

ARKANSAS REGISTER



Proposed Rule Cover Sheet

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Name of Department Department of Finance and Administration

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Other Subdivision or Department, If Applicable _____

Previous Agency Name, If Applicable _____

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ALCOHOLIC BEVERAGE CONTROL’S RULES GOVERNING THE OVERSIGHT OF MEDICAL MARIJUANA TRANSPORTATION BY LICENSED TRANSPORTERS AND DISTRIBUTORS

SECTION I. AUTHORITY OF THE BOARD

These Transporter/Distributor Operational Rules are duly adopted and promulgated by Arkansas Alcoholic Beverage Control Division pursuant to Amendment No. 98 of the Constitution of the State of Arkansas of 1874, The Medical Marijuana Amendment of 2016.

SECTION II. SCOPE, PURPOSE, AND SEVERABILITY

These rules govern the oversight of medical marijuana transportation and distribution in Arkansas. These rules govern the requirements for record keeping, security, and personnel of transporters and distributors. These rules govern the requirements for transporters and distributors to store and transport medical marijuana. These rules govern the procedures for inspecting and investigating transporters and distributors. These rules govern the procedures for licensing transporter and distributor agents. These rules govern the procedures for suspending, revoking, and penalizing transporter and distributor licenses for violations of the Amendment or rules.

If any provision of these rules or the application thereof to any person or circumstance is held invalid for any reason the invalidity shall not affect the other provisions or any other application of these rules that can be given effect without the invalid provisions or application. Therefore, all provisions of these rules are declared to be severable.

SECTION III. DEFINITIONS

- 3.1 ***“Amendment”*** means the Arkansas Medical Marijuana Amendment of 2016.
- 3.2 ***“Approved Laboratory”*** means a laboratory has been approved by the Department specifically for the testing of usable marijuana.
- 3.3 ***“Authorized Personnel”*** means any employee employed by a transporter or distributor and granted permission by the facility to enter into restricted areas.
- 3.4 ***“Commission”*** means the Medical Marijuana Commission.
- 3.5 ***“Contractor”*** means any person or business under contract to complete repairs or improvements to the licensed facility.

- 3.6 ***“Department”*** means the Arkansas Department of Health.
- 3.7 ***“Director”*** means the Director of the Alcoholic Beverage Control Administration Division.
- 3.8 ***“Division”*** means the Alcoholic Beverage Control Administration Division.
- 3.9 ***“Enforcement”*** means the Alcoholic Beverage Control Enforcement Division.
- 3.10 ***“Excluded felony offense”*** means:
- (A)(i)(a) A felony offense as determined by the jurisdiction where the felony offense occurred.
- (b) The Medical Marijuana Commission, the Department of Health, or the Alcoholic Beverage Control Division shall determine whether an offense is a felony offense based upon a review of the relevant court records concerning the conviction for the offense.
- (ii) An offense that has been sealed by a court or for which a pardon has been granted is not considered an excluded felony offense; or
- (B) A violation of a state or federal controlled-substance law that was classified as a felony in the jurisdiction where the person was convicted, but not including:
- (i) An offense for which the sentence, including any term of probation, incarceration, or supervised release, was completed ten (10) or more years earlier; or
- (ii) An offense that has been sealed by a court or for which a pardon has been granted.
- 3.11 ***“Inventory Tracking System”*** means the required seed to sale tracking system that tracks medical marijuana from either seed or immature plant state until the usable marijuana is sold to a qualified patient or designated caregiver or is destroyed.
- 3.12 ***“Licensed facility”*** means a licensed cultivation facility, licensed dispensary, licensed transporter/distributor, or licensed processor.
- 3.13 ***“Marijuana” or “medical marijuana”*** means marijuana in any form described in the Amendment or the rules promulgated by the Division, Department of Health, or the Commission.
- 3.14 ***“Shipping Container”*** means a sealable, tamper-evident container used for the transport of medical marijuana between licensed facilities and an approved laboratory.

- (3.15) ***“Transport”*** - means to move medical marijuana between licensed facilities or between a licensed facility and approved laboratory.
- 3.16 ***“Transporter”*** or ***“transporter/distributor”*** means an entity licensed by the Commission pursuant to these rules and that may:
- (A) Acquire, possess, deliver, transfer, transport, or distribute marijuana to a dispensary, cultivation facility, or processor; and
 - (B) Receive compensation for providing services allowed by this section.
- 3.17 ***“Transporter/distributor agent”*** or ***“agent”*** means an individual who has a current Registry Identification Card issued by the Division and who is an employee of a transporter/distributor
- 3.18 ***“Transportation vehicle”*** means a vehicle used by a licensed transporter/distributor to transport marijuana.
- 3.19 ***“Unique Identification Number” (“UIN”)*** means a unique number generated by the Inventory Tracking System and assigned to all usable marijuana for the purpose of tracking the marijuana from its seed form to ultimate sale to a qualified patient/designated caregiver or destruction.

SECTION IV. RECORDKEEPING REQUIREMENTS

- 4.1 ***Maintained Records*** - Records required to be kept for current year and three (3) proceeding calendar years.
- A General Business Records. Transporters/distributors shall keep all books and records necessary to fully account for each business transaction conducted under its license;
 - B A copy of the manifest for each transport of marijuana conducted under the transporter’s/distributor’s license;
 - C Personnel records, as described in this rule;
 - D Record of all pesticides and chemical applications to the transporter/distributor facility or transportation vehicle; and
 - E Visitor logs, as described in this rule.
- 4.2 ***Surveillance Records*** -All surveillance recordings shall be maintained for a minimum of 90 days.

SECTION V. PERSONNEL REQUIREMENTS

5.1 *Registry Identification Card Required*

- A Any employee, supervisor or agent employed by a transporter/distributor must have a current Registry Identification Card issued by the Division pursuant to these rules.

5.2 *Hiring Procedure*

- A A transporter/distributor shall provide a prospective agent a completed Notice of Intent to Hire form for submission to the Division.
- B The prospective agent may not perform any duties on behalf of the transporter/distributor until the individual's Registry Identification Card has been issued by the Division.

5.3 *Separation of Employment*

- A A transporter/distributor shall notify the Division when any agent ceases to be employed by the transporter/distributor.
- B Notice of Separation of Employment shall be on a form provided by the Division, and it shall be submitted within seven (7) days of the agent's separation of employment.

5.4 *Personnel Records*

- A A transporter/distributor shall keep a record of all agents employed by the transporter/distributor, including, but not limited to:
 - i Name of Agent;
 - ii Detailed Job Description;
 - iii Records of all training received or acquired by the agent;
 - iv Date(s) of Employment;
 - v Record of days worked and time off; and
 - vi Any disciplinary action taken against an agent.
- (B) A transporter/distributor shall maintain personnel records for at least three (3) years after an agent ceases to work for the transporter/distributor.

SECTION VI. OVERSIGHT AND INSPECTION REQUIREMENTS

6.1 ***Inspection and Investigation*** – Transportation vehicles and transporter/distributor facilities shall be subject to reasonable inspection by the Division.

A The Director of the Alcoholic Beverage Control Administration, or the Director of Alcoholic Beverage Control Enforcement, or an enforcement agent, may:

- i Inspect, without the need for a search warrant, the licensed premises of a transporter's/distributor's facility or transportation vehicle, including any marijuana and marijuana products on the premises, equipment used in the transportation, distribution or storage of marijuana, the transporter's/distributor's records required by these rules and computers, at any time;
- ii Issue a written report or notice of his or her findings;
- iii Exercise law enforcement powers, if authorized, and
- iv Enlist the assistance of any law enforcement officer not directly employed by Alcoholic Beverage Control Enforcement toward the performance of these enforcement duties.

B A transporter/distributor and any agent shall cooperate with the Director of Alcoholic Beverage Control Administration, the Director of Alcoholic Beverage Control Enforcement, and enforcement agent, an employee of the Board, or assisting law enforcement officer, acting in an official capacity to enforce the laws related to marijuana, including but not limited to:

- i Permitting entry upon and inspection of the licensed premises (including all limited access areas) and transportation vehicles; and
- ii Providing access to records required by these rules and computers, when requested by the Director of Alcoholic Beverage Control Administration, Director of Alcoholic Beverage Control Enforcement, or an enforcement agent, or an assisting law enforcement officer.

6.2 ***Inspection required prior to operation.***

All transporters/distributors shall notify the Division of their intent to commence operations.

A. The Division shall conduct a thorough inspection of the premises for the following, as applicable:

- i. Verify possession and accuracy of detailed plans and elevation drawings required in these rules;
 - ii. Verify connection and accessibility to the Inventory Tracking System;
 - iii. Verification of an operational alarm and video surveillance systems;
 - iv. Verification of secure locks throughout the transporter/distributor facility, transportation vehicle, and on the secured container for shipping;
 - v. Verification of controls to limited access areas;
 - vi. Verification of compliance with perimeter restrictions;
 - vii. Any personnel records as required by these rules;
 - viii. Any other records required by these rules.
- B. Transporter/distributors may not commence operations until the Division has issued an authorization letter and said letter has been served upon the licensee by Enforcement.

6.3 ***Annual Inspections Required.*** The Division shall conduct or request Enforcement to conduct, at minimum, one (1) inspection every twelve (12) months, of all transportation vehicles and transporter/distributor facilities. The annual inspection shall include, as applicable:

- A. Verifying possession and accuracy of detailed plans and elevation drawings required in these rules;
- B. Verify connection and accessibility to the Inventory Tracking System;
- C. Verification of an operational alarm and video surveillance systems;
- D. Verification of secure locks throughout the transporter/distributor facility, transportation vehicle, and on the secured container for shipping;
- E. Verification of controls to limited access areas;
- F. Verification of compliance with perimeter restrictions;
- G. Any existing personnel records as required by these rules; and
- H. Any existing records required by these rules.

VII. CONSTRUCTION SPECIFICATIONS AND SECURITY REQUIREMENTS

7.1 *Duty to Operate a Secure Premises*

- A A transporter/distributor shall implement appropriate security measures to deter and prevent the theft and diversion of marijuana.
- B A transporter/distributor shall implement appropriate security measures to deter and prevent the unauthorized entrance into areas containing marijuana at the transporter/distributor facility
- C A transporter/distributor is responsible for the security of all marijuana on the licensed premises, in transportation vehicles, and all marijuana after a transporter/distributor takes possession of the marijuana from a licensed cultivator, dispensary, processor or laboratory.

7.2 *Transport Security*

- A Shipping Requirements
 - i Shipping Container Required. A transporter/distributor shall only transport medical marijuana that is packaged for transport inside a shipping container (as defined in this rule) tagged with a UIN.
 - ii Secured Container Required. All marijuana in transport shall be shielded from public view and secured in the following manner:
 - a In a locked, safe and secure storage compartment that is part of the transportation vehicle; or
 - b In a locked storage container that has a separate key or combination pad.
 - iii Routes and Additional Security Requirements for Transporting Marijuana
 - a A transportation vehicle shall travel directly from the originating licensed facility or approved laboratory to the receiving licensed facility or approved laboratory and shall not make any unnecessary stops in between, except to other licensed facilities or approved laboratories receiving inventory.
 - b A transporter/distributor shall notify the division immediately if a transportation vehicle is involved in an accident or experiences any type of failure causing the vehicle to be stopped at a location other

than a licensed facility or approved laboratory for more than two (2) hours.

- B Transportation vehicles shall be:
 - i Insured at or above the legal requirements in Arkansas;
 - ii Capable of securing marijuana during transport in accordance with this rule;
 - iii Equipped with an alarm system; and
 - iv Free of any markings that would indicate the vehicle is being used to transport marijuana.
 - v Staffed with a minimum of two (2) employees when a vehicle contains medical marijuana. At least one (1) employee shall remain with the vehicle any time it contains medical marijuana.
- C Individuals transporting marijuana shall:
 - i Have a valid Transporter/Distributor Agent Registry Identification Card issued by the Division;
 - ii Have a valid Arkansas Driver's License; and
 - iii Have possession of both the registry identification card and driver's license while operating or riding in a transportation vehicle.

7.3 ***Storage Facility Requirements***

If a transporter is required to store marijuana at the licensed facility due to an inability to complete delivery within the designated allowable times, the following requirements shall apply:

- A Storage Requirements
 - i. All marijuana shall be stored only on the transporter's licensed premises.
 - ii. All marijuana shall be stored in one of the following types of secured areas:
 - a A safe or steel cabinet:
 - 1 Which safe or steel cabinet shall have the following specification or the equivalent: thirty (30) man-minutes against surreptitious entry, ten (10) main-minutes against

forced entry, twenty (20) man-hours against lock manipulation, and twenty (20) man-hours against radiological techniques

- 2 Which safe or steel cabinet, if it weighs less than seven hundred fifty (750) pounds, is bolted or cemented to the floor or wall in such a way that it cannot be readily removed; and
- 3 Which safe or steel cabinet, if necessary, depending upon the quantities and type of controlled substances stored, is equipped with an alarm system as described in these rules.

b. A vault:

1. The walls, floors, and ceilings of which vault are constructed of at least eight (8) inches of reinforced concrete or other substantial masonry, reinforced vertically and horizontally with one-half (1/2) inch steel rods tied six (6) inches on center, or the structural equivalent to such reinforced walls, floors, and ceilings;
2. The door and frame unit of which vault shall conform to the following specification or the equivalent: thirty (30) man-minutes against surreptitious entry, ten (10) man-minutes against forced entry, twenty (20) man-hours against lock manipulation, and twenty (20) man-hours against radiological techniques;
3. Which vault, if operations require it to remain open for frequent access, is equipped with a “day-gate” which is self-closing and self-locking, or the equivalent, for use during the hours of operation in which the vault door is open;
4. The walls or perimeter of which vault are equipped with an alarm system as described in these rules;
5. The door of which vault is equipped with contact switches; and
6. Which vault has one of the following: Complete electrical lacing of the walls, floor and ceilings; sensitive ultrasonic equipment within the vault; a sensitive sound accumulator

system; or other such device designed to detect illegal entry.

B. Construction of Premises

i. Enclosed and Secure Facility

- a. Transporter/distributor facilities shall be enclosed on all sides by permanent walls, except where vehicles may be stored.

ii. On site storage shall be:

- a. Secure against unauthorized entry;
- b. Have a foundation, slab, or equivalent base to which the floor is securely attached;
- c. Provides complete visual screening of stored marijuana;
- d. Commercial grade, nonresidential door locks shall be installed on every external door, and gate, if applicable.
 1. All external locks shall be equipped with biometric access controls;
 2. Only authorized personnel shall have access to locked and secured areas;
 3. Facilities shall maintain detailed records of authorized personnel with access to locked and secured areas;
 4. Records shall be made available to the Division upon request.

iii. All transporters/distributors shall maintain detailed plans and elevation drawings of the facility. The plan shall identify the following:

- a. All entrances and exits to the facility;
- b. All windows, skylights, and retractable mechanisms built into the roof;
- c. All storage areas;

- d. The location of all required security cameras;
 - e. The location of all alarm inputs, detectors, and sirens;
 - f. All video and alarm system surveillance areas;
 - g. All areas shall be labeled according to their purpose.
- iv. Perimeter Requirements
- All transporter/distributor facilities shall maintain the following:
- a. Adequate lighting to facilitate surveillance; and
 - b. Foliage and landscaping that does not allow for a person or persons to conceal themselves from sight.
- v. Floor plans and elevation drawings shall be kept current and on the premises of the transporter/distributor facility. Plans and elevation drawings shall be made available to the Division or Enforcement upon request.
- vi. Transporter/distributor facilities shall have adequate lighting in all areas where medical marijuana is stored; and
- vii. All facilities shall be constructed to meet the standards of an applicable state and local electrical, fire, plumbing, and building specification codes.

C. Alarm System

- i. A transporter/distributor facility shall be equipped with an alarm system.
- ii. Upon attempted unauthorized entry, the alarm system shall transmit a signal directly to a central protection company or a law enforcement agency that has a legal duty to respond. A designated agent of the transporter shall also receive notification of any such signal.
- iii. Alarm systems shall provide coverage for all points of ingress and egress to the facility, including without limitation doorways, windows, loading bays, skylights, and retractable roof mechanisms.
- iv. Alarm systems shall provide coverage of any room with an exterior wall, any room containing a safe, and any room used to store marijuana.

- v. Alarm systems shall be equipped with a “panic device” that upon activation will both sound any audible alarm components and notify law enforcement.
- vi. Alarm systems shall have “duress” and “hold up” features to enable an agent to activate a silent alarm notifying law enforcement of an emergency.
- vii. Alarms system must be equipped with failure notification systems to notify the transporter and law enforcement of any failure in the alarm system.
- viii. Alarm systems shall have the ability to remain operational during a power outage.

D. Video Surveillance System

- i. A transporter’s/distributor’s facility shall be equipped with video surveillance systems consisting of the following:
 - a. Digital video cameras;
 - b. 24 hour per day, 7 day per week recording capabilities;
 - c. The ability to remain operational during a power outage;
 - d. Digital archiving capabilities;
 - e. On-site and off-site monitoring capabilities; and
 - f. All facilities must maintain at least one on-site display monitor connected to the surveillance system at all times. The monitor shall have a screen size of at least 12 inches.
- ii. All transporter/distributor facilities shall maintain camera coverage of the following areas:
 - a. All points of ingress and egress to the facility, including without limitation doorways, windows, loading bays, skylights, and retractable roof mechanisms;
 - b. Any room with an exterior wall, except restrooms, any room containing a safe, and any room or area used to store marijuana; and

- c. All parking areas and any alley areas immediately adjacent to the building.
- iii. All recording devices shall display a date and time stamp on all recorded video.
- iv. All recording devices shall have the capability to produce a still image from the video recording, and each facility shall maintain on-site a video printer capable of immediately producing a clear still image from any video camera image.
- v. Access to on-site surveillance system controls and monitoring shall be limited to authorized personnel. Transporters shall identify employees with access to surveillance system controls and monitoring upon request by the Division.
- vi. All surveillance recordings shall be maintained for a minimum of 90 days.

SECTION VIII. OPERATIONAL REQUIREMENTS

8.1 *Hours of Operation*

- A. A transporter/distributor may transport medical marijuana to and licensed facility or approved laboratory between the hours of 7:00 a.m. and 9:00 p.m.
- B. If the transporter/distributor has in its possession medical marijuana outside of the approved hours for transportation, the transporter/distributor must immediately return to its facility and store the medical marijuana consistent with these rules.

8.2 *Inventory Manifest Required*

- A. Prior to the transport of any marijuana, the originating licensee shall provide the transporter/distributor with a copy of the manifest generated from the Inventory Tracking System. The manifest shall include the following information:
 - i. The following information for the licensed facility originating the transport:
 - a. License Number; and
 - b. Name and contact information for licensee
 - ii. The following information for the licensed facility or approved laboratory receiving the medical marijuana:

- a. License Number if the destination is a licensed facility or business name if the destination is an approved laboratory;
 - b. Address of the destination;
 - c. Name and contact information of the licensee, or contract information for the approved laboratory.
- iii. Quantities by weight or unit of each type of medical marijuana or medical marijuana product contained in transport, along with the UINs for every item;
- iv. The date of transport and approximate time of departure;
- v. Arrival date and estimated time of arrival;
- vi. Identify of the agents accompanying the transport;
- viii. Delivery vehicle make, model, and license plate number.
- B. A separate manifest shall be prepared for each licensed facility or approved laboratory.
- C. An inventory manifest shall not be altered after departing the originating premises.
- D. A transporter/distributor or transporter/distributor agent shall not accept for transport any marijuana that is not accompanied by a manifest and described therein that meets the requirements in these rules.
- E. There shall be no passenger or operator in the transporter/distributor vehicle, while medical marijuana is present in the vehicle that does not maintain with them a Registry Identification Card.

8.2 ***Transporter/distributor restrictions***

A transporter/distributor licensed under this section shall not:

- A. Grow or prepare marijuana,
- B. Manufacture or process marijuana,
- C. Supply or dispense marijuana to a qualified patient or designated caregiver;
- D. Purchase marijuana for resale to other licensed facilities.

8.3 *Limited Access to Transporter/Distributor Facility*

- A. Only the following individuals shall be allowed to access transporter's/distributor's facility:
- i. Individuals in possession of a current registry identification card issued by the Division;
 - ii. Individuals authorized by law and these rules to be on the premises;
 - iii. Contractors
 - 1. If it is necessary for a contractor to enter a transporter/distributor facility to conduct repairs, maintenance or other specific duties on the property, the contractor shall be escorted to their work site and may be left unattended while completing a job. If left unattended, transporter's/distributor's personnel shall ensure the contractor and area under repair are under video surveillance for the duration of the contractor's time spent on the premises.
 - 2. If it is necessary for a contractor to enter a transporter/distributor facility's limited access area the contractor shall be escorted to their work site and must remain in the company of a transporter's/distributor's agent while the work is being completed. The contractor may be left unattended, in the limited access area, if there is no marijuana being stored in the area while the contractor is present. If left unattended, transporter's/distributor's agent shall ensure the contractor and area under repair are under video surveillance for the duration of the contractor's time spent on the premises.
 - iv. All contractors shall be issued a contractor identification tag. The tag shall bear the individual's name and be worn by the contractor for the duration of the individual's time on the premises.
 - v. If a contractor is required on the premises for more than two (2) consecutive days, the transporter/distributor shall notify the division of the contractor's identity and purpose for being on the premises.

8.4 *Limited Access Areas*

- A. Transporter's/distributor's facility shall have limited access to areas where marijuana is stored to authorized personnel.
- i. Signage

- a. Limited Access areas shall be clearly marked.
- ii. Controlled Access
 - a. Limited Access areas shall be locked and accessible only by authorized personnel, individuals authorized by law, and members of the Division or Enforcement.
 - b. Transporter/dispensaries shall keep current rosters of personnel authorized to enter limited access areas.
 - c. Contractors may access limited access areas subject to the provisions of 8.3. Visitors,

8.5 ***Inventory Tracking System***

- A. All transporters/distributors shall utilize the Inventory Tracking System implemented by the State of Arkansas to medical marijuana stored at the licensed facility.
- B. Transporters/distributors shall acquire and maintain all software, hardware, and communications infrastructures to ensure connectivity to the Inventory Tracking System

8.6 ***Transporter/distributor Tracking Requirements***

- A. Transporters/distributors shall ensure the following events are logged into the Inventory Tracking System:
 - i. The storage of medical marijuana at their facility; and
 - ii. Transport of medical marijuana back to the originating facility for disposal if such medical marijuana has become unusable or has been directed by Order of the Division to be returned to the originating licensed facility.
- B. Each transaction described in subsection 8.6(A) must be recorded by a licensee immediately upon occurrence. Any licensee who fails to record a transaction listed in 8.6(A) may be subject to disciplinary action.

SECTION IX. INVESTIGATIONS

9.1 ***Investigations***

- A Director of the Alcoholic Beverage Control Administration, or the Director of Alcoholic Beverage Control Enforcement, or an enforcement agent, may:

- i Without the need for a search warrant, inspect at any time a transportation vehicle(s), the licensed premises (including limited access areas) of a transporter/distributor, any marijuana on the premises or in transportation vehicles, the licensee's records, and the licensee's computers;
 - ii Issue a written report or notice of violation regarding any findings;
 - iii Exercise law enforcement powers, if authorized, and take any other action the Director of Alcoholic Beverage Control Administration or Director of Alcoholic Beverage Control Enforcement determines is necessary; and
 - iv Enlist the assistance of any law enforcement officer not directly employed by Alcoholic Beverage Control Enforcement toward performance of these enforcement duties.
- B A transporter/distributor and transporter/distributor agent shall cooperate with the Director of Alcoholic Beverage Control Administration, the Director of Alcoholic Beverage Control Enforcement, an enforcement agent, an employee of the Division, or assisting law enforcement officer, acting in an official capacity to enforce the laws contained herein related to marijuana, including without limitation:
 - i Permitting entry upon, access to, and inspection of the licensed premises (including limited access areas) or transportation vehicle; and
 - ii Providing access to the licensee's records and computers.

9.2 ***Closure of Business.*** The Director may issue an order providing for the manner and condition under which marijuana may be transferred to another licensed facility under the following circumstances:

- (A) Revocation or suspension of a license;
- (B) Surrender of a license; or
- (C) Expiration of a license.

SECTION X. ADVERTISING

10.1 ***Directed toward the public*** - Transporters/distributors shall not advertise through any public medium or means designed to market its services to the public.

10.2 ***Directed toward facilities and laboratories*** - Transporters/distributors may market their services directly to licensed facilities and approved labs by any means directed solely to the licensed facilities and approved labs and not to the public.

SECTION XI. REGISTRATION OF TRANSPORTER/DISTRIBUTOR AGENTS

11.1 *Registration Required*

- A Every individual employed by or working for or volunteering for a transporter/distributor shall register with the Division and obtain a registry identification card prior to the commencement of any activity on the transporter's/distributor's behalf.
- B If an individual is employed by multiple licensed facilities, the individual shall obtain a separate registry identification card for each place of employment.

11.2 *Application*

- A The following items must be submitted to the Division to apply for a Transporter/Distributor Agent Registry Identification Card:
 - i An application form from the Division to include the following information:
 - a Legal name of applicant;
 - b Date of birth;
 - c Address of applicant;
 - d Current employment information, including intended position with transporter/distributor; and
 - e Criminal history information.
 - ii A completed "Notice of Intent to Hire" form from the transporter/distributor specifying the intended job duties of the applicant.
 - iii A signed, notarized "Authority to Release Information" form provided by the Division or obtained through a harvester approved by Arkansas State Police.
 - iv. An in-state criminal background check through the Arkansas State Police.
 - v. The applicant shall also furnish finger prints to the Arkansas State Police for transmission to the United States Federal Bureau of Investigation for investigation of the applicant's criminal history, if any.
 - (a) Fingerprints may be taken by a harvester approved by Arkansas State Police.

- vi. The following signed forms to be provided by the Division:
 - (a) “Agency Privacy Requirements for Noncriminal Justice Applicants” form; and
 - (b) “Noncriminal Justice Applicant's Privacy Rights” form.
- vii. An applicant shall not have to submit the information in subsections (iv), (v), and (vi):
 - (a) If the applicant holds an existing registry identification card for another licensed facility; or
 - (b) If the applicant has completed the required background checks for the purpose of obtaining a registry identification card in the 2 years prior to the application, and the applicant has never had a registration card suspended or revoked.

11.3 ***Registry Identification Card***

- A. An agent of a transporter/distributor shall maintain possession of their Transporter/Distributor Agent Registry Identification Card during any activity within the scope of employment or service of a transporter/distributor.
- B. The registry identification card shall identify the following information:
 - i. Name of the cardholder;
 - ii. Date of birth;
 - iii. Name of the transporter/distributor;
 - iv. Date of issuance;
 - v. Date of expiration; and
 - vi. Registry identification number assigned by the Division.

11.4 ***Fees***

- A. Initial Registry Identification Card - \$50.00.
- B. Renewal of Registry Identification Card -\$50.00
- C. Renewal late fee - \$25.00
- D. Replacement of Registry Identification Card -\$25.00

11.5 ***Issuance***

- A. The total fee for a registry identification card issued by the Division shall be \$50.00.
- B. The total fee shall be collected as follows:
 - i. One half of the fee shall be remitted along with the application; and
 - ii. One half of the fee shall be remitted upon notification by the Division that the application has been approved.
- C. The Division shall issue the registry identification card within ten (10) days of receipt of the entire fee.

11.6 ***Replacement***

- A. The Division shall issue a replacement registry identification card to a transporter/distributor agent if the card has not expired.
- B. In order to receive a replacement registry identification card, a person must present the following to the Division:
 - i. A valid government-issued photo identification;
 - ii. A completed “Request for Replacement Registry Identification Card” form to be provided by the Division; and
 - iii. A replacement fee of \$25.00.

11.7 ***Expiration and Renewal***

- A. A registry identification card shall expire one (1) year after the date of issuance unless renewed as described in this rule.
- B. A registry identification card shall expire upon notification to the Division by a transporter/distributor that the person is no longer employed by transporter/distributor.
- C. Agents shall submit a renewal application, on a form to be provided by the Division, and the required fee in order to renew their cards.
- D. The division shall renew registry identification cards within ten (10) days of receipt of the items described in subsection (C).

- E. Renewals received after the date of expiration shall be subject to a renewal late fee of \$25.00, in addition to the renewal fee. If a card is not renewed within one (1) month of expiration, the card shall be considered expired.

11.8 ***Separation of Employment.***

A transporter/distributor shall notify the Division of any employment separation of a transporter/distributor agent by filing a Notice of Separation of Employment with the Division within seven (7) days following a transportation agent's last day of work for the transporter/distributor.

11.9 ***Persons Disqualified***

- A. The Division shall not issue a registry identification card to the following individuals:
 - i. Any person under twenty-one (21) years of age;
 - ii. Any person who has been convicted of an excluded felony offense;
 - iii. Any person who has had a registry identification card revoked by the Division within five (5) years of application; or
 - iv. Any person who has not paid the required fees.
- B. The Division shall not issue a registry identification card to any person who fails to provide the information required by this rule.
- C. If the Division denies an application for a registry identification card, the Division shall notify the applicant in writing of the reasons for the denial. The transporter/distributor will be notified of the denial.
- D. The applicant may appeal the denial by requesting a hearing, which shall be held in accordance with the procedures described in this rule.

SECTION XII. DISCIPLINARY ACTION, HEARINGS, AND APPEALS

12.1 ***Grounds for Suspension or Revocation of a Registry Identification Card.***

- A. If the Division finds that a transporter/distributor agent has knowingly violated any provision of the Amendment or the rules promulgated by the Commission, Department, or Division, the Division may:

- i. Suspend or revoke the transporter/distributor agent's Transporter/Distributor Agent Registry Identification Card; and
 - ii. Penalize the transporter/distributor agent in an amount not to exceed one thousand dollars (\$1,000) per violation.
- B. If the Division finds that a transporter/distributor has knowingly aided or facilitated a violation of any provision of the Amendment or the rules promulgated by the Commission, Department, or Division, the Division may:
 - i. Suspend or revoke the transporter's/distributor's license; and
 - ii. Penalize the transporter/distributor in an amount not to exceed five thousand dollars (\$5,000) per violation
- C. If the Division finds that a transporter/distributor has violated any provision of the Amendment or the rules promulgated by the Commission, Department, or Division, the Division may:
 - i. Suspend or revoke the transporter's/distributor's license; and
 - ii. Penalize the transporter/distributor in an amount not to exceed five thousand dollars (\$5,000) per violation.
- D. Grounds for Suspension, Revocation or Placing a Monetary Fine against a transporter/distributor or transporter/distributor agent.
 - i. False material statements made by a licensee to the Arkansas Medical Marijuana Commission during the application process;
 - ii. Failure to pay taxes owed to the State of Arkansas or to any political subdivision of the State of Arkansas;
 - iii. Failure to prevent diversion or theft of medical marijuana;
 - iv. Allowing any individual or agent who has not obtained or had suspended or revoked a registry identification card from the Division to work on a licensed premise or perform any duty on behalf of the transporter/distributor;
 - v. Failure to allow entry to the licensed premises to Alcoholic Beverage Control Administration Director, Alcoholic Beverage Control Enforcement Director, enforcement agents or duly authorized police officers in the course and scope of their employment;

- vi. Failure to maintain operational alarm systems and video surveillance systems;
- vii. Failure to maintain or keep any record required by these rules or Arkansas law;
- viii. Failure to properly package or secure medical marijuana on the licensed premises or during transport;
- ix. Operation of by transporter/distributor when a license has been suspended;
- x. Failure to comply with any rule promulgated by the Department, the Commission; or the Division;
- xi. Failure to comply with any law of the State of Arkansas or any local regulation regarding medical marijuana;
- xii. Transporting marijuana in any form to any person or entity without a transporter/distributor license issued by the Arkansas Medical Marijuana Commission;
- xiii. Giving marijuana to any person or entity that is not being lawfully transported consistent with the rules contained herein;
- xiv. Transporting marijuana to or from any dispensary or cultivation facility that has a license under suspension, revocation, or that has not been renewed;
- xv. Failure to utilize the Inventory Tracking System for reporting and controlling inventory;
- xvi. Growing or preparing marijuana; manufacturing or processing marijuana; suppling or dispensing marijuana to a qualified patient or designated caregiver; storing marijuana for more than twenty-four hours without written approval from the Division; or purchasing marijuana for resale to other licensed facilities.
- xvii. Knowingly aiding or facilitating a violation of the Amendment, rules promulgated by the Commission, Department or Division, or any other law of the State of Arkansas.

12.2 *Notice of Violation*

- A. The Director of Alcoholic Beverage Control Administration may issue a notice of violation if an inspection report or other credible information shows a transporter/distributor or its agent is in violation of:
 - i. The Amendment;
 - ii. Any rule promulgated by the Division, the Commission, or the Department;
 - iii. Any Order of the Division, the Commission, or the Department;
 - iv. Any law relating to marijuana; or
 - v. Any law relating to taxation.
- B. A notice of violation regarding a transporter/distributor shall be delivered to the transporter/distributor at its licensed premises.
- C. A notice of violation regarding a transporter/distributor agent shall be delivered to the agent at the transporter's/distributor's licensed premises. A copy of the notice shall be provided to the transporter/distributor licensee at its licensed premises.
- D. The notice of violation shall describe the alleged violation(s) and cite the applicable Constitutional Amendment provision, statute, rule, order, or other law.
- E. A notice of violation may be the basis of a proceeding to fine, suspend, revoke, or otherwise penalize a marijuana establishment's license.
- F. The notice of violation may include the Director's proposed fine, as well as any proposed penalty to be imposed.
- G. A transporter/distributor or transporter/distributor agent that receives a notice of violation shall respond to the notice in writing and may within ten (10 days) after receiving the notice, either:
 - (i) Consent to the proposed penalty set forth in the notice of violation and waive the right to a hearing, or
 - (ii) Request a hearing before the Director or an authorized hearing agent.
- H. If the transporter/distributor or transporter/distributor agent consents to the penalty and waives the right to a hearing, the licensee or agent shall fulfill the terms set forth in the notice of violation.

- I. If a hearing is requested, a hearing shall be scheduled and the transporter or transporter agent shall receive a notice of hearing in compliance with these rules.
- J. If the licensee or agent fails to respond to the notice of violation, the Director may enter an order in accordance with the notice of violation.

12.3 ***Emergency Suspension***

- A. If the Director finds, pursuant to ACA § 25-15-211(c), that the public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in his order, summary suspension of a license or registry identification card may be ordered pending proceedings for revocation or other action, which proceedings shall be promptly instituted and determined.
- B. If the Director makes the determination set out in (A) of this provision Section XII (2) shall not apply.

12.4 ***Notice of Hearing***

- A. If a hearing is required by these rules, a notice of hearing shall be sent to the respondent transporter/distributor or transporter/distributor agent via regular mail or by service of an Enforcement Agent to the address on file with the division.
- B. The notice of hearing shall include:
 - i. A statement of the time, place and nature of the hearing;
 - ii. A statement of the legal authority and jurisdiction under which the hearing is to be held;
 - iii. A short and plain statement of the matters of fact and law asserted; and
 - iv. A statement advising the licensee or agent that the license or registry identification card may be suspended or revoked.

12.5 ***Conduct of Hearing by Director or Hearing Officer.***

- A. The Director or designated hearing officer shall conduct hearings.
- B. The Director or hearing officer shall be authorized to:
 - i. Examine or cause to be examined under oath any person;
 - ii. Examine or cause to be examined books and records of any transporter/distributor or transporter/distributor agent;

- iii. To hear testimony, to take proof material for the Director's information and for the purposes of the hearing;
- iv. Administer or cause to be administered oaths; and
- v. Issue subpoenas to require the appearance of witnesses and the production of books and records, which subpoenas shall be effective in any part of this state.
 - a. Any Circuit Court may by order duly entered require the attendance of witnesses or the production of relevant books and records subpoenaed by the Director, and the Court may compel obedience to its orders by proceedings for contempt.
 - b. Any licensee or agent involved in a hearing before the Director shall be entitled, on request, to a subpoena for the compulsory attendance of witnesses.

12.6 *Order of Director*

If the Director denies, suspends, or revokes a transporter license or registry identification card, or if the Director imposes a monetary fine against any transporter/distributor or transporter/distributor agent, the Director shall prepare an order so stating.

- A. The Order shall be signed by the Director or designated hearing officer.
- B. The Order shall include findings of fact and conclusions of law, separately stated.
- C. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings.
- D. The order shall be mailed by regular and certified mail to a transporter/distributor or transporter/distributor agent to the address provided by the licensee or the agent.
- E. The order shall be final and binding on all parties until such order has been appealed as provided in these rules and the Alcoholic Beverage Control Board issues a decision.

12.7 *Appeal of Director's Order*

- A. A transporter/distributor or transporter/distributor agent aggrieved by an order of the Director may appeal from such Order to the Alcoholic Beverage Control Board by filing a notice of appeal with the Board.

- B. The notice of appeal must be mailed or delivered to the offices of the Alcoholic Beverage Control Division within fifteen (15) days after the order to be appealed from is received by the recipient.
- C. At least ten (10) days before the time set for the hearing, the Division shall notify the licensee or agent via regular first-class mail of the time and place where said appeal shall be heard by the Board or by a hearing officer designated as provided in these rules.
- D. Said hearing shall be held within sixty (60) days after the date of the filing of the notice of appeal unless the person appealing shall consent to a later hearing date.
- E. Said hearing shall be held within at least sixty (60) days after the filing of the notice of appeal unless the person appealing requests or consents to a later hearing.
 - i. Hearings shall not be continued in excess 6 months without consent from the Board.

12.8 ***Conduct of Hearing by Board.*** In the conduct of any hearing held by the Board or the Board's designated hearing officer, the Board or such hearing officer shall be authorized to:

- A. Examine or cause to be examined under oath any person;
- B. Examine or cause to be examined books and records of any transporter/distributor or transporter/distributor agent;
- C. Hear testimony;
- D. Administer or cause to be administered oaths; and
- E. Issue subpoenas to require the appearance of witnesses and the production of books and records, which subpoenas shall be effective in any part of this state.
 - i. Any Circuit Court may by order duly entered require the attendance of witnesses or the production of relevant books and records subpoenaed by the Director, and the Court may compel obedience to its orders by proceedings for contempt.
 - ii. Any licensee or agent involved in a hearing before the Board shall be entitled, on request, to a subpoena for the compulsory attendance of

12.9 ***Order by Board.*** Within five (5) days after a hearing is concluded by the Board, the Board shall issue its decision in the form of a written Order.

- A. The Order shall include findings of facts and conclusions of law, separately stated.
- B. Findings of fact, if set forth in statutory language shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings.
- C. A copy of the Order shall be mailed by certified mail to the transporter/distributor or transporter/distributor agent.
- D. The Order shall be final and binding on the transporter/distributor or transporter/distributor agent unless appealed as provided for in these rules.

12.10 *Appeal from Board to Courts*

- A. Any transporter/distributor or transporter/distributor agent aggrieved by a Board order may appeal to Circuit Court in accordance with Ark. Code Ann. § 25-15-212.
- B. An appeal from the judgment of the Circuit Court may be taken to the Arkansas Court of Appeals or the Supreme Court of Arkansas in the manner provided for the appeal of civil matters from the Circuit Court.

12.11 *Transcript of Board Hearings*

- A. Pursuant to the provisions of the Arkansas Administrative Procedure Act, the Division shall prepare a certified copy of the agency record for filing in any appeal filed under the Arkansas Administrative Procedure Act.
- B. If the Division prevails in the appeal, it will recover \$1.50 per page for each page of the transcript of the Alcoholic Beverage Control Board proceedings filed with the Circuit Court.
- C. If anyone requests that the Division provide a copy of the agency transcript, the Division shall be entitled to recover forty cents (\$.40) per page for each copy of the transcript.
- D. Any copies of the Division's files, records, or transcripts shall be paid for at the rates noted above.
- E. All monies received by the Division pursuant to the above provisions shall be deposited to the General Revenues of the State of Arkansas.

12.12 *Admissibility of Evidence in Hearings*

The Director, the Board and any Hearing Officer shall not be bound by the legal rules of evidence in conducting any hearing and in making any decision, and may take into

consideration any testimony, papers or documents which may be deemed relevant to the issues involved.

12.13 ***Designation of Hearing Officer***

Pursuant to the power granted to the Division, in part by ACA § 25-15-213 and pursuant to other powers granted to the Director and the Board, the Director or the Board may designate any member of the Division to conduct any hearing authorized by this Article or by any Medical Marijuana law of the State of Arkansas.

12.14 ***Right to Counsel and to Cross-Examine Witnesses***

Any respondent transporter/distributor or transporter/distributor agent or any other person compelled to appear at any hearing provided by these rules or by any Arkansas Medical Marijuana law of the State of Arkansas shall have the right to be accompanied and advised by counsel and to cross-examine witnesses.

12.15 ***Surrender***

After a transporter/distributor license or Transporter/Distributor Agent Registry Identification Card has been suspended or revoked by Order of the Director, the Alcoholic Beverage Control Board, or any final court order, the Director shall give notice to any authorized agent of Enforcement and said agent shall immediately take possession of the transporter/distributor license or Transporter/Distributor Agent Registry Identification Card and return it to the Director.

Summary of Proposed New Rule or Proposed Amendment to Existing Rule:

These rules govern the oversight of medical marijuana transporters/distributors in Arkansas by governing the requirements for record keeping, security, personnel, storage, and delivery of medical marijuana to a facility licensed by the Department of Health or the Alcoholic Beverage Control to possess such products. The rules are drafted in a consistent manner with the existing rules governing cultivation, dispensary, and processing facilities.

ALCOHOLIC BEVERAGE CONTROL'S RULES GOVERNING THE OVERSIGHT OF MEDICAL MARIJUANA TRANSPORTATION BY LICENSED TRANSPORTERS AND DISTRIBUTORS

SECTION I. AUTHORITY OF THE BOARD

These Transporter/Distributor Operational Rules are duly adopted and promulgated by Arkansas Alcoholic Beverage Control Division pursuant to Amendment No. 98 of the Constitution of the State of Arkansas of 1874, The Medical Marijuana Amendment of 2016.

SECTION II. SCOPE, PURPOSE, AND SEVERABILITY

These rules govern the oversight of medical marijuana transportation and distribution in Arkansas. These rules govern the requirements for record keeping, security, and personnel of transporters and distributors. These rules govern the requirements for transporters and distributors to store and transport medical marijuana. These rules govern the procedures for inspecting and investigating transporters and distributors. These rules govern the procedures for licensing transporter and distributor agents. These rules govern the procedures for suspending, revoking, and penalizing transporter and distributor licenses for violations of the Amendment or rules.

If any provision of these rules or the application thereof to any person or circumstance is held invalid for any reason the invalidity shall not affect the other provisions or any other application of these rules that can be given effect without the invalid provisions or application. Therefore, all provisions of these rules are declared to be severable.

SECTION III. DEFINITIONS

- 3.1 ***"Amendment"*** means the Arkansas Medical Marijuana Amendment of 2016.
- 3.2 ***"Approved Laboratory"*** means a laboratory has been approved by the Department specifically for the testing of usable marijuana.
- 3.3 ***"Authorized Personnel"*** means any employee employed by a transporter or distributor and granted permission by the facility to enter into restricted areas.
- 3.4 ***"Commission"*** means the Medical Marijuana Commission.
- 3.5 ***"Contractor"*** means any person or business under contract to complete repairs or improvements to the licensed facility.

- 3.6 ***“Department”*** means the Arkansas Department of Health.
- 3.7 ***“Director”*** means the Director of the Alcoholic Beverage Control Administration Division.
- 3.8 ***“Division”*** means the Alcoholic Beverage Control Administration Division.
- 3.9 ***“Enforcement”*** means the Alcoholic Beverage Control Enforcement Division.
- 3.10 ***“Excluded felony offense”*** means:
- (A)(i)(a) A felony offense as determined by the jurisdiction where the felony offense occurred.
- (b) The Medical Marijuana Commission, the Department of Health, or the Alcoholic Beverage Control Division shall determine whether an offense is a felony offense based upon a review of the relevant court records concerning the conviction for the offense.
- (ii) An offense that has been sealed by a court or for which a pardon has been granted is not considered an excluded felony offense; or
- (B) A violation of a state or federal controlled-substance law that was classified as a felony in the jurisdiction where the person was convicted, but not including:
- (i) An offense for which the sentence, including any term of probation, incarceration, or supervised release, was completed ten (10) or more years earlier; or
- (ii) An offense that has been sealed by a court or for which a pardon has been granted.
- 3.11 ***“Inventory Tracking System”*** means the required seed to sale tracking system that tracks medical marijuana from either seed or immature plant state until the usable marijuana is sold to a qualified patient or designated caregiver or is destroyed.
- 3.12 ***“Licensed facility”*** means a licensed cultivation facility, licensed dispensary, licensed transporter/distributor, or licensed processor.
- 3.13 ***“Marijuana” or “medical marijuana”*** means marijuana in any form described in the Amendment or the rules promulgated by the Division, Department of Health, or the Commission.
- 3.14 ***“Shipping Container”*** means a sealable, tamper-evident container used for the transport of medical marijuana between licensed facilities and an approved laboratory.

- (3.15) ***“Transport”*** - means to move medical marijuana between licensed facilities or between a licensed facility and approved laboratory.
- 3.16 ***“Transporter”*** or ***“transporter/distributor”*** means an entity licensed by the Commission pursuant to these rules and that may:
- (A) Acquire, possess, deliver, transfer, transport, or distribute marijuana to a dispensary, cultivation facility, or processor; and
 - (B) Receive compensation for providing services allowed by this section.
- 3.17 ***“Transporter/distributor agent”*** or ***“agent”*** means an individual who has a current Registry Identification Card issued by the Division and who is an employee of a transporter/distributor
- 3.18 ***“Transportation vehicle”*** means a vehicle used by a licensed transporter/distributor to transport marijuana.
- 3.19 ***“Unique Identification Number” (“UIN”)*** means a unique number generated by the Inventory Tracking System and assigned to all usable marijuana for the purpose of tracking the marijuana from its seed form to ultimate sale to a qualified patient/designated caregiver or destruction.

SECTION IV. RECORDKEEPING REQUIREMENTS

- 4.1 ***Maintained Records*** - Records required to be kept for current year and three (3) proceeding calendar years.
- A General Business Records. Transporters/distributors shall keep all books and records necessary to fully account for each business transaction conducted under its license;
 - B A copy of the manifest for each transport of marijuana conducted under the transporter’s/distributor’s license;
 - C Personnel records, as described in this rule;
 - D Record of all pesticides and chemical applications to the transporter/distributor facility or transportation vehicle; and
 - E Visitor logs, as described in this rule.
- 4.2 ***Surveillance Records*** -All surveillance recordings shall be maintained for a minimum of 90 days.

SECTION V. PERSONNEL REQUIREMENTS

5.1 *Registry Identification Card Required*

- A Any employee, supervisor or agent employed by a transporter/distributor must have a current Registry Identification Card issued by the Division pursuant to these rules.

5.2 *Hiring Procedure*

- A A transporter/distributor shall provide a prospective agent a completed Notice of Intent to Hire form for submission to the Division.
- B The prospective agent may not perform any duties on behalf of the transporter/distributor until the individual's Registry Identification Card has been issued by the Division.

5.3 *Separation of Employment*

- A A transporter/distributor shall notify the Division when any agent ceases to be employed by the transporter/distributor.
- B Notice of Separation of Employment shall be on a form provided by the Division, and it shall be submitted within seven (7) days of the agent's separation of employment.

5.4 *Personnel Records*

- A A transporter/distributor shall keep a record of all agents employed by the transporter/distributor, including, but not limited to:
 - i Name of Agent;
 - ii Detailed Job Description;
 - iii Records of all training received or acquired by the agent;
 - iv Date(s) of Employment;
 - v Record of days worked and time off; and
 - vi Any disciplinary action taken against an agent.
- (B) A transporter/distributor shall maintain personnel records for at least three (3) years after an agent ceases to work for the transporter/distributor.

SECTION VI. OVERSIGHT AND INSPECTION REQUIREMENTS

6.1 ***Inspection and Investigation*** – Transportation vehicles and transporter/distributor facilities shall be subject to reasonable inspection by the Division.

A The Director of the Alcoholic Beverage Control Administration, or the Director of Alcoholic Beverage Control Enforcement, or an enforcement agent, may:

- i Inspect, without the need for a search warrant, the licensed premises of a transporter's/distributor's facility or transportation vehicle, including any marijuana and marijuana products on the premises, equipment used in the transportation, distribution or storage of marijuana, the transporter's/distributor's records required by these rules and computers, at any time;
- ii Issue a written report or notice of his or her findings;
- iii Exercise law enforcement powers, if authorized, and
- iv Enlist the assistance of any law enforcement officer not directly employed by Alcoholic Beverage Control Enforcement toward the performance of these enforcement duties.

B A transporter/distributor and any agent shall cooperate with the Director of Alcoholic Beverage Control Administration, the Director of Alcoholic Beverage Control Enforcement, and enforcement agent, an employee of the Board, or assisting law enforcement officer, acting in an official capacity to enforce the laws related to marijuana, including but not limited to:

- i Permitting entry upon and inspection of the licensed premises (including all limited access areas) and transportation vehicles; and
- ii Providing access to records required by these rules and computers, when requested by the Director of Alcoholic Beverage Control Administration, Director of Alcoholic Beverage Control Enforcement, or an enforcement agent, or an assisting law enforcement officer.

6.2 ***Inspection required prior to operation.***

All transporters/distributors shall notify the Division of their intent to commence operations.

A. The Division shall conduct a thorough inspection of the premises for the following, as applicable:

- i. Verify possession and accuracy of detailed plans and elevation drawings required in these rules;
 - ii. Verify connection and accessibility to the Inventory Tracking System;
 - iii. Verification of an operational alarm and video surveillance systems;
 - iv. Verification of secure locks throughout the transporter/distributor facility, transportation vehicle, and on the secured container for shipping;v.
Verification of controls to limited access areas;
 - vi. Verification of compliance with perimeter restrictions;
 - vii. Any personnel records as required by these rules;
 - viii. Any other records required by these rules.
- B. Transporter/distributors may not commence operations until the Division has issued an authorization letter and said letter has been served upon the licensee by Enforcement.

6.3 ***Annual Inspections Required.*** The Division shall conduct or request Enforcement to conduct, at minimum, one (1) inspection every twelve (12) months, of all transportation vehicles and transporter/distributor facilities. The annual inspection shall include, as applicable:

- A. Verifying possession and accuracy of detailed plans and elevation drawings required in these rules;
- B. Verify connection and accessibility to the Inventory Tracking System;
- C. Verification of an operational alarm and video surveillance systems;
- D. Verification of secure locks throughout the transporter/distributor facility, transportation vehicle, and on the secured container for shipping;
- E. Verification of controls to limited access areas;
- F. Verification of compliance with perimeter restrictions;
- G. Any existing personnel records as required by these rules; and
- H. Any existing records required by these rules.

VII. CONSTRUCTION SPECIFICATIONS AND SECURITY REQUIREMENTS

7.1 *Duty to Operate a Secure Premises*

- A A transporter/distributor shall implement appropriate security measures to deter and prevent the theft and diversion of marijuana.
- B A transporter/distributor shall implement appropriate security measures to deter and prevent the unauthorized entrance into areas containing marijuana at the transporter/distributor facility
- C A transporter/distributor is responsible for the security of all marijuana on the licensed premises, in transportation vehicles, and all marijuana after a transporter/distributor takes possession of the marijuana from a licensed cultivator, dispensary, processor or laboratory.

7.2 *Transport Security*

- A Shipping Requirements
 - i Shipping Container Required. A transporter/distributor shall only transport medical marijuana that is packaged for transport inside a shipping container (as defined in this rule) tagged with a UIN.
 - ii Secured Container Required. All marijuana in transport shall be shielded from public view and secured in the following manner:
 - a In a locked, safe and secure storage compartment that is part of the transportation vehicle; or
 - b In a locked storage container that has a separate key or combination pad.
 - iii Routes and Additional Security Requirements for Transporting Marijuana
 - a A transportation vehicle shall travel directly from the originating licensed facility or approved laboratory to the receiving licensed facility or approved laboratory and shall not make any unnecessary stops in between, except to other licensed facilities or approved laboratories receiving inventory.
 - b A transporter/distributor shall notify the division immediately if a transportation vehicle is involved in an accident or experiences any type of failure causing the vehicle to be stopped at a location other

than a licensed facility or approved laboratory for more than two (2) hours.

- B Transportation vehicles shall be:
 - i Insured at or above the legal requirements in Arkansas;
 - ii Capable of securing marijuana during transport in accordance with this rule;
 - iii Equipped with an alarm system; and
 - iv Free of any markings that would indicate the vehicle is being used to transport marijuana.
 - v Staffed with a minimum of two (2) employees when a vehicle contains medical marijuana. At least one (1) employee shall remain with the vehicle any time it contains medical marijuana.
- C Individuals transporting marijuana shall:
 - i Have a valid Transporter/Distributor Agent Registry Identification Card issued by the Division;
 - ii Have a valid Arkansas Driver's License; and
 - iii Have possession of both the registry identification card and driver's license while operating or riding in a transportation vehicle.

7.3 ***Storage Facility Requirements***

If a transporter is required to store marijuana at the licensed facility due to an inability to complete delivery within the designated allowable times, the following requirements shall apply:

- A Storage Requirements
 - i. All marijuana shall be stored only on the transporter's licensed premises.
 - ii. All marijuana shall be stored in one of the following types of secured areas:
 - a A safe or steel cabinet:
 - 1 Which safe or steel cabinet shall have the following specification or the equivalent: thirty (30) man-minutes against surreptitious entry, ten (10) main-minutes against

forced entry, twenty (20) man-hours against lock manipulation, and twenty (20) man-hours against radiological techniques

- 2 Which safe or steel cabinet, if it weighs less than seven hundred fifty (750) pounds, is bolted or cemented to the floor or wall in such a way that it cannot be readily removed; and
- 3 Which safe or steel cabinet, if necessary, depending upon the quantities and type of controlled substances stored, is equipped with an alarm system as described in these rules.

b. A vault:

1. The walls, floors, and ceilings of which vault are constructed of at least eight (8) inches of reinforced concrete or other substantial masonry, reinforced vertically and horizontally with one-half (1/2) inch steel rods tied six (6) inches on center, or the structural equivalent to such reinforced walls, floors, and ceilings;
2. The door and frame unit of which vault shall conform to the following specification or the equivalent: thirty (30) man-minutes against surreptitious entry, ten (10) man-minutes against forced entry, twenty (20) man-hours against lock manipulation, and twenty (20) man-hours against radiological techniques;
3. Which vault, if operations require it to remain open for frequent access, is equipped with a "day-gate" which is self-closing and self-locking, or the equivalent, for use during the hours of operation in which the vault door is open;
4. The walls or perimeter of which vault are equipped with an alarm system as described in these rules;
5. The door of which vault is equipped with contact switches; and
6. Which vault has one of the following: Complete electrical lacing of the walls, floor and ceilings; sensitive ultrasonic equipment within the vault; a sensitive sound accumulator

system; or other such device designed to detect illegal entry.

B. Construction of Premises

- i. Enclosed and Secure Facility
 - a. Transporter/distributor facilities shall be enclosed on all sides by permanent walls, except where vehicles may be stored.
- ii. On site storage shall be:
 - a. Secure against unauthorized entry;
 - b. Have a foundation, slab, or equivalent base to which the floor is securely attached;
 - c. Provides complete visual screening of stored marijuana;
 - d. Commercial grade, nonresidential door locks shall be installed on every external door, and gate, if applicable.
 1. All external locks shall be equipped with biometric access controls;
 2. Only authorized personnel shall have access to locked and secured areas;
 3. Facilities shall maintain detailed records of authorized personnel with access to locked and secured areas;
 4. Records shall be made available to the Division upon request.
- iii. All transporters/distributors shall maintain detailed plans and elevation drawings of the facility. The plan shall identify the following:
 - a. All entrances and exits to the facility;
 - b. All windows, skylights, and retractable mechanisms built into the roof;
 - c. All storage areas;

- d. The location of all required security cameras;
 - e. The location of all alarm inputs, detectors, and sirens;
 - f. All video and alarm system surveillance areas;
 - g. All areas shall be labeled according to their purpose.
- iv. Perimeter Requirements
- All transporter/distributor facilities shall maintain the following:
- a. Adequate lighting to facilitate surveillance; and
 - b. Foliage and landscaping that does not allow for a person or persons to conceal themselves from sight.
- v. Floor plans and elevation drawings shall be kept current and on the premises of the transporter/distributor facility. Plans and elevation drawings shall be made available to the Division or Enforcement upon request.
- vi. Transporter/distributor facilities shall have adequate lighting in all areas where medical marijuana is stored; and
- vii. All facilities shall be constructed to meet the standards of an applicable state and local electrical, fire, plumbing, and building specification codes.

C. Alarm System

- i. A transporter/distributor facility shall be equipped with an alarm system.
- ii. Upon attempted unauthorized entry, the alarm system shall transmit a signal directly to a central protection company or a law enforcement agency that has a legal duty to respond. A designated agent of the transporter shall also receive notification of any such signal.
- iii. Alarm systems shall provide coverage for all points of ingress and egress to the facility, including without limitation doorways, windows, loading bays, skylights, and retractable roof mechanisms.
- iv. Alarm systems shall provide coverage of any room with an exterior wall, any room containing a safe, and any room used to store marijuana.

- v. Alarm systems shall be equipped with a “panic device” that upon activation will both sound any audible alarm components and notify law enforcement.
- vi. Alarm systems shall have “duress” and “hold up” features to enable an agent to activate a silent alarm notifying law enforcement of an emergency.
- vii. Alarms system must be equipped with failure notification systems to notify the transporter and law enforcement of any failure in the alarm system.
- viii. Alarm systems shall have the ability to remain operational during a power outage.

D. Video Surveillance System

- i. A transporter’s/distributor’s facility shall be equipped with video surveillance systems consisting of the following:
 - a. Digital video cameras;
 - b. 24 hour per day, 7 day per week recording capabilities;
 - c. The ability to remain operational during a power outage;
 - d. Digital archiving capabilities;
 - e. On-site and off-site monitoring capabilities; and
 - f. All facilities must maintain at least one on-site display monitor connected to the surveillance system at all times. The monitor shall have a screen size of at least 12 inches.
- ii. All transporter/distributor facilities shall maintain camera coverage of the following areas:
 - a. All points of ingress and egress to the facility, including without limitation doorways, windows, loading bays, skylights, and retractable roof mechanisms;
 - b. Any room with an exterior wall, except restrooms, any room containing a safe, and any room or area used to store marijuana; and

- c. All parking areas and any alley areas immediately adjacent to the building.
- iii. All recording devices shall display a date and time stamp on all recorded video.
- iv. All recording devices shall have the capability to produce a still image from the video recording, and each facility shall maintain on-site a video printer capable of immediately producing a clear still image from any video camera image.
- v. Access to on-site surveillance system controls and monitoring shall be limited to authorized personnel. Transporters shall identify employees with access to surveillance system controls and monitoring upon request by the Division.
- vi. All surveillance recordings shall be maintained for a minimum of 90 days.

SECTION VIII. OPERATIONAL REQUIREMENTS

8.1 *Hours of Operation*

- A. A transporter/distributor may transport medical marijuana to and licensed facility or approved laboratory between the hours of 7:00 a.m. and 9:00 p.m.
- B. If the transporter/distributor has in its possession medical marijuana outside of the approved hours for transportation, the transporter/distributor must immediately return to its facility and store the medical marijuana consistent with these rules.

8.2 *Inventory Manifest Required*

- A. Prior to the transport of any marijuana, the originating licensee shall provide the transporter/distributor with a copy of the manifest generated from the Inventory Tracking System. The manifest shall include the following information:
 - i. The following information for the licensed facility originating the transport:
 - a. License Number; and
 - b. Name and contact information for licensee
 - ii. The following information for the licensed facility or approved laboratory receiving the medical marijuana:

- a. License Number if the destination is a licensed facility or business name if the destination is an approved laboratory;
 - b. Address of the destination;
 - c. Name and contact information of the licensee, or contract information for the approved laboratory.
- iii. Quantities by weight or unit of each type of medical marijuana or medical marijuana product contained in transport, along with the UINs for every item;
- iv. The date of transport and approximate time of departure;
- v. Arrival date and estimated time of arrival;
- vi. Identify of the agents accompanying the transport;
- viii. Delivery vehicle make, model, and license plate number.
- B. A separate manifest shall be prepared for each licensed facility or approved laboratory.
- C. An inventory manifest shall not be altered after departing the originating premises.
- D. A transporter/distributor or transporter/distributor agent shall not accept for transport any marijuana that is not accompanied by a manifest and described therein that meets the requirements in these rules.
- E. There shall be no passenger or operator in the transporter/distributor vehicle, while medical marijuana is present in the vehicle that does not maintain with them a Registry Identification Card.

8.2 ***Transporter/distributor restrictions***

A transporter/distributor licensed under this section shall not:

- A. Grow or prepare marijuana,
- B. Manufacture or process marijuana,
- C. Supply or dispense marijuana to a qualified patient or designated caregiver;
- D. Purchase marijuana for resale to other licensed facilities.

8.3 *Limited Access to Transporter/Distributor Facility*

- A. Only the following individuals shall be allowed to access transporter's/distributor's facility:
- i. Individuals in possession of a current registry identification card issued by the Division;
 - ii. Individuals authorized by law and these rules to be on the premises;
 - iii. Contractors
 - 1. If it is necessary for a contractor to enter a transporter/distributor facility to conduct repairs, maintenance or other specific duties on the property, the contractor shall be escorted to their work site and may be left unattended while completing a job. If left unattended, transporter's/distributor's personnel shall ensure the contractor and area under repair are under video surveillance for the duration of the contractor's time spent on the premises.
 - 2. If it is necessary for a contractor to enter a transporter/distributor facility's limited access area the contractor shall be escorted to their work site and must remain in the company of a transporter's/distributor's agent while the work is being completed. The contractor may be left unattended, in the limited access area, if there is no marijuana being stored in the area while the contractor is present. If left unattended, transporter's/distributor's agent shall ensure the contractor and area under repair are under video surveillance for the duration of the contractor's time spent on the premises.
 - iv. All contractors shall be issued a contractor identification tag. The tag shall bear the individual's name and be worn by the contractor for the duration of the individual's time on the premises.
 - v. If a contractor is required on the premises for more than two (2) consecutive days, the transporter/distributor shall notify the division of the contractor's identity and purpose for being on the premises.

8.4 *Limited Access Areas*

- A. Transporter's/distributor's facility shall have limited access to areas where marijuana is stored to authorized personnel.
- i. Signage

- a. Limited Access areas shall be clearly marked.
- ii. Controlled Access
 - a. Limited Access areas shall be locked and accessible only by authorized personnel, individuals authorized by law, and members of the Division or Enforcement.
 - b. Transporter/dispensaries shall keep current rosters of personnel authorized to enter limited access areas.
 - c. Contractors may access limited access areas subject to the provisions of 8.3. Visitors,

8.5 *Inventory Tracking System*

- A. All transporters/distributors shall utilize the Inventory Tracking System implemented by the State of Arkansas to medical marijuana stored at the licensed facility.
- B. Transporters/distributors shall acquire and maintain all software, hardware, and communications infrastructures to ensure connectivity to the Inventory Tracking System

8.6 *Transporter/distributor Tracking Requirements*

- A. Transporters/distributors shall ensure the following events are logged into the Inventory Tracking System:
 - i. The storage of medical marijuana at their facility; and
 - ii. Transport of medical marijuana back to the originating facility for disposal if such medical marijuana has become unusable or has been directed by Order of the Division to be returned to the originating licensed facility.
- B. Each transaction described in subsection 8.6(A) must be recorded by a licensee immediately upon occurrence. Any licensee who fails to record a transaction listed in 8.6(A) may be subject to disciplinary action.

SECTION IX. INVESTIGATIONS

9.1 *Investigations*

- A Director of the Alcoholic Beverage Control Administration, or the Director of Alcoholic Beverage Control Enforcement, or an enforcement agent, may:

- i Without the need for a search warrant, inspect at any time a transportation vehicle(s), the licensed premises (including limited access areas) of a transporter/distributor, any marijuana on the premises or in transportation vehicles, the licensee's records, and the licensee's computers;
 - ii Issue a written report or notice of violation regarding any findings;
 - iii Exercise law enforcement powers, if authorized, and take any other action the Director of Alcoholic Beverage Control Administration or Director of Alcoholic Beverage Control Enforcement determines is necessary; and
 - iv Enlist the assistance of any law enforcement officer not directly employed by Alcoholic Beverage Control Enforcement toward performance of these enforcement duties.
- B A transporter/distributor and transporter/distributor agent shall cooperate with the Director of Alcoholic Beverage Control Administration, the Director of Alcoholic Beverage Control Enforcement, an enforcement agent, an employee of the Division, or assisting law enforcement officer, acting in an official capacity to enforce the laws contained herein related to marijuana, including without limitation:
 - i Permitting entry upon, access to, and inspection of the licensed premises (including limited access areas) or transportation vehicle; and
 - ii Providing access to the licensee's records and computers.

9.2 ***Closure of Business.*** The Director may issue an order providing for the manner and condition under which marijuana may be transferred to another licensed facility under the following circumstances:

- (A) Revocation or suspension of a license;
- (B) Surrender of a license; or
- (C) Expiration of a license.

SECTION X. ADVERTISING

10.1 ***Directed toward the public*** - Transporters/distributors shall not advertise through any public medium or means designed to market its services to the public.

10.2 ***Directed toward facilities and laboratories*** - Transporters/distributors may market their services directly to licensed facilities and approved labs by any means directed solely to the licensed facilities and approved labs and not to the public.

SECTION XI. REGISTRATION OF TRANSPORTER/DISTRIBUTOR AGENTS

11.1 *Registration Required*

- A Every individual employed by or working for or volunteering for a transporter/distributor shall register with the Division and obtain a registry identification card prior to the commencement of any activity on the transporter's/distributor's behalf.
- B If an individual is employed by multiple licensed facilities, the individual shall obtain a separate registry identification card for each place of employment.

11.2 *Application*

- A The following items must be submitted to the Division to apply for a Transporter/Distributor Agent Registry Identification Card:
 - i An application form from the Division to include the following information:
 - a Legal name of applicant;
 - b Date of birth;
 - c Address of applicant;
 - d Current employment information, including intended position with transporter/distributor; and
 - e Criminal history information.
 - ii A completed "Notice of Intent to Hire" form from the transporter/distributor specifying the intended job duties of the applicant.
 - iii A signed, notarized "Authority to Release Information" form provided by the Division or obtained through a harvester approved by Arkansas State Police.
 - iv. An in-state criminal background check through the Arkansas State Police.
 - v. The applicant shall also furnish finger prints to the Arkansas State Police for transmission to the United States Federal Bureau of Investigation for investigation of the applicant's criminal history, if any.
 - (a) Fingerprints may be taken by a harvester approved by Arkansas State Police.

- vi. The following signed forms to be provided by the Division:
 - (a) “Agency Privacy Requirements for Noncriminal Justice Applicants” form; and
 - (b) “Noncriminal Justice Applicant's Privacy Rights” form.
- vii. An applicant shall not have to submit the information in subsections (iv), (v), and (vi):
 - (a) If the applicant holds an existing registry identification card for another licensed facility; or
 - (b) If the applicant has completed the required background checks for the purpose of obtaining a registry identification card in the 2 years prior to the application, and the applicant has never had a registration card suspended or revoked.

11.3 ***Registry Identification Card***

- A. An agent of a transporter/distributor shall maintain possession of their Transporter/Distributor Agent Registry Identification Card during any activity within the scope of employment or service of a transporter/distributor.
- B. The registry identification card shall identify the following information:
 - i. Name of the cardholder;
 - ii. Date of birth;
 - iii. Name of the transporter/distributor;
 - iv. Date of issuance;
 - v. Date of expiration; and
 - vi. Registry identification number assigned by the Division.

11.4 ***Fees***

- A. Initial Registry Identification Card - \$50.00.
- B. Renewal of Registry Identification Card -\$50.00
- C. Renewal late fee - \$25.00
- D. Replacement of Registry Identification Card -\$25.00

11.5 *Issuance*

- A. The total fee for a registry identification card issued by the Division shall be \$50.00.
- B. The total fee shall be collected as follows:
 - i. One half of the fee shall be remitted along with the application; and
 - ii. One half of the fee shall be remitted upon notification by the Division that the application has been approved.
- C. The Division shall issue the registry identification card within ten (10) days of receipt of the entire fee.

11.6 *Replacement*

- A. The Division shall issue a replacement registry identification card to a transporter/distributor agent if the card has not expired.
- B. In order to receive a replacement registry identification card, a person must present the following to the Division:
 - i. A valid government-issued photo identification;
 - ii. A completed "Request for Replacement Registry Identification Card" form to be provided by the Division; and
 - iii. A replacement fee of \$25.00.

11.7 *Expiration and Renewal*

- A. A registry identification card shall expire one (1) year after the date of issuance unless renewed as described in this rule.
- B. A registry identification card shall expire upon notification to the Division by a transporter/distributor that the person is no longer employed by transporter/distributor.
- C. Agents shall submit a renewal application, on a form to be provided by the Division, and the required fee in order to renew their cards.
- D. The division shall renew registry identification cards within ten (10) days of receipt of the items described in subsection (C).

- E. Renewals received after the date of expiration shall be subject to a renewal late fee of \$25.00, in addition to the renewal fee. If a card is not renewed within one (1) month of expiration, the card shall be considered expired.

11.8 *Separation of Employment.*

A transporter/distributor shall notify the Division of any employment separation of a transporter/distributor agent by filing a Notice of Separation of Employment with the Division within seven (7) days following a transportation agent's last day of work for the transporter/distributor.

11.9 *Persons Disqualified*

- A. The Division shall not issue a registry identification card to the following individuals:
 - i. Any person under twenty-one (21) years of age;
 - ii. Any person who has been convicted of an excluded felony offense;
 - iii. Any person who has had a registry identification card revoked by the Division within five (5) years of application; or
 - iv. Any person who has not paid the required fees.
- B. The Division shall not issue a registry identification card to any person who fails to provide the information required by this rule.
- C. If the Division denies an application for a registry identification card, the Division shall notify the applicant in writing of the reasons for the denial. The transporter/distributor will be notified of the denial.
- D. The applicant may appeal the denial by requesting a hearing, which shall be held in accordance with the procedures described in this rule.

SECTION XII. DISCIPLINARY ACTION, HEARINGS, AND APPEALS

12.1 *Grounds for Suspension or Revocation of a Registry Identification Card.*

- A. If the Division finds that a transporter/distributor agent has knowingly violated any provision of the Amendment or the rules promulgated by the Commission, Department, or Division, the Division may:

- i. Suspend or revoke the transporter/distributor agent's Transporter/Distributor Agent Registry Identification Card; and
 - ii. Penalize the transporter/distributor agent in an amount not to exceed one thousand dollars (\$1,000) per violation.
- B. If the Division finds that a transporter/distributor has knowingly aided or facilitated a violation of any provision of the Amendment or the rules promulgated by the Commission, Department, or Division, the Division may:
 - i. Suspend or revoke the transporter's/distributor's license; and
 - ii. Penalize the transporter/distributor in an amount not to exceed five thousand dollars (\$5,000) per violation
- C. If the Division finds that a transporter/distributor has violated any provision of the Amendment or the rules promulgated by the Commission, Department, or Division, the Division may:
 - i. Suspend or revoke the transporter's/distributor's license; and
 - ii. Penalize the transporter/distributor in an amount not to exceed five thousand dollars (\$5,000) per violation.
- D. Grounds for Suspension, Revocation or Placing a Monetary Fine against a transporter/distributor or transporter/distributor agent.
 - i. False material statements made by a licensee to the Arkansas Medical Marijuana Commission during the application process;
 - ii. Failure to pay taxes owed to the State of Arkansas or to any political subdivision of the State of Arkansas;
 - iii. Failure to prevent diversion or theft of medical marijuana;
 - iv. Allowing any individual or agent who has not obtained or had suspended or revoked a registry identification card from the Division to work on a licensed premise or perform any duty on behalf of the transporter/distributor;
 - v. Failure to allow entry to the licensed premises to Alcoholic Beverage Control Administration Director, Alcoholic Beverage Control Enforcement Director, enforcement agents or duly authorized police officers in the course and scope of their employment;

- vi. Failure to maintain operational alarm systems and video surveillance systems;
- vii. Failure to maintain or keep any record required by these rules or Arkansas law;
- viii. Failure to properly package or secure medical marijuana on the licensed premises or during transport;
- ix. Operation of by transporter/distributor when a license has been suspended;
- x. Failure to comply with any rule promulgated by the Department, the Commission; or the Division;
- xi. Failure to comply with any law of the State of Arkansas or any local regulation regarding medical marijuana;
- xii. Transporting marijuana in any form to any person or entity without a transporter/distributor license issued by the Arkansas Medical Marijuana Commission;
- xiii. Giving marijuana to any person or entity that is not being lawfully transported consistent with the rules contained herein;
- xiv. Transporting marijuana to or from any dispensary or cultivation facility that has a license under suspension, revocation, or that has not been renewed;
- xv. Failure to utilize the Inventory Tracking System for reporting and controlling inventory;
- xvi. Growing or preparing marijuana; manufacturing or processing marijuana; suppling or dispensing marijuana to a qualified patient or designated caregiver; storing marijuana for more than twenty-four hours without written approval from the Division; or purchasing marijuana for resale to other licensed facilities.
- xvii. Knowingly aiding or facilitating a violation of the Amendment, rules promulgated by the Commission, Department or Division, or any other law of the State of Arkansas.

12.2 *Notice of Violation*

- A. The Director of Alcoholic Beverage Control Administration may issue a notice of violation if an inspection report or other credible information shows a transporter/distributor or its agent is in violation of:
 - i. The Amendment;
 - ii. Any rule promulgated by the Division, the Commission, or the Department;
 - iii. Any Order of the Division, the Commission, or the Department;
 - iv. Any law relating to marijuana; or
 - v. Any law relating to taxation.
- B. A notice of violation regarding a transporter/distributor shall be delivered to the transporter/distributor at its licensed premises.
- C. A notice of violation regarding a transporter/distributor agent shall be delivered to the agent at the transporter's/distributor's licensed premises. A copy of the notice shall be provided to the transporter/distributor licensee at its licensed premises.
- D. The notice of violation shall describe the alleged violation(s) and cite the applicable Constitutional Amendment provision, statute, rule, order, or other law.
- E. A notice of violation may be the basis of a proceeding to fine, suspend, revoke, or otherwise penalize a marijuana establishment's license.
- F. The notice of violation may include the Director's proposed fine, as well as any proposed penalty to be imposed.
- G. A transporter/distributor or transporter/distributor agent that receives a notice of violation shall respond to the notice in writing and may within ten (10) days after receiving the notice, either:
 - (i) Consent to the proposed penalty set forth in the notice of violation and waive the right to a hearing, or
 - (ii) Request a hearing before the Director or an authorized hearing agent.
- H. If the transporter/distributor or transporter/distributor agent consents to the penalty and waives the right to a hearing, the licensee or agent shall fulfill the terms set forth in the notice of violation.

- I. If a hearing is requested, a hearing shall be scheduled and the transporter or transporter agent shall receive a notice of hearing in compliance with these rules.
- J. If the licensee or agent fails to respond to the notice of violation, the Director may enter an order in accordance with the notice of violation.

12.3 ***Emergency Suspension***

- A. If the Director finds, pursuant to ACA § 25-15-211(c), that the public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in his order, summary suspension of a license or registry identification card may be ordered pending proceedings for revocation or other action, which proceedings shall be promptly instituted and determined.
- B. If the Director makes the determination set out in (A) of this provision Section XII (2) shall not apply.

12.4 ***Notice of Hearing***

- A. If a hearing is required by these rules, a notice of hearing shall be sent to the respondent transporter/distributor or transporter/distributor agent via regular mail or by service of an Enforcement Agent to the address on file with the division.
- B. The notice of hearing shall include:
 - i. A statement of the time, place and nature of the hearing;
 - ii. A statement of the legal authority and jurisdiction under which the hearing is to be held;
 - iii. A short and plain statement of the matters of fact and law asserted; and
 - iv. A statement advising the licensee or agent that the license or registry identification card may be suspended or revoked.

12.5 ***Conduct of Hearing by Director or Hearing Officer.***

- A. The Director or designated hearing officer shall conduct hearings.
- B. The Director or hearing officer shall be authorized to:
 - i. Examine or cause to be examined under oath any person;
 - ii. Examine or cause to be examined books and records of any transporter/distributor or transporter/distributor agent;

- iii. To hear testimony, to take proof material for the Director's information and for the purposes of the hearing;
- iv. Administer or cause to be administered oaths; and
- v. Issue subpoenas to require the appearance of witnesses and the production of books and records, which subpoenas shall be effective in any part of this state.
 - a. Any Circuit Court may by order duly entered require the attendance of witnesses or the production of relevant books and records subpoenaed by the Director, and the Court may compel obedience to its orders by proceedings for contempt.
 - b. Any licensee or agent involved in a hearing before the Director shall be entitled, on request, to a subpoena for the compulsory attendance of witnesses.

12.6 ***Order of Director***

If the Director denies, suspends, or revokes a transporter license or registry identification card, or if the Director imposes a monetary fine against any transporter/distributor or transporter/distributor agent, the Director shall prepare an order so stating.

- A. The Order shall be signed by the Director or designated hearing officer.
- B. The Order shall include findings of fact and conclusions of law, separately stated.
- C. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings.
- D. The order shall be mailed by regular and certified mail to a transporter/distributor or transporter/distributor agent to the address provided by the licensee or the agent.
- E. The order shall be final and binding on all parties until such order has been appealed as provided in these rules and the Alcoholic Beverage Control Board issues a decision.

12.7 ***Appeal of Director's Order***

- A. A transporter/distributor or transporter/distributor agent aggrieved by an order of the Director may appeal from such Order to the Alcoholic Beverage Control Board by filing a notice of appeal with the Board.

- B. The notice of appeal must be mailed or delivered to the offices of the Alcoholic Beverage Control Division within fifteen (15) days after the order to be appealed from is received by the recipient.
- C. At least ten (10) days before the time set for the hearing, the Division shall notify the licensee or agent via regular first-class mail of the time and place where said appeal shall be heard by the Board or by a hearing officer designated as provided in these rules.
- D. Said hearing shall be held within sixty (60) days after the date of the filing of the notice of appeal unless the person appealing shall consent to a later hearing date.
- E. Said hearing shall be held within at least sixty (60) days after the filing of the notice of appeal unless the person appealing requests or consents to a later hearing.
 - i. Hearings shall not be continued in excess 6 months without consent from the Board.

12.8 ***Conduct of Hearing by Board.*** In the conduct of any hearing held by the Board or the Board's designated hearing officer, the Board or such hearing officer shall be authorized to:

- A. Examine or cause to be examined under oath any person;
- B. Examine or cause to be examined books and records of any transporter/distributor or transporter/distributor agent;
- C. Hear testimony;
- D. Administer or cause to be administered oaths; and
- E. Issue subpoenas to require the appearance of witnesses and the production of books and records, which subpoenas shall be effective in any part of this state.
 - i. Any Circuit Court may by order duly entered require the attendance of witnesses or the production of relevant books and records subpoenaed by the Director, and the Court may compel obedience to its orders by proceedings for contempt.
 - ii. Any licensee or agent involved in a hearing before the Board shall be entitled, on request, to a subpoena for the compulsory attendance of

12.9 ***Order by Board.*** Within five (5) days after a hearing is concluded by the Board, the Board shall issue its decision in the form of a written Order.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT DFA

DIVISION Alcoholic Beverage Control

PERSON COMPLETING THIS STATEMENT Doralee Chandler

TELEPHONE 501-682-2916 FAX 501-682-2221 EMAIL: Doralee.Chandler@dfa.arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE Oversight of Medical Marijuana Transporters/Distributors

- | | | |
|---|-------|-----------------------------|
| 1. Does this proposed, amended, or repealed rule have a financial impact? | Yes X | No ☐ |
| 2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule? | Yes X | No ☐ |
| 3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? | Yes X | No ☐ |

If an agency is proposing a more costly rule, please state the following:

- (a) How the additional benefits of the more costly rule justify its additional cost;
- _____
- (b) The reason for adoption of the more costly rule;
- _____
- (c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;
- _____
- (d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.
- _____
4. If the purpose of this rule is to implement a federal rule or regulation, please state the following: N/A
- (a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

General Revenue	_____
Federal Funds	_____
Cash Funds	_____
Special Revenue	_____
Other (Identify)	_____

Next Fiscal Year

General Revenue	_____
Federal Funds	_____
Cash Funds	_____
Special Revenue	_____
Other (Identify)	_____

Total _____

Total _____

(b) What is the additional cost of the state rule?

Current Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total 0

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total 0

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

\$? _____

Next Fiscal Year

\$? _____

Licensed transporters/distributors will incur costs to comply with the requirements, but the amount is unknown

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

\$ 0 _____

Next Fiscal Year

\$ 0 _____

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes

No X

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

(1) a statement of the rule's basis and purpose;

(2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;

(3) a description of the factual evidence that:

(a) justifies the agency's need for the proposed rule; and

(b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;

- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.