant to designate in writing a representative to represent it during proceedings before the Board.

6100.4 Upon the initial selection of a complete application by a four member review panel for a cultivation center or dispensary registration, the Board shall schedule a public roll call hearing to occur not less than five (5) days after the end of the ANC comment period.

6100.5 The Board shall schedule a public roll call hearing to occur not less than five days after the end of the ANC comment period every third year it receives a renewal application from a cultivation center or a dispensary.

6100.6 The Board shall indicate at the public roll call hearing whether any ANC comments were received either in opposition to or in support of the application.

6101 HEARING CONTINUANCES

6101.1 The roll call hearing may be continued for good cause. A written motion for continuance shall be filed with the Board by the applicant or an ANC located in

the affected ward at least seven (7) days before the scheduled roll call hearing date. To be granted the motion shall, in the opinion of the Board, demonstrate that an extreme emergency exists.

6102 BOARD DECISIONS

6102.1 No registration application shall be approved until the Board has determined that the applicant has complied with the requirements of § 5400.1 or, in the case of a renewal, in compliance with the legal requirements of the Act and this title. The Board shall also have considered, in the case of an initial application and third renewal for a cultivation center or dispensary, any timely comments filed by an ANC located in the affected ward.

6102.2 For the purposes of this section, the record shall close regarding a cultivation center or dispensary application when the roll call hearing is concluded.

6102.3 Within forty-five (45) days of the close of the record, the Board shall issue its written decision accompanied by findings of fact and conclusions of law.

6102.4 The Board may deny an application for good cause. For purposes of this section, “good cause” shall constitute a finding by the Board that either: (1) the applicant does not meet or has failed to comply with any of the provisions of the Act or this title, (2) the licensed premises has been operated in a manner that adversely affects the public health or welfare of the neighborhood in which the establishment is located, or (3) timely comments received by an ANC located in the affected ward regarding the proposed or current location warrant denying the application.

6103 RECONSIDERATION REQUESTS

6103.1 A request for reconsideration or stay of a decision of the Board may be filed by the Applicant or an ANC located in an affected ward within ten (10) days of receipt of the Board’s order.

6103.2 A stay shall be granted only upon good cause, which shall consist of unusual or exceptional circumstances.

6104 JUDICIAL REVIEW

6104.1 Any person receiving an adverse final decision from Board concerning a registration application may seek judicial review in the Superior Court of the District of Columbia pursuant to D.C. Official Code § 11-921.

CHAPTER 62 ENFORCEMENT HEARINGS

6200 REVOCATION, SUSPENSION, OR FINES – GENERAL PROVISIONS

- 6200.1 Except as provided in § 6202, the Board shall not revoke or suspend a registration until the holder of the registration has been given an opportunity to be heard in his or her defense.
- 6200.2 If a registration is revoked or suspended, no part of the registration fee shall be returned.
- 6200.3 If the Board revokes a registration for a cultivation center or dispensary, no registration shall be issued to the same person or persons whose registration is so revoked for the same or any other location for five (5) years following the revocation, except as provided below.
- 6200.4 If the Board revokes a manager's license or a registration for a person other than a cultivation center or dispensary, a manager's license or individual registration shall not be issued to the same person for two (2) years.
- 6200.5 This section shall not apply to registrations or licenses revoked by the Board for procedural reasons.
- 6200.6 The Board may fine, as set forth in the schedule of civil penalties established under § 5700, and suspend, or revoke the registration of any registration holder during the registration period if:
- (a) The registration holder violates any of the provisions of the Act or this title;
 - (b) The registration holder allows the registered establishment to be used for any unlawful or disorderly purpose;
 - (c) The registration holder fails to supervise in person, or through a manager approved by the Board, the business for which the registration was issued;
 - (d) The registration holder fails or refuses to allow a Board investigator, a designated agent of the Board, or a member of MPD to enter or inspect without delay the registered premises or examine the books and records of the business, or otherwise interferes with an investigation; or
 - (e) The registration holder fails to follow its security plan or Board order.

6201 SHOW CAUSE HEARINGS

- 6201.1 The Board shall receive, at any time during the registration period, complaints from any person, or an ANC in the affected ward, alleging a violation by a cultivation center or dispensary. Complaints shall be in writing and set forth enough information to allow the Board or its staff to investigate the matter.
- 6201.2 In addition to written complaints identifying the complainant, any person may make an anonymous complaint in writing to the Board or orally to any Board

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

- 6201.3 Within thirty (30) days of receiving evidence supporting a reasonable belief that a cultivation center, dispensary, or other registration holder is in violation of the provision of the Act or this title, the Board shall order the registration holder, by personal service or certified mail, to appear before the Board not less than thirty (30) days thereafter to show cause why the registration should not be fined, revoked or suspended. The notice shall state the time and place set by the Board for the hearing.
- 6201.4 The registration holder shall appear in person, may be represented by counsel, and shall be entitled to offer evidence in his, her, or its defense. A show cause hearing shall be a contested case subject to the requirements of the District of Columbia Administrative Procedure Act.
- 6201.5 If the registration holder waives the hearing or fails to appear, the Board shall proceed *ex parte*, unless the Board extends the time for the hearing for good and sufficient cause.
- 6201.6 If the Board holds a show cause hearing on a complaint made under subsection 6201.1, the Board, in issuing its order, may place certain conditions on the registration if it determines that the inclusion of the conditions would be in the best interests of the neighborhood in which the establishment is registered. The Board, in placing the conditions, shall state, in writing, the rationale for its decision.
- 6201.7 All written complaints as set forth under subsection 6201.1, which 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, and shall advise the complainant of the action that the Board or its staff has taken on the matter.
- 6201.8 The Board shall maintain records documenting complaints received and the action taken in response to the complaint.

6202 SUMMARY SUSPENSION HEARINGS

- 6202.1 If the Board determines, after investigation, that the operations of a cultivation center or dispensary present an imminent danger to the health and safety of the public, the Board may summarily suspend, fine, or restrict, without a hearing, the registration of the cultivation center or the dispensary.
- 6202.2 The Board may summarily suspend, fine, or restrict a cultivation center or dispensary registration when: (1) the establishment has been the scene of an assault on a police officer, government inspector or investigator, or other governmental official, who was acting in his or her official capacity, (2) the

establishment is in violation of the District of Columbia Controlled Substances Act or Chapter 11 of Title 48, or (3) a registered person from the dispensary assaults a qualified patient or caregiver at the registered premises.

6202.3 A cultivation center or dispensary may request a hearing within seventy-two (72) hours after service of notice of the summary suspension, fine, or restriction of a registration. The Board shall hold a hearing within forty-eight (48) hours of receipt of a timely request and shall issue a decision within seventy-two (72) hours after the hearing.

6202.4 A person aggrieved by a final summary action may file an appeal in accordance with the procedures set forth in subchapter I of Chapter 5 of Title 2.

6203 REQUEST FOR SUSPENSION OR REVOCATION OF REGISTRATION BY CHIEF OF POLICE

6203.1 The Chief of Police may request the suspension or revocation of a cultivation center or dispensary registration if the Chief of Police determines that there is a correlation between increased incidents of crime within one thousand feet (1,000 ft.) of the establishment and the operation of the establishment. The determination shall be based on objective criteria, including incident reports, arrests, and reported crime, occurring within the preceding eighteen (18) months and within one thousand feet (1,000 ft.) of the establishment.

6203.2 The Chief of Police may close a cultivation center or dispensary for up to ninety-six (96) hours, subject to a hearing and disposition by the Board under § 6202 if he or she finds that:

- (a) There is an imminent danger to the health and welfare of the public by not doing so; and
- (b) There is no immediately available measure to ameliorate the finding in paragraph (a) of this subsection.

6203.3 The order of the Chief of Police to close an establishment under § 6203.2 shall terminate upon the disposition by the Board of the matter under § 6202.

6204 NOTICE OF SUSPENSION OR REVOCATION TO PUBLIC

6204.1 If the Board orders the suspension or revocation of a cultivation center or dispensary registration, the Board shall post a notice in a conspicuous place at or near the main street entrance of the outside of the establishment.

6204.2 The posted notice shall state that the registration has been suspended, the period of the suspension, and that the suspension is ordered because of a violation of the Act or this title.

6204.3 Any person willfully removing, obliterating, or defacing the notice shall be guilty of a violation of this chapter.

6204.4 The Board shall coordinate with the Department to notify in writing the qualifying patients and caregivers of a registered dispensary that either: (1) has its registration revoked, or (2) is required to serve a suspension of longer than seven (7) calendar days.

6205 EXAMINATION OF PREMISES AND BOOKS AND RECORDS

6205.1 A cultivation center or dispensary shall allow any Board investigator, Board auditor, or member of the Metropolitan Police Department a full opportunity to investigate, inspect, and examine, at any time during business hours and other times of apparent activity:

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

6205.2 In those circumstances where a part of the registered premises consists of a locked area, upon demand to the registration holder, such area shall be made available for inspection without delay.

6205.3 All books and records required to be maintained by the cultivation center or dispensary shall be maintained at the registered premises.

6300 through 9800 Reserved

CHAPTER 99 DEFINITIONS

9900 DEFINITIONS

9900.1 When used in chapters 50 through 98 of this subtitle, the following terms and phrases shall have the meanings ascribed:

Act – means the Legalization of Marijuana for Medical Treatment Initiative of 1999 (Act), effective February 25, 2010 (D.C. Law 13-315; 57 DCR 3360), as amended by the Legalization of Marijuana for Medical Treatment Amendment Act of 2010, effective July 27, 2010 (D.C. Law 18-210; 57 DCR 4798).

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

ANC – means Advisory Neighborhood Commission.

Board – means the hearing board delegated by the Mayor to conduct registration, licensing, and enforcement proceedings involving cultivation centers and dispensaries.

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

Caregiver – means a person who:

- (a) Is designated by a qualifying patient as the person authorized, on the qualifying patient’s behalf, to possess, obtain from a dispensary, dispense and assist in the administration of medical marijuana;
- (b) Is registered with the Department as the qualifying patient’s caregiver;
- (c) Is not currently serving as the caregiver for another qualifying patient; and
- (d) Is at least eighteen (18) years of age.

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

Cultivation center – means a facility registered to operate a business that possesses, manufactures, grows, cultivates and distributes medical marijuana for sale to a registered dispensary. A cultivation center may also manufacture, purchase, possess, and distribute paraphernalia and cigarette rolling papers to registered dispensaries.

Day – means calendar day.

DCRA – means the Department of Consumer and Regulatory Affairs

Department – means the Department of Health.

Dispensary – means a facility registered to operate a business that possesses and sells medical marijuana to qualified patients and caregivers. A registered dispensary may also manufacture, purchase, possess, and distribute paraphernalia and cigarette rolling papers to registered qualified patients and caregivers.

Dispense – means to distribute medical marijuana to a qualifying patient or caregiver.

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

Fact-finding hearing – means a hearing held by the Board to obtain further

information from an applicant in response to either (1) a registration or licensing request or (2) an investigation conducted by the Board.

Individual Applicant – means an individual who has made an application for a manager’s license or for registration as a director, officer, member, incorporator, agent, or employee and who has an application pending before the Board.

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

License – means the document issued to an applicant after approval by the Board and completion of the registration process.

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

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

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

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

Medical Marijuana- means marijuana cultivated, manufactured, possessed, distributed, dispensed, obtained, or administered in accordance with the Act and this title.

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

MPD – means the Metropolitan Police Department.

OAG – means the Office of the Attorney General

OTR – means the Office of Tax and Revenue.

Paraphernalia – means:

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

for use in planting, propagating, manufacturing, cultivation, growing, harvesting, processing, or preparing medical marijuana.

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

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

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

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

Qualifying patient – means a resident of the District who has a qualifying medical condition or is undergoing a qualifying medical treatment.

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

Roll call hearing – means the proceeding specified in a placard posted at an applicant's premises. It is at this public hearing that the Board receives testimony or clarification from one or more ANCs regarding their timely submitted written comments.

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

Comments on this rule should be submitted, in writing, to Arthur J. Parker, Chief, Rulemaking Section, Office of the Attorney General, Legal Counsel Division, 1350 Pennsylvania Avenue, NW, Suite 409, Washington, DC, 20004, within forty-five (45) days of the date of publication of this notice in the *D.C. Register*. Additional copies of this rule are available Monday through Friday between the hours of 8:30 a.m. and 4:00 p.m. from Arthur J. Parker, Chief, Rulemaking Section, Office of the Attorney General, Legal Counsel Division, 1350 Pennsylvania Avenue, NW, Suite 409, Washington, DC, 20004.