

# ARKANSAS REGISTER

## Transmittal Sheet

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Secretary of State

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Effective Date \_\_\_\_\_ Code Number \_\_\_\_\_

Name of Agency Department of Finance & Administration

Department Alcoholic Beverage Control

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Doralee Chandler

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05/25/2022

Contact Person

E-mail Address

Date

### CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted  
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

Doralee Chandler  
Signature

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Director

Title

05/25/2022

Date

**FINAL COPY**

**RULES GOVERNING THE OVERSIGHT OF MEDICAL  
MARIJUANA CULTIVATION FACILITIES, PROCESSORS AND  
DISPENSARIES BY THE ALCOHOLIC BEVERAGE CONTROL  
DIVISION**

**SECTION 1. AUTHORITY OF THE BOARD**

These rules governing the oversight of medical marijuana cultivation facilities, processors and dispensaries in Arkansas are duly adopted and promulgated by the Arkansas Alcoholic Beverage Control Board pursuant to Amendment No. 98 of the Constitution of the State of Arkansas of 1874, The Medical Marijuana Amendment of 2016.

**SECTION 2. SCOPE**

These rules govern the oversight of medical marijuana cultivation facilities, processors and dispensaries in Arkansas. These rules govern the requirements for record keeping, security, and personnel at cultivation facilities, processors and dispensaries. These rules govern the requirements for the manufacturing, processing, packaging, dispensing, disposing, advertising, and marketing of medical marijuana by cultivation facilities, processors and dispensaries. These rules govern the procedures for inspecting and investigating cultivation facilities, processors and dispensaries. These rules govern the procedures for sanctioning, suspending, and terminating cultivation facility, processors and dispensary licenses for violations of the amendment or these rules.

**SECTION 3. DEFINITIONS**

- 3.1 “Acquire” or “Acquisition” means coming to possess marijuana by means of any legal source herein authorized, not from an unauthorized source, and in accordance with the Amendment and any rules promulgated under the Amendment.
- 3.2 “Amendment” means the Arkansas Medical Marijuana Amendment of 2016.
- 3.3 “Approved Laboratory” means a laboratory that is accredited by the National Institute on Drug Abuse (NIDA), the National Environmental Laboratory Accreditation Conference (NELAC), and the International

- Organization for Standardization (ISO) or similar accrediting entity as determined by the Department, and that has been approved by the Department specifically for the testing of usable marijuana.
- 3.4 “Authorized Personnel” means any employee employed by a licensed facility and granted permission by the facility to enter into restricted areas.
- 3.5 “Batch” means, with regard to usable marijuana, a homogenous, identified quantity of usable marijuana, no greater than ten (10) pounds, that is harvested during a specified time period from a specified cultivation area, and with regard to oils, vapors, and waxes derived from usable marijuana, means an identified quantity that is uniform, that is intended to meet specifications for identity, strength, and composition, and that is manufactured, packaged and labeled during a specified time period according to a single manufacturing, packaging and labeling protocol.
- 3.6 “Biannual” means every six (6) months.
- 3.7 “Cannabinoid” means any of the chemical compounds that are the active constituents of marijuana.
- 3.8 “Cannabinoid concentrate” means a substance obtained by separating cannabinoids from marijuana by:
- a. A mechanical extraction process;
  - b. A chemical extraction process using a nonhydrocarbon-based or other solvent, such as water, vegetable glycerin, vegetable oils, animal fats, isopropyl alcohol or ethanol; or
  - c. A chemical extraction process using the hydrocarbon-based solvent carbon dioxide, provided that the process does not involve the use of pressure or heat over 180 degrees.
- 3.9 “Cannabinoid edible” means food or potable liquid into which a cannabinoid concentrate, cannabinoid extract, or dried marijuana leaves or flowers have been incorporated.
- 3.10 “Cannabinoid extract” means a substance obtained by separating cannabinoids from marijuana by:
- a. A chemical extraction process using a hydrocarbon-based solvent, such as butane, hexane, or propane;
  - b. A chemical extraction process using the hydrocarbon-based solvent, carbon dioxide, if the process uses high heat or pressure; or
  - c. Any other processes identified by the Division.
- 3.11 “Cardholder” means a qualifying patient, a dispensary agent, a cultivation facility agent, transporter agent, processor facility agent, or a designated caregiver;
- 3.12 “Commercially available” means any candy, food, gum or beverage that is produced or sold by a third party.

- 3.13 “Commission” means the Medical Marijuana Commission.
- 3.14 “Contractor” means any person or business under contract to complete repairs or improvements or to provide services to the licensed facility.
- 3.15 “Cultivation facility” means an entity that:
- a. Has been licensed by the Medical Marijuana Commission; and
  - b. Cultivates, prepares, manufactures, processes, packages, sells to and delivers usable marijuana to a dispensary.
- 3.16 “Cultivation Facility Agent” means an employee, supervisor, or agent of a cultivation facility who:
- a. Is twenty-one (21) years of age or older;
  - b. Works at the cultivation facility; and
  - c. Has registered with the Alcoholic Beverage Control Administrative Division.
- 3.17 “Department” means the Arkansas Department of Health.
- 3.18 “Deliver” means to move medical marijuana product between a licensed dispensary and a qualified patient or designated caregiver.
- 3.19 “Designated caregiver” means:
- a. A person who is at least twenty-one (21) years of age, has not been convicted of an excluded felony offense, has agreed to assist physically disabled qualifying patient with the medical use of marijuana, and who has registered with the Department of Health pursuant to the requirements of the Amendment and these Rules.
  - b. Designated caregiver includes, without limitation, a parent:
    - i. Of a qualifying patient who is under the age of eighteen (18); and
    - ii. Required to register as a designated caregiver under the Amendment.
- 3.20 “Dispensary” means an entity that has been licensed by the Medical Marijuana Commission pursuant to the requirements of the Amendment.
- 3.21 “Dispensary agent” means:
- a. An employee, supervisor, volunteer, or agent of a dispensary who:
    - i. Is twenty-one (21) years of age or older;
    - ii. Works at the dispensary; and
    - iii. Has registered with the Alcoholic Beverage Control Division.
  - b. An owner, officer, or board member of a dispensary who has registered with the Division pursuant to the requirements of the Amendment.
- 3.22 “Division” means the Arkansas Alcoholic Beverage Control Administrative Division.

- 3.23 “Enclosed, locked facility” means a room, greenhouse, or other enclosed area equipped with locks or other security devices that permit access only by an authorized individual;
- 3.24 “Enforcement” means the Alcoholic Beverage Control Enforcement Division
- 3.25 “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 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.
- 3.26 “Flowering” means the reproductive state of *Cannabis* in which the plant is in a light cycle intended to stimulate the production of flowers, trichome, and cannabinoids characteristic of marijuana.
- 3.27 “Harvest Lot” means a specifically identified quantity of marijuana that is uniform in strain, cultivated using the same growing practices, harvested at the same time at the same location and cured under uniform conditions.
- 3.28 “Immature Marijuana Plant” means a seedling or nonflowering marijuana plant.
- 3.29 “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.
- 3.30 “Licensed Facility” means either a cultivation facility, processor, transporter, or dispensary licensed by the Commission.
- 3.31 “Lot” means an identified portion of a batch, that is uniform and that is intended to meet specifications for identity, strength, and composition; or in the case of a vapor, oil, or wax derived from usable marijuana, an

identified quantity produced in a specified period of time in a manner that is uniform and that is intended to meet specifications for identity, strength, and composition.

3.32 “Manufacturing and Processing”:

a. Means the manufacturing, processing, compounding or conversion of marijuana into cannabinoid products, cannabinoid concentrates, or cannabinoid extracts.

b. Does not mean the drying of marijuana.

3.33 “Marijuana” or “Medical Marijuana” means marijuana in any form described in the Amendment or rules promulgated by the Division, Department, or the Commission.

3.34 “Mature Marijuana Plant” means a marijuana plant that is flowering.

3.35 “Medical Marijuana Container” means a sealed, traceable, food compliant, child-proof packaging that cannot be opened by a child, or that prevents ready access to toxic or harmful amounts of the packaged product, and that meets the testing requirements in accordance with the method described in 16 C.F.R. § 1700.20, as existing on January 1, 2017.

3.36 “Process Lot” means

a. Any amount of cannabinoid concentrates or extract of the same type and processed at the same time using the same extraction methods, standard operating procedures, and batches for the harvest lot; or

b. Any amount of cannabinoid products of the same type and processed at the same time using the same ingredients, standard operating procedures and batches from the same harvest lot or process lots of cannabinoid concentrate or extract.

3.37 “Processor” means an entity that:

a. Has been licensed by the Medical Marijuana Commission; and

b. May acquire, possess, manufacture, process, prepare, deliver, transport, and supply marijuana to a dispensary or cultivation facility.

3.38 “Processor Agent” means an employee, supervisor, or agent of a processor who:

a. Is twenty-one (21) years of age or older;

b. Works at the processor; and

c. Has registered with the Alcoholic Beverage Control Division

3.39 “Production Area” means any area in a cultivation facility or dispensary used for the growing of medical marijuana plants.

3.40 “Qualifying medical condition” means one or more of the following:

a. Cancer, glaucoma, positive status for human immunodeficiency virus/acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, Tourette’s syndrome, Crohn’s

disease, ulcerative colitis, post-traumatic stress disorder, severe arthritis, fibromyalgia, Alzheimer's disease, or the treatment of these conditions;

b. A chronic or debilitating disease or medical condition or its treatment that produces one (1) or more of the following: cachexia or wasting syndrome; peripheral neuropathy; intractable pain, which is pain that has not responded to ordinary medications, treatment or surgical measures for more than six (6) months; severe nausea; seizures, including without limitation those characteristic of epilepsy; or severe and persistent muscle spasms, including, without limitation those characteristic of multiple sclerosis; and

c. Any other medical condition or its treatment approved by the Department pursuant to its Rules and the Amendment.

- 3.41 "Qualifying patient" means a person who has been diagnosed by a physician as having a qualifying medical condition and who has registered with the Department in accordance with these Rules and the Amendment.
- 3.42 "Registry identification card" means a document issued by the Department that identifies a person as a qualifying patient or a designated caregiver or a document issued by the Division that identifies a person as an agent of a cultivation facility, dispensary, processor, or transporter.
- 3.43 "Sealed" means expunge, remove, sequester, and treat as confidential the record or records of a felony offense;
- 3.44 "Shipping Container" means a sealable, tamper-evident container used for the transport of medical marijuana between licensed facilities.
- 3.45 "Testing" means the process and procedures provided by an approved laboratory for testing of usable marijuana, consistent with provisions of this rule.
- 3.46 "Transport" means to move medical marijuana between licensed facilities or between a licensed facility and approved laboratory.
- 3.47 "Usable marijuana" means the stalks, seeds, roots, dried leaves, flowers, oils, vapors, waxes, and other portions of the marijuana plant and any mixture or preparation thereof. Usable marijuana includes cannabinoid edibles, cannabinoid concentrates, and cannabinoid extracts. Usable marijuana does not include the weight of any ingredients other than marijuana that are combined with marijuana and prepared for consumption as food and drink.
- 3.48 "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.

- 3.49 “Visiting qualifying patient” means a patient with a qualifying medical condition who is not a resident of Arkansas or who has been a resident of Arkansas for less than thirty (30) days and who is in actual possession of a registry identification card or its equivalent that is issued under the laws of another state, district, territory, commonwealth, or insular possession of the United States and has registered with the Department.

## **SECTION 4. OVERSIGHT AND INSPECTION REQUIREMENTS**

### **4.1 *Inspection and Investigation***

A Licensed Facility shall be subject to reasonable inspection by the Alcoholic Beverage Control 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 dispensary, cultivation facility, or processor including any marijuana and marijuana product on the premises, equipment used in cultivating, processing, testing, or storing marijuana, the licensed facility’s records 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 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 dispensary, cultivation facility, or processor and any licensee, employee, or 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 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; and
  - ii. Providing access to records required by these rules and



computers, when requested by the Director of Alcoholic Beverage Control Administration, or the Director of Alcoholic Beverage Control Enforcement, or an enforcement agent, or an assisting law enforcement officer.

4.2 ***Inspection required prior to operation.*** All licensed facilities shall notify the Alcoholic Beverage Control Division of their intent to commence operations. The Division shall conduct or request Enforcement to conduct a thorough inspection of the premises for the following:

- a. Verify possession and accuracy of detailed plans and elevation drawings required by rules 6.2 and 7.2;
- b. Verify connection and accessibility to the Inventory Tracking System;
- c. Verification of operational alarm and video surveillance systems;
- d. Verification of secure locks throughout the facility;
- e. Verification of controls to limited access areas;
- f. Verification of compliance with perimeter restrictions;
- g. Any existing personnel records as required by rule 21.4; and
- h. Review of initial inventory required by rule 12.1 and verify for accuracy.

4.3 ***Biannual Inspections Required.***

The Division or Enforcement shall conduct, at minimum, one (1) inspection every six (6) months, of all licensed facilities. The biannual inspections shall include, without limitations:

- a. Verify possession and accuracy of detailed plans and elevation drawings required by rules 6.2 and 7.2;
- b. Verify connection and accessibility to the Inventory Tracking System;
- c. Verification of operational alarm and video surveillance systems;
- d. Verification of secure locks throughout the facility;
- e. Verification of controls to limited access areas;
- f. Verification of compliance with perimeter restrictions;
- g. Verification of current, complete, and accurate personnel records; and
- h. Review biannual inventory reports required by rule 12.1 and verify for accuracy.

4.4 ***Closure of Business***

- a. The Division may issue an order providing for the manner and condition under which usable marijuana may be transferred or sold to

another licensed facility or must otherwise be disposed of under the following circumstances:

- i. Revocation of a license;
- ii. Surrender of a license; or
- iii. Expiration of a license.

## **SECTION 5. RECORD KEEPING REQUIREMENTS FOR DISPENSARIES, PROCESSORS, AND CULTIVATION FACILITIES**

### **5.1 *Records required to be kept for current year and three (3) proceeding calendar years.***

- a. Records regarding the disposal of medical marijuana.
- b. General Business Records. Licensed facilities shall keep all books and records necessary to fully account for each business transaction conducted under its license.
- c. Records of all required inventory reports.
- d. Records of pesticide and chemical applications as required by rule 13.6.
- e. Medical Marijuana Product Transactions as set out:
  - i. Dispensaries shall keep a record of each transaction, including the amount of marijuana dispensed, the amount of compensation received, and the registry identification number of the qualifying patient or designated caregiver.
  - ii. Cultivation facilities and Processors shall keep a record of all transactions for medical marijuana to another licensed facility.
- f. Personnel Records

## **SECTION 6. CONSTRUCTION SPECIFICATIONS AND SECURITY REQUIREMENTS FOR CULTIVATION FACILITIES**

### **6.1 *Duty to Operate a Secure Premises***

- a. All Cultivation Facilities shall implement appropriate security measures to deter and prevent the unauthorized entrance into areas containing marijuana and the theft and diversion of marijuana.
- b. A licensee is responsible for the security of all marijuana and marijuana processed products on the licensed premises or in transit from the facility when self-transporting.
- c. Cultivation Facilities shall comply with all applicable security requirements set forth in these rules.

## 6.2. ***Construction of Premises***

- a. Enclosed and Secure Facility – All cultivation of medical marijuana shall take place within a building, greenhouse or other structure that:
  - i. Has a complete roof enclosure supported by connecting walls, constructed of solid materials, extending from the ground to the roof;
  - ii. Is secure against unauthorized entry;
  - iii. Has a foundation, slab, or equivalent base to which the floor is securely attached;
  - iv. Meets performance standards ensuring that cultivation and processing activities cannot be and are not perceptible from the structure in terms of:
    1. Common visual observation;
    2. Odors, smell, fragrances, or other olfactory stimulus;
    3. Light pollution, glare, or brightness;
    4. Adequate ventilation to prevent mold; and
    5. Noise;
  - v. Provides complete visual screening, and
  - vi. Is accessible only through one (1) or more lockable doors.
- b. Commercial grade, non-residential door locks shall be installed on every external door, and gate if applicable. All external locks shall be equipped with biometric access controls with two factor authentication and the two-factor authentication must be in use at all times. Only authorized personnel shall have access to locked and secured areas. Facilities shall maintain detailed records of employees with access to locked and secured areas. Records shall be made available to the Division upon request.
- c. All cultivation facilities shall maintain detailed plans and elevation drawings of all operational areas involved with the production, processing, and manufacturing of medical marijuana. The plan shall identify the following:
  - i. All storage areas, ventilation systems, and equipment used for production, processing, and manufacturing;
  - ii. All entrances and exits to the facility;
  - iii. All windows, skylights, and retractable mechanisms built into the roof;
  - iv. The location of all required security cameras;
  - v. The location of all alarm inputs, detectors, and sirens;
  - vi. All video and alarm system surveillance areas;

- vii. All production, processing, and manufacturing areas shall be labeled according to the specific activity occurring within the area;
- viii. All restricted and limited access areas shall be identified; and
- ix. All non-production areas shall be labeled according to their purpose.
- d. Floor plans and elevation drawings shall be kept current and on the premises of the cultivation facility. Plans and elevation drawings shall be made available to the Division upon request.
- e. Floors, walls, and ceilings shall be constructed in such a manner that they may be adequately cleaned and kept clean and in good repair.
- f. Cultivation facilities shall have adequate lighting in all areas where Medical Marijuana is stored and where equipment and utensils are cleaned.
- g. Plumbing shall be of adequate size and design and adequately installed and maintained to carry sufficient quantities of water to required locations throughout the facility and to properly convey sewage and liquid disposable waste from the facility. There shall be no cross-connections between the potable and waste water lines.
- h. All facilities shall be constructed to meet the standards of any applicable state and local electrical, fire, plumbing, and building specification codes.

### 6.3. ***Storage Area Requirements***

- a. Harvested marijuana and any product processed from harvested marijuana shall be stored in one of the following types of secured areas:
  - i. 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) man-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 RR 6.4.
- ii. 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 ( $\frac{1}{2}$ ) 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 rule 6.4.
  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.

#### 6.4 *Alarm System*

- a. All cultivation facilities shall be equipped with an alarm system which, upon attempted unauthorized entry, shall transmit a signal directly to a central protection company or a local or State police agency which has a legal duty to respond. A designated agent of the cultivation facility shall also receive notification of any such signal.

- b. Alarm systems shall provide coverage for all points of ingress and egress to the facility, including, but not limited to, doorways, windows, loading bays, skylights, and retractable roof mechanisms.
- c. Alarm systems shall provide coverage of any room with an exterior wall, any room containing a safe, and any room used to grow or store medical marijuana.
- d. Alarm systems shall be equipped with a “panic device” that upon activation will not only sound any audible alarm components but will also notify law enforcement.
- e. Alarm systems shall have “duress” and “hold up” features to enable an agent to activate a silent alarm notifying law enforcement of an emergency.
- f. Alarm system must be equipped with failure notification systems to notify cultivation facilities and law enforcement of any failure in the alarm system and such systems must be in use at all times.
- g. Alarm systems shall have the ability to remain operational during a power outage and shall remain operational regardless of the length of the power outage.

#### 6.5. ***Video Surveillance System***

- a. All cultivation facilities shall be equipped with video surveillance systems consisting of the following:
  - i. Digital video cameras with a minimum resolution of 10 frames per second;
  - ii. 24 hour per day, 7 day per week continuous recording;
  - iii. The ability to remain operational during a power outage and shall remain operational regardless of the length of the power outage;
  - iv. Digital archiving capabilities and shall maintain digital archiving for one year;
  - v. On-site and off-site monitoring; and
  - vi. All facilities must always maintain at least one on-site display monitor connected to the surveillance system. The monitor shall have a screen size of at least 12 inches.
- b. All cultivation facilities shall maintain camera coverage of the following areas:
  - i. All points of ingress and egress to the facility, including, but not limited to, doorways, windows, loading bays, skylights, and retractable roof mechanisms;

- ii. Any room with an exterior wall, except restrooms, any room containing a safe, and any room or area used to grow, process, manufacture, or store medical marijuana;
  - iii. All areas in which any part of the disposal process of marijuana occurs; and
  - iv. All parking areas and any alley areas immediately adjacent to the building.
- c. All recording devices shall display a date and time stamp on all recorded video.
- d. 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.
- e. Access to on-site surveillance system controls and monitoring shall be limited to authorized personnel. Cultivation facilities shall identify individuals with access to surveillance system controls and monitoring upon request by the Division.
- f. All surveillance recordings shall be maintained for a minimum of 90 days.

#### 6.6. ***Perimeter Requirements***

- a. The perimeter of all cultivation facilities shall be maintained in such a way to discourage theft and diversion of marijuana. All cultivation facilities shall maintain the following:
  - i. Adequate lighting to facilitate surveillance; and
  - ii. Foliage and landscaping that does not allow for a person or persons to conceal themselves from sight.
- b. All stages of medical marijuana production and the disposal of unusable medical marijuana on the premises of a cultivation facility shall not be visible or accessible to the public.
- c. The cultivation facility shall maintain any walls or fencing necessary to shield the operations of the facility from public access and view.
- d. The cultivation facility shall ensure any odors that may arise from any stage of marijuana production or the disposal of marijuana are not detectable by the public from outside the cultivation facility.

## **SECTION 7. CONSTRUCTION SPECIFICATIONS AND SECURITY REQUIREMENTS FOR DISPENSARIES**

### **7.1 *Duty to Operate a Secure Premises***

- a. All dispensaries shall implement appropriate security measures to deter and prevent the theft and diversion of marijuana.
- b. A licensee is responsible for the security of all marijuana items on the licensed premises or in transit from the facility when self-transporting.
- c. Dispensaries shall comply with all applicable security requirements set forth in these rules.

### **7.2 *Construction of Premises***

- a. Enclosed and Secure Facility
  - i. Dispensaries shall be enclosed on all sides by permanent walls and doors.
- b. All cultivation of medical marijuana by a dispensary shall take place within a building, greenhouse or other structure connected to the dispensary that:
  - i. Has a complete roof enclosure supported by connecting walls, constructed of solid materials, extending from the ground to the roof;
  - ii. Is secure against unauthorized entry;
  - iii. Has a foundation, slab, or equivalent base to which the floor is securely attached;
  - iv. Meets performance standards ensuring that cultivation and processing activities cannot be and are not perceptible from the structure in terms of:
    - 1. Common visual observation;
    - 2. Odors, smell, fragrances, or other olfactory stimulus;
    - 3. Light pollution, glare, or brightness;
    - 4. Adequate ventilation to prevent mold; and
    - 5. Noise;
  - v. Provides complete visual screening, and
  - vi. Is accessible only through one (1) or more lockable doors.
- c. Commercial grade, non-residential door locks shall be installed on every external door, and gate if applicable. All external locks shall be equipped with biometric access controls with two factor authentication and the two-factor authentication must be in use at all



times. Only authorized personnel shall have access to locked and secured areas. Facilities shall maintain detailed records of employees with access to locked and secured areas. Records shall be made available to the Division upon request.

d. All dispensaries shall maintain detailed plans and elevation drawings of all operational areas involved with the dispensing and production of medical marijuana. The plan shall identify the following:

- i. All entrances and exits to the facility;
- ii. All windows, skylights, and retractable mechanisms built into the roof;
- iii. All designated areas for qualified patients and designated care givers;
- iv. All limited access areas;
- v. All storage areas, ventilation systems, and equipment used for production, processing, and manufacturing;
- vi. The location of all required security cameras;
- vii. The location of all alarm inputs, detectors, and sirens;
- viii. All video and alarm system surveillance areas;
- ix. All production, processing, and manufacturing areas shall be labeled according to the specific activity occurring within the area;
- x. All restricted and limited access areas shall be identified; and
- xi. All areas shall be labeled according to their purpose.

e. Floor plans and elevation drawings shall be kept current and on the premises of the dispensary. Plans and elevation drawings shall be made available to the Division upon request.

f. Floors, walls, and ceilings shall be constructed in such a manner that they may be adequately cleaned and kept clean and in good repair.

g. Dispensaries shall have adequate lighting in all areas where Medical Marijuana is stored and where equipment and utensils are cleaned.

h. Plumbing shall be of adequate size and design and adequately installed and maintained to carry sufficient quantities of water to required locations throughout the facility and to properly convey sewage and liquid disposable waste from the facility. There shall be no cross-connections between the potable and waste water lines.

- i. All facilities shall be constructed to meet the standards of any applicable state and local electrical, fire, plumbing, and building specification codes.

### **7.3 *Storage Area Requirements***

- a. Any dispensary storing usable marijuana harvested from mature plants pursuant to rule 13.3, marijuana stored for retail, or marijuana products for retail shall comply with the storage area requirements in 6.3.
- b. Dispensaries may keep usable marijuana in locked display case during business hours for patients to inspect. All usable marijuana shall be stored in accordance with Rule 7.3(a) after operating hours.

### **7.4 *Alarm System***

- a. All dispensaries shall be equipped with an alarm system which, upon attempted unauthorized entry, shall transmit a signal directly to a central protection company or a local or State police agency which has a legal duty to respond. A designated agent of the dispensary shall also receive notification of any such signal.
- b. Alarm systems shall provide coverage for all points of ingress and egress to the facility, including, but not limited to, doorways, windows, loading bays, skylights, and retractable roof mechanisms.
- c. Alarm systems shall provide coverage of any room with an exterior wall, any room containing a safe, and any room used to grow or store medical marijuana.
- d. Alarm systems shall be equipped with a “panic device” that upon activation will not only sound any audible alarm components but will also notify law enforcement.
- e. Alarm systems shall have “duress” and “hold up” features to enable an agent to activate a silent alarm notifying law enforcement of an emergency.
- f. Alarms system must be equipped with failure notification systems to notify dispensaries and law enforcement of any failure in the alarm system and such systems shall be in use at all times.
- g. Alarm systems shall have the ability to remain operational during a power outage and shall remain operational regardless of the length of the power outage.

### **7.5 *Video Surveillance System***

- a. All dispensaries shall be equipped with video surveillance systems consisting of the following:

- i. Digital video cameras with a minimum resolution of 10 frames per second;
  - ii. 24 hour per day, 7 day per week continuous recording;
- iii. The ability to remain operational during a power outage;
- iv. Digital archiving capabilities and shall maintain digital archiving for ninety (90) days;
  - v. On-site and off-site monitoring; and
  - vi. 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.
- b. All dispensaries shall maintain camera coverage of the following areas:
  - i. All points of ingress and egress to the facility, including, but not limited to, doorways, windows, loading bays, skylights, and retractable roof mechanisms;
  - ii. Any room with an exterior wall, except restrooms, any room containing a safe, and any room or area used to grow, process, manufacture, or store medical marijuana;
  - iii. All areas in which any part of the disposal process of marijuana occurs;
  - iv. All point of sale areas.
  - v. All areas for qualified patients and designated caregivers, except restrooms; and
  - vi. All parking areas and any alley areas immediately adjacent to the building.
- c. All recording devices shall display a date and time stamp on all recorded video.
- d. 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.
- e. Access to on-site surveillance system controls and monitoring shall be limited to authorized personnel. Dispensaries shall identify individuals with access to surveillance system controls and monitoring upon request by the Division.
- f. All surveillance recordings shall be maintained for a minimum of 90 days.

## **7.6 *Perimeter Requirements***

- a. The perimeter of all dispensaries shall be maintained in such a way to discourage theft and diversion of marijuana. All dispensaries shall maintain the following:
  - i. Adequate lighting to facilitate surveillance; and
  - ii. Foliage and landscaping that does not allow for a person or persons to conceal themselves from sight.
- b. All stages of medical marijuana production and the disposal of unusable medical marijuana on the premises of a dispensary shall not be visible or accessible to the public from outside the premises of the facility.
- c. The dispensary shall ensure any odors, which may arise from any stage of marijuana production or the disposal of marijuana, are not detectable by the public from outside the dispensary.

## **SECTION 8. CONSTRUCTION SPECIFICATIONS AND SECURITY REQUIREMENTS FOR PROCESSORS**

### **8.1 *Duty to Operate a Secure Premises***

- a. A processor shall implement appropriate security measures to deter and prevent the unauthorized entrance into areas containing marijuana and the theft and diversion of marijuana.
- b. A processor is responsible for the security of all marijuana items on the licensed premises or in transit from the facility,
- c. A processor shall comply with all applicable security requirements set forth in these rules.

### **8.2 *Construction of Premises***

- a. Enclosed and Secure Facility. All manufacturing and processing of medical marijuana by a processor shall take place within a structure that:
  - i. Has a complete roof enclosure supported by connecting walls, constructed of solid materials, extending from the ground to the roof;
  - ii. Is secure against unauthorized entry;
  - iii. Has a foundation, slab, or equivalent base to which the floor is securely attached;
  - iv. Meets performance standards that ensure that manufacturing and processing activities cannot be and are not perceptible from the structure in terms of:

1. Common visual observation;
  2. Odors, smell, fragrances, or other olfactory stimulus;
  3. Light pollution, glare, or brightness;
  4. Adequate ventilation to prevent mold; and
  5. Noise;
- v. Provides complete visual screening; and
  - vi. Is accessible only through one (1) or more lockable doors.
- b. Commercial grade, non-residential door locks shall be installed on every external door and gate, if applicable. All external locks shall be equipped with biometric access controls with two factor authentication and the two-factor authentication must be in use at all times. Only authorized personnel shall have access to locked and secured areas. Facilities shall maintain detailed records of employees with access to locked and secured areas. Records shall be made available to the Division upon request.
  - c. A processor shall maintain detailed plans and elevation drawings of all operational areas involved with the manufacturing and processing of medical marijuana. The plan shall identify the following:
    - i. All storage areas, ventilation systems, and equipment used for manufacturing and processing;
    - ii. All entrances and exits to the facility;
    - iii. All windows, skylights, and retractable mechanisms built into the roof;
    - iv. The location of all required security cameras;
    - v. The location of all alarm inputs, detectors, and sirens;
    - vi. All video and alarm system surveillance areas;
    - vii. All manufacturing and processing areas shall be labeled according to the specific activity occurring within the area;
    - viii. All restricted and limited access areas shall be identified; and
    - ix. All areas shall be labeled according to their purpose.
  - d. Floor plans and elevation drawings shall be kept current and on the premises of the processor. Plans and elevation drawings shall be made available to the Division upon request.
  - e. Floors, walls, and ceilings shall be constructed in such a manner that they may be adequately cleaned and kept clean and in good repair.
  - f. A processor shall have adequate lighting in all areas where medical marijuana is stored and where equipment and utensils are cleaned.
  - g. Plumbing shall be of adequate size and design and adequately installed and maintained to carry sufficient quantities of water to required locations throughout the facility and to properly convey

sewage and liquid disposable waste from the facility. There shall be no cross-connections between the potable and waste water lines.

- h. All facilities shall be constructed to meet the standards of any applicable state and local electrical, fire, plumbing, and building specification codes.

### 8.3. ***Storage Area Requirements***

A processor storing marijuana or marijuana products shall comply with the storage area requirements in Rule 6.3.

### 8.4. ***Alarm System***

- a. A processor shall be equipped with an alarm system which, upon attempted unauthorized entry, shall transmit a signal directly to a central protection company or a local or State police agency which has a legal duty to respond. A designated agent of the processor shall also receive notification of any such signal.
- b. 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.
- c. Alarm systems shall provide coverage of any room with an exterior wall, any room containing a safe, and any room used to manufacture and process or store medical marijuana.
- d. Alarm systems shall be equipped with a “panic device” that upon activation will not only sound any audible alarm components, but will also notify law enforcement.
- e. Alarm systems shall have “duress” and “hold up” features to enable an agent to activate a silent alarm notifying law enforcement of an emergency.
- f. Alarms system must be equipped with failure notification systems to notify processors and law enforcement of any failure in the alarm system and such systems must be in use at all times.
- g. Alarm systems shall have the ability to remain operational during a power outage and shall remain operational regardless of the length of the power outage.

### 8.5. ***Video Surveillance System***

- a. A processor shall be equipped with video surveillance systems consisting of the following:
  - i. Digital video cameras with a minimum resolution of 10 frames per second;

- ii. 24 hour per day, 7 day per week continuous recording;
  - iii. The ability to remain operational during a power outage and shall remain operational regardless of the length of the power outage;
  - iv. Digital archiving capabilities and shall maintain digital archiving for one year;
  - v. On-site and off-site monitoring; and
  - vi. 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.
- b. A processor shall maintain camera coverage of the following areas:
    - i. All points of ingress and egress to the facility, including, but not limited to, doorways, windows, loading bays, skylights, and retractable roof mechanisms;
    - ii. Any room with an exterior wall, except restrooms, any room containing a safe, and any room or area used to manufacture and process or store medical marijuana;
    - iii. All areas in which any part of the disposal process of marijuana occurs; and
    - iv. All parking areas and any alley areas immediately adjacent to the building.
  - c. All recording devices shall display a date and time stamp on all recorded video.
  - d. All recording devices shall have the capability to produce a still image from the video recording, and each processor shall maintain, on site, a video printer capable of immediately producing a clear still image from any video camera image.
  - e. Access to on-site surveillance system controls and monitoring shall be limited to authorized personnel. A processor shall identify individuals with access to surveillance system controls and monitoring upon request by the Division.
  - f. All surveillance recordings shall be maintained for a minimum of 90 days.

#### 8.6. ***Perimeter Requirements***

- a. The perimeter of all processors shall be maintained in such a way as to discourage theft and diversion of marijuana. All processors shall maintain the following:
  - i. Adequate lighting to facilitate surveillance; and

- ii. Foliage and landscaping that does not allow for a person or persons to conceal themselves from sight.
- b. All stages of medical marijuana manufacturing and production and the disposal of unusable medical marijuana on the premises of a processor shall not be visible or accessible to the public.
- c. The processor shall maintain any walls or fencing necessary to shield the operations of the facility from public access and view.
- d. The processor shall ensure any odors that may arise from any stage of marijuana manufacture and production or the disposal of marijuana are not detectable by the public from outside the processor.

## **SECTION 9. OPERATIONAL REQUIREMENTS FOR CULTIVATION FACILITIES**

### **9.1 *Hours of Operation***

- a. A cultivation facility may operate 24 hours a day.
- b. Cultivation facilities shall not be open to the public. Only the following individuals shall be allowed on the premises.
  - i. Individuals authorized by law or these rules to be on the premises
  - ii. Visitors and contractors shall only be present on the property pursuant to rule 9.3 and shall have access to Limited Access Areas pursuant to rule 9.4.
- c. A cultivation facility may transport medical marijuana to another cultivation facility, dispensary, processors or approved laboratory between the hours of 7 a.m. and 9 p.m.

### **9.2 *Registry Identification Card Required.***

- a. Any employee, supervisor, or agent employed by a cultivation facility must have a current Registry Identification Card issued by the Alcoholic Beverage Control Division on their person at all times while present at a cultivation facility.

### **9.3 *Visitor Policy***

- a. All cultivation facilities shall prepare and keep written policies regarding any visitors to the premises who are not in possession of a registry identification card.
- b. All cultivation facilities shall maintain a log of visitors to the premises. The log shall consist of the visitor's name, name of agent assigned to escort the visitor, purpose of visit, time of arrival, and



time of departure.

- c. Visitor logs shall be maintained for a minimum of three (3) years.
- d. All visitors shall be issued a visitor identification tag. The tag shall bear the individual's name and be worn by the visitor for the duration of the individual's time on the premises.
  - i. Contractors shall be presented with a tag identifying them as contractors.
- e. All visitors shall be escorted by a cultivation facility agent at all times while present on the property.
- f. A cultivation facility may allow access by visitors to limited access areas of the cultivation facility if:
  - i. The visitor presents government-issued identification;
  - ii. The visitor is not under twenty-one (21) years of age; and
  - iii. The visitor has been invited to the facility by an employee of the facility or management of the cultivation facility.
- g. Contractors
  - i. If it is necessary for a contractor to enter a cultivation facility to conduct repairs, perform maintenance or other specific duties on the property they may be escorted to their work site and left unaccompanied while completing a job. If the contractor is left unattended, cultivation facility 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.
  - ii. If it is necessary for a contractor to enter a cultivation facility's limited access area the contractor shall be escorted to their work site and must remain in the company of a cultivator's agent while the work is being completed. The contractor may be left unattended, in the limited access area, if there is no marijuana or marijuana products being stored in the area while the contractor is present. If left unattended, cultivator's agent shall ensure the contractor and area are under video surveillance for the duration of the contractor's time spent on the premises.
  - iii. If a contractor is required on the premises for more than two (2) consecutive days, the cultivation facility shall notify the division of the contractor's identity and purpose for being on the premises.

#### 9.4 ***Limited Access Areas***

- a. Cultivation Facilities shall limit access to areas where marijuana is grown, harvested, processed, and stored to authorized personnel.

- i. Signage
  - 1. Limited Access areas shall be clearly marked
- ii. Controlled Access
  - 1. Limited Access areas shall be locked and accessible only by authorized personnel, individuals authorized by law, members of the Division or Enforcement, laboratory personnel licensed by the Department to conduct required testing and contractors.
  - 2. Cultivation facilities shall keep current rosters of personnel authorized to enter limited access areas.

## 9.5 **General Sanitation Requirements for Cultivation Facilities**

- a. Any person who, by medical examination or supervisory observation, is shown to have, or appears to have, an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination for whom there is a reasonable possibility of contact with Medical Marijuana shall be excluded from any operations which may be expected to result in such contamination until the condition is corrected.
- b. Cultivation Facilities shall maintain hand-washing areas that are adequate and convenient to agents. Hand washing or sanitizing areas shall include running water at a suitable temperature and a sanitary towel service or suitable drying device.
- c. Licensees shall ensure any person working in direct contact with Medical Marijuana shall:
  - i. Maintain adequate personal cleanliness;
  - ii. Wash hands and exposed portions of his or her arms thoroughly in an adequate hand-washing area before starting work and at any other time when the hands may have become soiled or contaminated, including but not limited to:
    - 1. Any time after handling possibly soiled equipment or utensils.
    - 2. After leaving the initial room in which he or she was working, and before resuming work in any room, including the initial room.
- d. Litter and waste shall be properly removed, and waste disposal systems shall be maintained so that they do not constitute a source of contamination in areas where medical marijuana is exposed.
- e. Cultivation facilities shall provide adequate screening against the entry of pests. Rubbish shall be disposed of so as to minimize the

development of odor and minimize the potential for the waste becoming an attractant or breeding place for pests.

f. Toxic cleaning compounds, sanitizing agents, solvents used in the production of medical marijuana concentrates, and pesticide chemicals shall be identified, held and stored in a manner that protects against contamination of medical marijuana, and in a manner that is in accordance with any applicable local, state or federal law, rule, regulation or ordinance.

#### **9.6 *Material Safety Data Sheet Required.***

All cultivation facilities shall maintain a material safety data sheet for any toxic cleaning compounds, sanitizing agents, solvents used in the production of medical marijuana extracts and concentrates, pesticide chemicals, and any other agricultural chemical used or stored on the premises. A copy of the Material Safety Data Sheet shall be kept in any area of the facility where the products are used or stored. Material Safety Data Sheets shall be kept for the period of time required by any applicable state or federal regulation. If a state or federal regulation does not apply to a particular material, the material data sheet shall be kept for a minimum of three (3) years.

### **SECTION 10. OPERATIONAL REQUIREMENTS FOR DISPENSARIES**

#### **10.1 *Hours of Operation***

- a. A dispensary may only operate between the hours of 7:00 a.m. and 10:00 p.m.
- b. A dispensary may transport, or contract with a third party transporter licensed by the Division, medical marijuana to another dispensary, cultivation facility, approved laboratory, or processing facility between the hours of 7:00 a.m. and 9:00 p.m.
- c. A dispensary may deliver medical marijuana to a qualified patient or designated caregiver between the hours of 9:00 a.m. and 7:00 p.m.

#### **10.2 *Registry Identification Card Required***

Any employee, supervisor, or agent employed by a dispensary must have a current Registry Identification Card issued by the Alcoholic Beverage Control Division on their person at all times while present at the dispensary.

### 10.3 **Qualified Patient/Designated Caregiver Areas**

Dispensaries shall identify and clearly define areas where medical marijuana will be dispensed to qualified patients and designated caregivers.

### 10.4 ***Access to the Dispensary***

a. Only the following individuals shall be allowed to access a dispensary:

- i. Individuals in possession of a current registry identification card issued by the Department or the Division,
  1. An individual in possession of a current registry identification card issued by the Department or Division in need of physical assistance may bring one guest, over the age of 18, into a waiting area inside a dispensary.
  2. A parent with a registry identification card may bring his or her child or children into a dispensary for the purpose of purchasing usable marijuana.
  3. A parent without a registry identification card may accompany his or her child, that is under the age of 18 into a dispensary if that child has a registry identification card, for the purpose of purchasing usable marijuana for the child.
- 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 dispensary to conduct repairs, maintenance or other specific duties on the property, the contractor may be escorted to their work site and left unaccompanied while completing a job. If left unattended, dispensary 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 cultivation facility's limited access area the contractor shall be escorted to their work site and must remain in the company of a dispensary's agent while the work is being completed. The contractor may be left unattended, in the limited access area, if there is no marijuana or marijuana products being stored in the area while the contractor is

present. If left unattended, the dispensary agent shall ensure the contractor and area are under video surveillance for the duration of the contractor's time spent on the premises.

3. If a contractor is required on the premises for more than two (2) consecutive days, the dispensary facility shall notify the division of the contractor's identity and purpose for being on the premises.

b. Dispensaries may maintain an educational facility accessible to the general public as set forth in their compassionate care plan as follows:

- i. The educational facility shall not be accessible from inside the dispensary
- ii. If the educational facility is attached to the dispensary it must maintain a separate exterior door and there shall be no door from inside the facility which accesses any portion of the dispensary.
- iii. The educational facility may be a separate structure from the dispensary and contained upon the dispensary's property.
- iv. Any educational facility maintained or operated by the dispensary shall adhere to the rules set forth in Section 19 herein.

#### 10.5 ***Limited Access Areas***

a. Dispensaries shall limit access to areas where marijuana is grown, harvested, processed, or stored to authorized personnel.

- i. Signage
  1. Limited Access areas shall be clearly marked.
  2. Any doorways separating qualified patient/designated caregiver areas and limited access areas shall be posted and equipped with controls to restrict entry.
- ii. Controlled Access
  1. Limited Access areas shall be locked and accessible only by authorized personnel, individuals authorized by law, member of the Division or Enforcement, and laboratory personnel licensed by the Department to conduct required testing.
  2. Dispensaries shall keep current rosters of personnel authorized to enter limited access areas.
  3. Contractors may access limited access areas subject to the provisions in 10.4(a)(iii).

**10.6 *General Sanitation Requirements for Dispensaries Facilities***

- a. Any person who, by medical examination or supervisory observation, is shown to have, or appears to have, an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination for whom there is a reasonable possibility of contact with Medical Marijuana shall be excluded from any operations which may be expected to result in such contamination until the condition is corrected.
- b. Dispensaries shall maintain hand-washing areas that are adequate and convenient to agents. Hand washing or sanitizing areas shall include running water at a suitable temperature and a sanitary towel service or suitable drying device.
- c. Licensees shall ensure any person working in direct contact with Medical Marijuana shall:
  - i. Maintain adequate personal cleanliness;
  - ii. Wash hands and exposed portions of his or her arms thoroughly in an adequate hand-washing area before starting work and at any other time when the hands may have become soiled or contaminated, including but not limited to:
    1. Any time after handling possibly soiled equipment or utensils
    2. After leaving the initial room in which he or she was working, and before resuming work in any room.
- d. Litter and waste shall be properly removed, and waste disposal systems shall be maintained so that they do not constitute a source of contamination in areas where medical marijuana is exposed.
- e. Dispensaries shall provide adequate screening against the entry of pests. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for the waste becoming an attractant or breeding place for pests.
- f. Toxic cleaning compounds, sanitizing agents, solvents used in the production of medical marijuana concentrates, and pesticide chemicals shall be identified, held and stored in a manner that protects against contamination of medical marijuana, and in a manner that is in accordance with any applicable local, state or federal law, rule, regulation, or ordinance.

**10.7. *Material Safety Data Sheet Required.***

All dispensaries shall maintain a material safety data sheet for any toxic cleaning compounds, sanitizing agents, solvents used in the production of

medical marijuana concentrates and extracts, pesticide chemicals, and any other agricultural chemical used or stored on the premises. A copy of the Material Safety Data Sheet shall be kept in any area of the facility where the products are used or stored. Material Safety Data Sheets shall be kept for the period of time required by any applicable state or federal rules or laws. If a state or federal law does not apply to a particular material, the material data sheet shall be kept for a minimum of three (3) years.

## **SECTION 11. OPERATIONAL REQUIREMENTS FOR PROCESSORS**

### **11.1 *Hours of Operation***

- a. A processor may operate 24 hours a day,
- b. A processor may transport medical marijuana between licensed facilities between the hours of 7:00 a.m. and 9:00 p.m.

### **11.2 *Registry Identification Card Required***

Any employee, supervisor, or agent employed by a processor must have a current registry identification card issued by the Alcoholic Beverage Control Division on their person at all times while present at the processor.

### **11.3. *Access to Processors***

- a. Only the following individuals shall be allowed to access a processor:
  - i. Individuals authorized by law and these rules to be on the premises; and
  - ii. Contractors.
    1. If it is necessary for a contractor to enter a processor to conduct repairs, maintenance, or other specific duties on the property, the contractor may be escorted to their work site and left unaccompanied while completing a job. If the contractor is left unattended, processor personnel shall ensure that 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 processor's limited access area the contractor shall be escorted to their work site and must remain in the company of a processor's agent while the work is being completed. The contractor may be left unattended, in the limited access area, if there is no marijuana or marijuana products being stored in the area while the contractor is

present. If left unattended, processor's agent shall ensure the contractor and area are under video surveillance for the duration of the contractor's time spent on the premises.

3. If a contractor is required on the premises for more than two (2) consecutive days, the processor shall notify the Division of the contractor's identity and purpose for being on the premises.

#### 11.4. ***Limited Access Areas***

- a. Processors shall limit access to areas where marijuana is manufactured and processed and stored to authorized personnel.
- b. Controlled Access
  - i. Limited Access areas shall be clearly marked "Controlled Access"
  - ii. Limited Access areas shall be locked and accessible only by authorized personnel, individuals authorized by law, members of the Division or Enforcement, laboratory personnel licensed by the Department to conduct required testing and contractor to complete repairs.
  - iii. A processor shall keep current rosters of employees authorized to enter limited access areas.

#### 11.5. ***General Sanitation Requirements for Processors.***

- a. Any person who, by medical examination or supervisory observation, is shown to have, or appears to have, an illness, open lesion, including boils, sores, or infected wounds, or any other abnormal source of microbial contamination and for whom there is a reasonable possibility of contact with medical marijuana shall be excluded from any operations which may be expected to result in such contamination until the condition is corrected.
- b. A processor shall maintain hand-washing areas that are adequate and convenient to agents. Hand washing or sanitizing areas shall include running water at a suitable temperature and a sanitary towel service or suitable drying device.
- c. Any person working in direct contact with medical marijuana shall:
  - i. Maintain adequate personal cleanliness;
  - ii. Wash hands and exposed arms thoroughly in an adequate hand-washing area before starting work and at any other time when the hands may have become soiled or contaminated



- d. Litter and waste shall be properly removed and waste disposal systems shall be maintained so that they do not constitute a source of contamination in areas where medical marijuana is exposed.
- e. A processor shall provide adequate screening against the entry of pests. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for the waste becoming an attractant or breeding place for pests.
- f. Toxic cleaning compounds, sanitizing agents, solvents used in the production of medical marijuana concentrates, and pesticide chemicals shall be identified, held, and stored in a manner that protects against contamination of medical marijuana, and in a manner that is in accordance with any applicable local, state, or federal law, rule, or ordinance.

#### **11.6. *Material Safety Data Sheet Required***

A processor shall maintain a material safety data sheet for any toxic cleaning compounds, sanitizing agents, solvents used in the production of medical marijuana concentrates and extracts, pesticide chemicals, and any other agricultural chemical used or stored on the premises. A copy of the Material Safety Data Sheet shall be kept in any area of the facility where the products are used or stored. Material Safety Data Sheets shall be kept for the period of time required by any applicable state or federal law. If a state or federal law does not apply to a particular material, the material data sheet shall be kept for a minimum of three (3) years.

## **SECTION 12. INVENTORY AND TRACKING REQUIREMENTS**

Failure to comply with the tracking requirements set forth in these rules may result in suspension or revocation of the license, and/or imposition of a monetary fine.

### **12.1 *Minimum Inventory Requirements***

- a. Each dispensary, processor, and cultivation facility shall:
  - i. Conduct an initial comprehensive inventory of all marijuana, including without limitation usable marijuana available for dispensing, mature marijuana plants, and seedlings at each authorized location prior to the first date the applicable license first dispenses usable marijuana, or cultivates, prepares, manufactures, processes, or packages usable marijuana;
  - ii. Conduct a biannual comprehensive inventory of all marijuana, including without limitation usable marijuana available for dispensing, mature marijuana plants, and seedlings at each

authorized location.

1. Biannual inventories shall be conducted every six (6) months.
2. The first inventory required under section a(ii) shall be conducted six (6) months after the initial comprehensive inventory described in section a(i)

## 12.2 ***Inventory Tracking System***

All licensed facilities shall utilize the Inventory Tracking System implemented by the State of Arkansas to track medical marijuana from seed to distribution to qualified patients and designated caregivers.

- a. All usable marijuana shall be tagged or labeled with a unique identification number and entered into the Inventory Tracking System.
- b. The cultivation facility, processors, and dispensary shall bear the cost of the labels and tags. All licensed facilities shall acquire and maintain all software, hardware, and communications infrastructures to ensure connectivity to the Inventory Tracking System.

## 12.3 ***Batching Required***

At the time of harvesting, all plants shall be accounted for as a batch with a unique batch number that shall remain with the batch through final packaging.

## 12.4 ***Plant Identification***

- a. All plants shall be assigned a specific number and so tagged with an individual tag with a unique identification number that will be recorded electronically or kept in an electronic file until harvest or destruction.
- b. Immature, nonflowering marijuana plants under twenty-four (24") inches shall be individually tagged. Each tag shall contain a legible UIN and may either be physically on the plant or in the soil or other growth medium. Such label must be clearly legible and free from dirt and debris. After plants reach twenty-four (24") inches in height or width or begin flowering, whichever occurs earlier, the UIN tag must be physically attached to the plant.
- c. Clones are not required to be individually tagged until they are eight (8") inches in height or length and placed in soil or other growth medium, whichever occurs earlier. Clones shall, however, be recorded in the Inventory Tracking System.

- d. Marijuana seeds must be individually tagged once they are placed in soil or other growth medium.
- e. Plant tissue is not required to be individually tagged until such tissue has grown to eight (8”) inches in height or length. Plant issues shall, however, be recorded in the Inventory Tracking System.
- f. All plants, regardless of accounting strategy, shall be physically inventoried on a weekly basis and records of the inventory shall be kept at the facility for at least three (3) years.

#### **12.5 *Cultivation Facility Tracking Requirements***

- a. Cultivation facilities shall ensure the following events are logged into the Inventory Tracking System:
  - i. The purchase or acquisition of medical marijuana seeds, plants (including immature plants and seedlings), or its derivatives.
  - ii. The sale or transfer of medical marijuana or its derivatives to a licensed facility or approved laboratory by the Commission or the Department;
  - iii. The transport of medical marijuana or its derivatives to a facility licensed by the Commission or the Department; and
  - iv. Disposal of medical marijuana
- b. The following information, without limitation, shall be provided for each transaction described in (a):
  - i. Date of transaction or event;
  - ii. Agent identification number responsible for data entry;
  - iii. License number of receiving licensed facility licensed by the Commission or the Department or name of approved laboratory;
  - iv. Batch identification number; and
  - v. Plant identification number, if applicable.
- c. Each transaction described in (a) must be recorded by a licensee immediately upon occurrence. Any licensee who fails to record any transaction listed in (a) within twenty-four (24) hours of the transaction, or who fails to include all of the requisite information listed in (b), may be subject to the disciplinary actions provided in these rules.

#### **12.6 *Dispensary Tracking Requirements***

- a. Dispensaries shall ensure the following events are logged into the Inventory Tracking System:

- i. The purchase or acquisition of marijuana (including immature plants and seedlings;
  - ii. The sale or transfer of medical marijuana or its derivatives to a another licensed facility or approved laboratory;
  - iii. The transport of medical marijuana or its derivatives to a facility licensed by the Commission or the Department;
  - iv. Disposal of medical marijuana; and
  - v. Sale of medical marijuana to a qualified patient, visiting qualified patient, or designated caregiver.
- b. The following information, without limitation, shall be provided for each transaction described in (a):
  - i. Date of transaction or event;
  - ii. Agent identification number responsible for data entry;
  - iii. License number of receiving licensed facility or approved laboratory;
  - iv. Batch identification number;
  - v. Plant identification number, if applicable; and
  - vi. Sales to a qualified patient, visiting qualified patient, or designated caregiver shall include the following in addition to any applicable information required above:
    - 1. The registry identification number of the patient or caregiver; and
    - 2. The quantity of medical marijuana dispensed.
- c. Each transaction described in (a) must be recorded by a licensee immediately upon occurrence. Any licensee who fails to record any transaction listed in (a) within twenty-four (24) hours of the transaction, or who fails to include all of the requisite information listed in (b), may be subject to the disciplinary actions provided in these rules.

#### 12.7 ***Processor Tracking Requirements***

- a. A processor shall ensure the following events are logged into the Inventory Tracking System:
  - i. The acquisition of medical marijuana;
  - ii. The transport of medical marijuana to a licensed cultivator or dispensary; and
  - iii. Disposal of medical marijuana.
- b. The following information, without limitation, shall be provided for each transaction described in (a):
  - i. Date of transaction or event;
  - ii. Agent identification number responsible for data entry;

- iii. License number of receiving cultivator or dispensary;
- iv. Batch identification number; and
- v. Plant identification number, if applicable.
- c. Each transaction described in (a) must be recorded by a licensee immediately upon occurrence. A licensee that fails to record any transaction listed in (a) within twenty-four (24) hours of the transaction or that fails to include all of the requisite information listed in subsection (b) may be subject to suspension or revocation of license(s), and/or imposition of monetary fines.

## **SECTION 13. CULTIVATION OF MEDICAL MARIJUANA**

### **13.1 *Operations Plan Required***

- a. All cultivation facilities and any dispensary cultivating medical marijuana shall establish and maintain a written Operations Plan for the production of marijuana in the facility. The plan shall include:
  - i. Standard operating procedures for the cultivation of marijuana in each production area of the facility; and
  - ii. Information regarding chemicals and pesticides applied during the production process, including but not limited to, when and the manner in which they are applied.

### **13.2 *Limitation on Plants in a Dispensary***

- a. A dispensary may grow or possess:
  - i. Fifty (50) mature marijuana plants at anyone (1) time; and
  - ii. Immature plants, clones, and other precursor genetics; and
  - iii. All usable marijuana derived from the plants under section i. of this section or predecessor plants.
- b. A dispensary may contract with a cultivation facility to cultivate one (1) or more mature marijuana plants the dispensary is permitted to grow.

### **13.3 *Limitation on Harvests in a Dispensary***

- a. No more than fifty (50) mature marijuana plants shall be harvested for usable marijuana per month.
- b. Dispensaries storing usable marijuana harvested from mature plants must be stored pursuant to the requirements of Rule 7.3.

**13.4 *Limitation on Plants in a Cultivation Facility***

- a. A cultivation facility may grow and possess usable marijuana in an amount reasonably necessary to meet the demand for and needs of qualifying patients as determined by the Commission with the assistance of the Department of Health.
- b. A cultivation facility may also possess marijuana seeds.

**13.5 *Production Areas***

- a. The size and canopy of production areas shall be maintained in accordance with the plans provided to the Commission in the application for cultivation facility or dispensary licenses.
- b. Each production area shall be maintained to allow for adequate observation and inventory.
- c. Hygiene and sanitation requirements in rule 9.5 and rule 10.6 shall be observed at all times in production areas.

**13.6 *Pesticides and Chemicals***

- a. All pesticides and chemicals shall only be applied to medical marijuana pursuant to the Operations Plan.
- b. All facilities cultivating medical marijuana shall maintain the following:
  - i. The material safety data sheet required of all cultivation facilities and dispensaries; and
  - ii. The original label or a copy thereof for all pesticides and other agricultural chemicals used during cultivation.
- c. All facilities cultivating medical marijuana and applying any pesticide or agricultural chemical during any stage of cultivation of medical marijuana shall document and maintain a record of the following:
  - i. The date and time of application;
  - ii. The name of the individual(s) who applied the pesticide or chemical;
  - iii. The batch number(s) of all plants receiving the application;
  - iv. The name of the product applied;
  - v. The EPA registration number of the pesticide or chemical; and
  - vi. The amount of product applied.

## **SECTION 14. MANUFACTURING AND PROCESSING OF MEDICAL MARIJUANA**

### **14.1 *General Requirements for Manufacturing and Processing Medical Marijuana***

- a. Medical marijuana and medical marijuana products shall only be manufactured and processed in accordance with these rules;
- b. All equipment, counters, and surfaces used for processing shall be food-grade and shall not react adversely with any solvent being used;
- c. All counters and surfaces shall be constructed in a manner that reduce the potential for development of microbials, molds and mildews and that can be easily cleaned;
- d. Every process lot shall be assigned a unique identification number that shall be entered into the Inventory Tracking System.
- e. With the exception of medical marijuana, all ingredients used to make medical marijuana edibles must meet the requirements for food products set forth by the Food and Drug Administration and the Department.

### **14.2 *General Prohibitions for Manufacturing and Processing Medical Marijuana***

- a. A cultivation facility, processor, or dispensary shall not process or manufacture a medical marijuana product in a non-child proof package or container:
  - i. That by its shape or design is likely to appeal to minors due to shape, color, taste or design, including but not limited to:
    1. Products that are modeled after non-cannabis products primarily consumed by and marketed to children;
    2. Products in the shape of an animal, vehicle, person, or character; and
    3. Products that contain cannabinoid concentrates or extracts that, as determined by the Division closely resemble foods or beverages that are attractive to minors; and
  - a. that are commonly sold in retail establishments in individually packaged portions or multiple packs of individually packaged portions, regardless of whether the foods or beverages are generic, trademarked, or branded products, including, but without limitation to, candy, cookies, cakes,

- pastries, chewing gum and brownies;
- ii. That is manufactured by applying cannabinoid concentrates or extracts to trademarked or branded food, candy, or beverages that are commercially available without cannabinoid concentrates or extracts and are commonly sold at retail establishments in individual portions or in multiple packs of individually packaged portions.
- b. A cultivation facility, processor, or dispensary shall not treat or otherwise adulterate a cannabinoid product, concentrate, or extract with any non-cannabinoid additive that would increase potency, toxicity or addictive potential, or that would create an unsafe combination, with caffeine or other chemical that may increase carcinogenicity or cardiac effects.
- c. A cultivation facility, processor, or dispensary is authorized to sell and possess hemp derived products so long as the product is clearly labeled “hemp derived” and does not violate the restrictions set forth in 14.2(b).

#### 14.3 ***Manufacturing and Processing Policies and Procedures***

- a. Cultivation Facilities, processors, and dispensaries shall create and maintain written policies and procedures for the following:
  - i. Instructions for making each cannabinoid concentrate, extract, or product produced on the premises;
  - ii. Ingredients and amount of each ingredient used for each process lot;
  - iii. Process for making each product;
  - iv. Number of servings in a process lot;
  - v. Intended amount of THC per serving and in a unit of sale of the product; and
  - vi. Process for making each process lot homogenous.
- b. Licensed facilities that manufacture and process cannabinoid concentrates or extracts shall create and maintain written policies and procedures regarding:
  - i. Procedures for conducting necessary safety checks prior to processing;
  - ii. Process for purging any solvent or other unwanted components from a cannabinoid concentrate or extract;
  - iii. Sanitization procedures for working surfaces and equipment;
  - iv. Procedures for handling or storage of any solvent, gas, or other chemical used in processing;



- v. Quality control procedures; and
- vi. Emergency procedures in case of a fire, chemical spill, or other emergency.

**14.4 *Manufacturing and Processing of Cannabinoid Edibles***

Cultivation facilities and dispensaries manufacturing, and processing cannabinoid edibles shall comply with the following:

- a. The requirements of this section, the requirements of rule 9.5 and rule 10.6;
- b. Any state and local kitchen-related health and safety standards for retail food establishments;
- c. Before sale, food or drink that has been combined with usable marijuana shall not exceed ten milligrams (10 mg) of active tetrahydrocannabinol per portion and shall be physically demarked; and
- d. If the portions cannot be physically determined, the entirety of the food or drink that has been combined with usable marijuana shall not contain more than ten milligrams (10mg) of active tetrahydrocannabinol.

**14.5 *Manufacturing and Processing of Cannabinoid Concentrates and Cannabinoid Extracts.***

- a. Licensed facilities producing cannabinoid concentrates and extracts shall:
  - i. Not use solvent classified as “Class 1” by the Federal Drug Administration Guidance, Table 1, published in the Federal Register on December 24, 1997 (62 FR 67377);
  - ii. Only use a hydrocarbon-based solvent that is at least 99 percent purity;
  - iii. Only use a non-hydrocarbon-based solvent that is food-grade;
  - iv. Work in an environment with proper ventilation, controlling all sources of ignition where a flammable atmosphere is or may be present; and
  - v. Use only potable water and ice made from potable water in processing.
- b. Licensed facilities producing cannabinoid extracts shall:
  - i. Not use pressurized canned flammable fuel, including but not limited to butane and other fuels intended for use in camp stoves, handheld torch devices, refillable cigarette lighters

- and similar consumer products;
- ii. Process only in a fully enclosed room clearly designated on the floor plan of the licensed facility;
- iii. Ensure that all processing rooms and equipment, including all electrical installations, comply with applicable electrical codes and fire codes;
- iv. Use a professional grade closed loop extraction system designed to recover the solvents and built to recognized codes and generally accepted engineering standards, such as those of:
  - 1. American National Standards Institute (ANSI);
  - 2. Underwriters Laboratories (UL); or
  - 3. The American Society for Testing and Materials (ASTM).
- v. If using carbon dioxide in processing, use a professional grade closed loop carbon dioxide gas extraction system where every vessel is rated to a minimum of six hundred pounds per square inch;
- vi. Have equipment and facilities used in processing approved for use by the local fire code official;
- vii. Have a licensed engineer certify that the closed-loop system was commercially manufactured, and is safe for its intended purposes;
- viii. Have an emergency eye-wash station in any room in which cannabinoid extract is being processed; and
- ix. Have all applicable material safety data sheets readily available in processing areas.
- c. Licensed facilities producing cannabinoid concentrates may:
  - i. Use a mechanical extraction process;
  - ii. Use a chemical extraction process using a nonhydrocarbon-based or other solvent, such as water, vegetable glycerin, vegetable oils, animal fats, isopropyl alcohol or ethanol; and
  - iii. Use a chemical extraction process using the hydrocarbon-based solvent carbon dioxide, provided that the process does not involve the use of pressure or heat over 180 degrees.
- d. Licensed facilities producing cannabinoid concentrates shall:
  - i. Not use denatured alcohol;
  - ii. Not apply pressure or heat over 180 degrees if using carbon dioxide; and
  - iii. Only use or store dry ice in a well-ventilated room to

prevent against the accumulation of dangerous levels of carbon dioxide.

## **SECTION 15. PACKAGING OF MEDICAL MARIJUANA**

### **15.1 *Medical Marijuana Packaging.***

Cultivation facilities, processors, and dispensaries shall:

- a. Package usable medical marijuana that is intended for transport to another licensed facility, and not intended for sale to qualified patients and designated caregivers without repackaging, in a shipping container affixed with a UIN generated by the Inventory Tracking System.
- b. Package usable medical marijuana that is intended for sale to a qualified patient or designated caregiver without re-packaging in a medical marijuana container.
  - i. All medical marijuana containers shall:
    1. Be sealed, traceable, and food compliant.
    2. Be child-proof:
      - a. So that it cannot be opened by a child; or
      - b. So that it prevents ready access to toxic or harmful amounts of the packaged product; and
      - c. So that it meets the testing requirements in accordance with the method described in 16 C.F.R. § 1700.20, as existing on January 1, 2017.
  - ii. Medical marijuana packages shall not be shaped or designed in a manner that is likely to appeal to minors, including but not limited to:
    1. Packaging that is modeled after non-cannabis products primarily consumed by and marketed to children;
    2. Packaging that is in the shape of or that depicts an animal, vehicle, person, or character; and
    3. Packaging that closely resembles that of familiar food and drink items, including candy.
  - iii. All medical marijuana containers shall be labeled according to the standards established by the Arkansas Department of Health.

## **SECTION 16. DISTRIBUTION OF MEDICAL MARIJUANA**

### **16.1 *Dispensaries***

A dispensary may:

- a. Acquire marijuana seedlings, plants, or usable marijuana from another licensed facility.
- b. Acquire marijuana seeds from any individual lawfully entitled to possess marijuana seeds, seedlings, and plants under the laws of the state in which the individual resides;
- c. Enter into a contract with a licensed transporter to transport medical marijuana or marijuana products to and from another dispensary, cultivator, processing facility or licensed laboratory.
- d. Transfer or sell marijuana seedlings, plants, or usable marijuana to other licensed facilities and approved laboratories:
- e. Sell usable marijuana to qualified patients, qualified visitor patients, and designated caregivers within the parameters set forth by the Medical Marijuana Commission, Arkansas Department of Health, and Arkansas Alcoholic Beverage Control.

### **16.2 *Cultivation Facilities***

- a. A cultivation facility may sell marijuana plants, seeds, and usable marijuana only to a dispensary, other cultivation facility, or processing facility within the State of Arkansas or outside of the State as Federal law permits.
- b. Enter into a contract with a licensed transporter to transport medical marijuana or marijuana products to and from another dispensary, processor, cultivator or licensed laboratory.

### **16.3 *Processors***

- a. A processor may acquire medical marijuana from and supply medical marijuana to a licensed cultivator or dispensary.
- b. Enter into a contract with a licensed transporter to transport medical marijuana or marijuana products to and from another dispensary, processor, cultivator or licensed laboratory.

### **16.4 *Weights and Measures***

- a. Cultivation, dispensary, and processors shall utilize standardized weights and measures in accordance with the Arkansas Weights and

Measures laws and rules.

b. Any scale located within a cultivation, dispensary, or processing facility shall be certified once every twelve months by the Department of Agriculture division of Weights and Measures or a private scale company, certified by the Department of Agriculture, and shall comply with their rules for weights and measures.

c. A copy of the certification report for any scale within a facility shall be produced, on request, to the Division or Enforcement.

d. A cultivation, dispensary, or processor may have certification performed less frequently, so long as they maintain compliance with Arkansas Weights and Measures' laws and rules.

## **SECTION 17. DISPENSING OF MEDICAL MARIJUANA AND RELATED SUPPLIES**

### **17.1 *Dispensing Medical Marijuana***

- a. Prior to dispensing medical marijuana to a qualified patient or designated caregiver, a dispensary agent shall:
  - i. Verify the identity of the qualifying patient or the designated caregiver;
  - ii. Verify the validity of the qualifying patient or designated caregiver's registry identification card;
  - iii. Enter the qualifying patient or designated caregiver's registry identification number listed on the registry identification card into the Inventory Tracking System;
  - iv. Verify that the qualified patient or designated caregiver has a current authorization by the Arkansas Department of Health to purchase medical marijuana;
  - v. Verify that the amount of medical marijuana the qualifying patient or designated caregiver is requesting would not cause the qualifying patient to exceed the limit on obtaining no more than two and one-half (2 ½ oz.) ounces of usable medical marijuana during any fourteen-day period;
  - vi. Enter the following information into the Inventory Tracking System:
    1. The dispensary agent's registry identification number;
    2. The dispensing organization's registry identification number;
    3. The amount, type and strain of medical marijuana dispensed;

4. Any UIN associated with the medical marijuana;
  5. Purchase price of the medical marijuana;
  6. Identity of the individual to whom the medical marijuana was dispensed, whether the qualifying patient or the qualifying patient's designated caregiver; and
  7. The date and time the medical marijuana was dispensed.
  8. If an order is placed for delivery, the following information shall also be recorded:
    - a. Registry identification numbers for the agents assigned to deliver the medical marijuana;
    - b. Address for delivery;
    - c. Estimated time of delivery; and
    - d. Actual time of delivery.
- b. Dispensaries may sell medical marijuana to a visiting qualifying patient if the patient produces evidence of his or her registry identification card or its equivalent that is issued under the laws of another state, district, or territory, commonwealth, or insular possession of the United States and proof of registration with the Department.
- i. For each sale to a visiting qualifying patient, the following information shall be entered into the Inventory Tracking System:
    1. The dispensary agent's registry identification number;
    2. The dispensing organization's registry identification number;
    3. The amount, type and strain of medical marijuana dispensed;
    4. Any UIN associated with the medical marijuana;
    5. Identity of the individual to whom the medical marijuana was dispensed; and
    6. The date and time the medical marijuana was dispensed.
- c. A dispensary shall not use a self-service machine such as a vending machine for the purchase and dispensing of medical marijuana.
- d. Use or consumption of medical marijuana on the premises of the dispensary is prohibited.

## **17.2 Marijuana Paraphernalia, Supplies, and Educational Materials**

- a. A dispensary shall:

- i. Make marijuana vaporizers available for sale to qualifying patients and designated caregivers;
- ii. Provide educational materials to qualified patients, qualified visiting patients, and caregivers regarding methods of ingestion to qualifying patients and designated caregivers, including without limitation:
  - 1. Warnings on the potential health risks of smoking or combusting marijuana; and
  - 2. Information on potential health benefits of vaporizing marijuana compared to smoking or combusting.
- b. A dispensary may acquire, possess, manufacture, process, prepare, deliver, transfer, transport, supply and dispense marijuana paraphernalia, marijuana-related supplies, and educational materials to qualifying patients and designated caregivers; however, a dispensary shall not supply, possess, manufacture, deliver, transfer or sell marijuana paraphernalia that requires the combustion of marijuana to be properly utilized, including the following:
  - i. Pipes;
  - ii. Water Pipes;
  - iii. Bongs;
  - iv. Chillums;
  - v. Rolling Papers, including pre-rolled products; and
  - vi. Roach Clips.

### 17.3 ***Recall Policy***

- a. All dispensaries shall establish a policy for communicating a recall for any usable marijuana that has been shown to present a reasonable probability that use of or exposure to the product will cause serious adverse health consequences. The policy shall include:
  - i. Procedure for contacting all qualifying patients, visiting qualifying patients, or designated caregivers who have, or likely have, obtained the product from the dispensary.
  - ii. Information and procedures for returning the product to the dispensary.
  - iii. Procedure for contacting the originating cultivation facility or dispensary;
  - iv. Procedure for contacting the processor of the product;
  - v. Procedure for notifying and communicating with the Alcoholic Beverage Control Division and the Arkansas Department of Health within 24 hours of the discovery of hazardous product.

- b. A dispensary shall be responsible for disposing of any recalled marijuana in the manner described in these rules.

## **SECTION 18. TRANSPORTATION AND DELIVERY OF MEDICAL MARIJUANA**

### **18.1 *Authorized Transportation for Cultivation Facility***

A cultivation facility shall only transport or deliver medical marijuana to another licensed cultivation facility, a licensed processor, a licensed transporter, a licensed dispensary, or an approved laboratory.

### **18.2 *Authorized Transportation for Dispensary***

A dispensary shall only transport medical marijuana to a licensed cultivation facility, licensed processor, licensed dispensary, or approved laboratory.

### **18.3 *Authorized Transportation for Processor***

A processor shall only transport medical marijuana to and from a licensed cultivation facility, another licensed processor, or a licensed dispensary.

### **18.4 *Inventory Manifest Required***

- a. Prior to the transport of any medical marijuana, a printed inventory manifest shall be generated from the Inventory Tracking System. The manifest shall include the following information:
  - i. The following information for the cultivation facility, processor, or dispensary originating the transport:
    - 1. License Number; and
    - 2. Name and contact information for licensee.
  - ii. The following information for the cultivation facility, processor, dispensary, or approved laboratory receiving the medical marijuana:
    - 1. License Number if the destination is a licensed facility or business name if the destination is an approved laboratory;
    - 2. Address of the destination;
    - 3. Name and contact information of the licensee or contact 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. Identity of the agents accompanying the transport;
  - vii. Delivery vehicle make and model and license plate number.
- b. A separate manifest shall be prepared for each licensed facility or approved laboratory;
- c. The originating facility shall provide the receiving facility with a copy of the inventory manifest;
- d. An inventory manifest shall not be altered after departing the originating premises;
- e. Receiving cultivation facilities, processors, and dispensaries shall enter the quantities of each marijuana item received, along with the UINs for every item, into the Inventory Tracking System.
- f. A cultivation facility, processors, dispensary, or approved laboratory shall refuse to accept any medical marijuana or medical marijuana product that is not accompanied by an inventory manifest.
- g. Originating and receiving licensed facilities shall maintain copies of inventory manifests for three (3) years

#### 18.5 ***Shipping Container Required***

All medical marijuana packaged for transport shall be placed inside a shipping container. Each shipping container shall be tagged with a UIN.

#### 18.6 ***Secured Container Required***

- a. All medical marijuana in transport shall be shielded from public view and secured in the following manner:
  - i. In a locked, safe and secure storage compartment that is within the motor vehicle transporting the medical marijuana; or
  - ii. In a locked storage container that has a separate key or combination pad.

#### 18.7 ***Vehicle and Personnel Requirements***

- a. Vehicles used in the transport of medical marijuana shall be:
  - i. Insured at or above the legal requirements in Arkansas;
  - ii. Capable of securing medical marijuana during transport;
  - iii. Equipped with an alarm system; and
  - iv. Free of any markings that would indicate the vehicle is being used to transport medical marijuana.
- b. Individuals transporting medical marijuana shall:
  - i. Have a valid cultivation facility agent, processor agent, dispensary agent, or transporter agent registry identification

- card issued by the Division;
  - ii. Have a valid, government-issued, driver's license; and
  - iii. Have possession of both the registry identification card and driver's license while operating the motor vehicle used to transport medical marijuana.
- c. All transport vehicles shall be staffed with a minimum of two (2) employees when a vehicle contains medical marijuana. At least one (1) employee shall remain with the vehicle at any time that it contains medical marijuana.

**18.8 *Routes and Additional Security Requirements for Transporting Medical Marijuana***

- a. Any vehicle transporting medical marijuana shall travel directly from the originating licensed facility 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. If a vehicle transporting medical marijuana is involved in any accident or experiences any type of failure causing the vehicle to be stopped any location, other than a licensed facility or approved laboratory, for more than two (2) hours, the originating licensee shall notify the Division immediately.

**18.9 *Requirements for Delivery to Qualified Patients and Designated Caregivers.***

- a. A dispensary may deliver usable marijuana to a qualified patient or designated caregiver pursuant to the following:
  - i. All requirements for dispensaries set forth in RR 17.1(a) shall be completed prior to delivery;
  - ii. Deliveries may only occur on the date an order is received and processed through the inventory tracking system pursuant to rule 17.1;
  - iii. Deliveries may only occur between the hours of 9:00 a.m. and 7:00 p.m.;
  - iv. A delivery manifest shall accompany each delivery or series of deliveries, and agents shall not deviate from the delivery route or make unnecessary stops;
  - v. All deliveries shall be accompanied by a delivery ticket listing the name of the qualified patient or designated caregiver and describing the products ordered;

- vi. At the time of delivery, the dispensary agent shall check the registry identification card of the qualified patient or designated caregiver to verify the person accepting delivery is the same person who placed the order. The qualified patient or designated caregiver who placed the order shall sign the delivery ticket to confirm receipt of the product; and
- vii. Medical marijuana may only be delivered to the Arkansas residence listed on the registry identification card for the designated care giver or qualified patient. "Residence" means a dwelling, such as a house, apartment, nursing home, or retirement center. It does not include a dormitory, hotel, motel, bed and breakfast, or other commercial business.
- b. Delivery vehicle and personnel requirements
  - i. Vehicles used for the delivery of medical marijuana shall be:
    - 1. Insured at or above the legal requirements in Arkansas;
    - 2. Capable of securing medical marijuana during transport;
    - 3. Equipped with an alarm system; and
    - 4. Free of any markings that would indicate the vehicle is being used to deliver medical marijuana.
  - ii. Individuals delivering medical marijuana shall:
    - 1. Have a valid dispensary agent registry identification card issued by the Division;
    - 2. Have a valid Arkansas Driver's License; and
    - 3. Have possession of both the registry identification card and driver's license while operating the motor vehicle used to deliver medical marijuana.
  - iii. All delivery vehicles shall be staffed with a minimum of two (2) employees when a vehicle contains medical marijuana. At least one (1) employee shall remain with the vehicle at any time that it contains medical marijuana.
- c. Secure Container Required.
  - i. All medical marijuana in transport shall be shielded from public view and secured in the following manner:
    - 1. In a locked, safe and secure storage compartment that is part of the motor vehicle transporting the medical marijuana; or
    - 2. In a locked storage container that has a separate key or combination pad.
- d. Emergency Notification Required.
  - i. If a vehicle delivering medical marijuana is involved in any

accident or experiences any type of failure rendering the vehicle immobile or requiring the use of a tow truck, the dispensary agent shall notify the Division immediately.

## **SECTION 19. MARKETING AND ADVERTISING**

### **19.1 Advertising and Marketing Medical Marijuana**

- a. Cultivation Facility and Processor Advertising and Marketing.
  - i. Cultivation facilities and processors shall not advertise through any public medium or means designed to market its products to the public.
  - ii. Cultivation facilities may market their products directly to dispensaries by any means directed solely to the dispensaries and not available to the public.
  - iii. Processors may market their services directly to licensed cultivation facilities and dispensaries by any means directed solely to the cultivation facilities and dispensaries and not available to the public.
  - iv. A cultivation or dispensary facility shall not use any of the following images within an advertisement, including without limitation:
    - 1. A cross;
    - 2. A caduceus; or
    - 3. Any other symbol that is commonly associated with the practice of medicine or the practice of pharmacy.
- b. Dispensary Advertising and Marketing.
  - i. Advertising for medical marijuana by dispensaries shall not:
    - 1. Contain statements that are deceptive, false, or misleading;
    - 2. Contain any content that can reasonably be considered to target children, including, but not limited to:
      - a. Cartoon characters;
      - b. Toys; or
      - c. Similar images and items typically marketed towards children.
    - 3. Encourage the transportation of medical marijuana across state lines;
    - 4. Display consumption of marijuana;
    - 5. Contain material that encourages or promotes marijuana for use as an intoxicant; or

6. Contain material that encourages excessive or rapid use or consumption.
- ii. Advertising and marketing for medical marijuana shall include the following statements:
  1. “Marijuana is for use by qualified patients only. Keep out of reach of children.”;
  2. “Marijuana use during pregnancy or breastfeeding poses potential harms.”;
  3. “Marijuana is not approved by the FDA to treat, cure, or prevent any disease.”; and
  4. “Do not operate a vehicle or machinery under the influence of marijuana.”
- iii. Dispensaries shall not make any deceptive, false, or misleading assertions or statement on any information material, any sign, or any document provided to a consumer.
- iv. Advertising Location Restrictions.
  1. A dispensary shall not place or maintain, or cause to be placed or maintained, any advertisement or marketing material for medical marijuana in the following locations:
    - a. Within 1,000 feet of the perimeter of a public or private school or daycare center.
    - b. On or in a public transit vehicle or public transit shelter; or
    - c. On or in a publicly-owned or operated property.
- v. Advertising Audience Restrictions
  1. A dispensary shall not utilize television, radio, print media, or the internet to advertise and market medical marijuana, unless the licensee has reliable evidence that no more than 30 percent of the audience for the program, publication, or website in or on which the advertisement is to air or appear is reasonably expected to be under the age of 18.
  2. Upon request by the division, a licensee shall provide the evidence relied upon to make the determination that no more than thirty (30) percent of the audience for the program, publication, or website in or on which the advertisement is to air or appear is reasonably expected to be under the age of 18.
- vi. Licensed facilities shall not offer any coupons, rebates, or promotions for medical marijuana purchases, unless offered as

part of a compassionate care plan presented to the Medical Marijuana Commission as part of the application for licensure.

## **19.2 Building Signage Requirements**

- a. Licensed facilities shall have no more than three (3) signs visible to the general public from the public right-of-way, that identify the facility by its business name.
- b. Each sign shall not exceed thirty-six (36 sq. ft.) square feet in length or width.
- c. Signs shall be placed inside the licensed facility's window or attached to the outside of the building.
- d. Signage shall not display any of the following:
  - i. Any content or symbol that can reasonably be considered to target children, including, but not limited to:
    - a. Cartoon characters;
    - b. Toys; or
    - c. Similar images and items typically marketed towards children.
  - ii. Any content or symbol commonly associated with the practice of medicine or the practice of pharmacy, including, but not limited to:
    - a. A cross of any color;
    - b. A caduceus; or
    - c. Any other symbol that is commonly associated with the practice of medicine, the practice of pharmacy, or healthcare, in general.

## **SECTION 20. DISPOSAL OF MEDICAL MARIJUANA**

### **20.1 *Disposal of Marijuana by Cultivation Facilities, Processors, and Dispensaries***

All medical marijuana waste shall be disposed of in accordance with this rule.

- a. All medical marijuana waste shall be stored in a secure, limited access area on the premises of the licensed facility.
- b. All medical marijuana shall be rendered unusable pursuant to the methods set forth in this rule prior to disposal.
- c. All steps taken to render the marijuana unusable shall be conducted under video surveillance by the licensed facility's video surveillance system.

- d. All medical marijuana waste set for disposal shall be properly weighed and recorded in the Inventory Tracking System.
- e. A cultivation facility, processor or dispensary shall notify the Division at least seventy-two (72) hours prior to rendering the medical marijuana waste unusable and disposing of it. The notification shall include the weight of the marijuana to be rendered unusable.
- f. Liquid waste shall be disposed of in compliance with all applicable federal, state and local laws, regulations, rules and other requirements.
- g. Disposal of chemical, dangerous or hazardous waste must be conducted in a manner consistent with federal, state and local laws, regulations, rules or other requirements. This may include, without limitation, the disposal of all pesticide or other chemicals used in the cultivation or manufacturing and production process.
- h. Medical marijuana shall be rendered unusable by grinding and incorporating the cannabis plant waste with other ground materials, so the resulting mixture is at least 50% non-cannabis waste by volume. The following acceptable materials may be combined with cannabis plant waste:
  - i. Compostable Mixed Waste: Cannabis waste to be disposed of as compost or in another organic waste method may be mixed with the following types of waste materials:
    - 1. Food waste;
    - 2. Yard waste;
    - 3. Vegetable based grease oils;
    - 4. Agricultural Materials;
    - 5. Biodegradable products and paper;
    - 6. Clean wood;
    - 7. Fruits and vegetables; or
    - 8. Plant matter.
  - ii. Noncompostable Mixed Waste: Cannabis waste to be disposed of in a landfill or another disposal method, such as incineration, may be mixed with the following types of waste materials:
    - 1. Paper waste;
    - 2. Cardboard waste;
    - 3. Plastic waste;
    - 4. Soil;
    - 5. Nonrecyclable plastic; or
    - 6. Broken glass.

- i. Medical Marijuana waste rendered unusable by the methods described in section (h), may be delivered to a permitted solid waste facility for final disposition. Permitted solid waste facilities may include:
  - i. Compostable Mixed Waste: Compost, anaerobic digester, or other facility approved by the Division.
  - ii. Non-compostable Mixed Waste: Landfill, incinerator, or other facility approved by the Division.

## **SECTION 21. PERSONNEL REQUIREMENTS FOR DISPENSARIES, PROCESSORS, AND CULTIVATION FACILITIES.**

### **21.1 *Registry Identification Card Required***

- a. Any employee, supervisor, or agent employed by a cultivation facility or processor must have a current Registry Identification Card issued by the Division.
- b. Any employee, supervisor, or agent of a dispensary and any volunteer of a dispensary must have a current Registry Identification Card issued by the Division.
- c. The requirements and restrictions for the issuance of a Registry Identification Card are set forth in Section 22 of these Rules.

### **21.2 *Hiring Procedure***

- a. A cultivation facility, processor, or dispensary shall provide a prospective cultivation facility agent, processor agent, or dispensary agent with 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 licensed facility until such time as their Registry Identification Card has been issued by the Division.

### **21.3 *Separation of Employment***

- a. A cultivation facility, processor or dispensary shall notify the Division when any agent ceases to be employed by the cultivation facility, processor, or dispensary.
- 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 last date of the agent's employment.



#### 21.4 ***Personnel Records***

- a. A cultivation facility, processor, or dispensary shall keep a record of all individuals employed as cultivation facility, processor, or dispensary agents, including, but not limited to the following information:
  1. Name of Employee;
  2. Detailed Job Description;
  3. Records of any specialized training received or acquired by the employee;
  4. Date(s) of Employment;
  5. Record of days worked and time off; and
  6. Any disciplinary action taken against an employee and the cause therefore.
- b. A licensed facility shall maintain required records for at least three (3) years after an employee ceases to work at the facility.

#### 21.5 ***Dispensary Pharmacist Consultant Required***

- a. A dispensary shall appoint a pharmacist consultant who is a pharmacist licensed with the Arkansas State Board of Pharmacy.
- b. A pharmacist consultant shall:
  - i. Register as a dispensary agent under this amendment and follow all procedures;
  - ii. Develop and provide training to other dispensary agents at least one (1) time every twelve (12) months from the initial date of the opening of the dispensary on the following subjects:
    1. Guidelines for providing information to qualifying patients related to risks, benefits, and side effects associated with medical marijuana;
    2. Guidelines for recognizing signs and symptoms of substance abuse; and
    3. Guidelines for refusing to provide medical marijuana to an individual who appears to be impaired or abusing medical marijuana;
  - iii. Assist in the development and implementation of review and improvement processes for patient education and support provided by the dispensary;
  - iv. Provide oversight for the development and dissemination of:
    1. Education materials for qualifying patients and designated caregivers that include:
      - a. Information about possible side effects and

- contraindications of medical marijuana;
  - b. Guidelines for notifying the physician who provided the written certification for medical marijuana if side effects or contraindications occur;
  - c. A description of the potential effects of differing strengths of medical marijuana strains and products;
  - d. Information about potential drug-to-drug interactions, including interactions with alcohol, prescription drugs, nonprescription drugs, and supplements;
  - e. Techniques for the use of medical marijuana and marijuana paraphernalia; and
  - f. Information about different methods, forms, and routes of medical marijuana administration;
- 2. Systems for documentation by a qualifying patient designated caregiver of the symptoms of a qualifying patient that includes a logbook, rating scale for pain and symptoms, and guidelines for a patient's self-assessment; and
- 3. Policies and procedures for refusing to provide medical marijuana to an individual who appears to be impaired or abusing medical marijuana; and
- v. Be accessible by the dispensary or dispensary agent through:
  - 1. Telephonic means at all times during operating hours; and
  - 2. Telephone or video conference for a patient consultant during operating hours.
- c. A dispensary shall:
  - i. Post signage at the check-in station of the dispensary notifying the qualifying patient, visiting patient, or caregiver of the availability of a pharmacist consultant;
  - ii. Provide to new qualifying patients, visiting patients, or caregivers a card containing language about a consultation with a pharmacist consultant and the contact information of the pharmacist consultant; and
  - iii. Post information on the website of the dispensary regarding a consultation with a pharmacist consultant, the availability of the

pharmacist consultant, and the contact information of the pharmacist consultant.

## **SECTION 22. REGISTRATION AND CERTIFICATION OF CULTIVATION FACILITY AGENTS, PROCESSOR AGENTS, AND DISPENSARY AGENTS**

### **22.1 *Registration and Certification Required***

- a. Any employee, supervisor, volunteer, or agent of a cultivation facility, processor, or dispensary, including a dispensary pharmacist consultant, shall register with the Division and obtain a registry identification card prior to the commencement of any activity within the scope of employment or service at a cultivation facility, processor, or dispensary.
- b. If an individual is employed by multiple licensed facilities, he or she shall obtain a separate registry identification card for each licensed facility he or she is employed.

### **22.2 *Application***

- a. The following items must be submitted to the Alcoholic Beverage Control Division to apply for a Cultivation Facility, Processor, or Dispensary Agent Registry Card:
  - i. An application form from the Division to include the following information:
    1. Legal name of applicant;
    2. Date of birth;
    3. Address of applicant;
    4. Current employment information, including intended position in cultivation facility, processor or dispensary; and
    5. Criminal history information.
  - ii. A completed “Notice of Intent to Hire” form from the cultivation facility or dispensary specifying the intended job duties of the applicant.
  - iii. A signed, notarized “Authority to Release Information” form provided by the Division.
  - iv. An in-state criminal background check through the Arkansas State Police, which may be submitted by electronic submission by an Arkansas State Police approved vendor.
  - v. The applicant shall also furnish finger prints to the Arkansas

State Police, which may be collected by an Arkansas State Police approved vendor for electronic submission, for transmission to the United States Federal Bureau of Investigation for investigation of the applicant's criminal history, if any.

- vi. The following signed forms to be provided by the Division:
  - 1. "Agency Privacy Requirements for Noncriminal Justice Applicants" form; and
  - 2. "Noncriminal Justice Applicant's Privacy Rights" form.
- vii. An applicant shall not have to submit the information in sections iv., v., and vi.:
  - 1. If the applicant holds an existing registry identification card for another licensed facility; or
  - 2. 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.

### **22.3 Registry Identification Card**

- a. Any employee, supervisor, volunteer, or agent of a cultivation facility, processor, or dispensary, including a dispensary pharmacist consultant, shall maintain possession of their registry identification card during any activity within the scope of employment or service at a cultivation facility or dispensary. The card shall either be kept on the individual's person or in an accessible location on the premises of the licensed facility.
- b. The registry identification card shall identify the following information:
  - i. Name of the cardholder;
  - ii. Date of birth;
  - iii. Name of cultivation facility, processor, or dispensary;
  - iv. Date of issuance;
  - v. Date of expiration;
  - vi. Registry identification number assigned by the Division.

### **22.4 Fee**

- 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.

- ii. One half of the fee shall be remitted upon notification by the Division that the application has been approved.

#### **22.5 *Issuance***

- a. The Division shall not issue a registry identification card until:
  - i. It has received the results of both criminal background checks required by rule 22.2; and
  - ii. It has received the fees required by rule 22.4.
- b. Registry identification cards shall be issued by the Division within ten (10) days of receipt of the entire fee as described in rule 20.4.

#### **22.6 *Replacement***

- a. The Division shall issue a replacement registry identification card to a dispensary, processor, cultivation facility 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 i.d.
  - ii. A completed “Request for Replacement Registry Identification Card” form to be provided by the Division.
  - iii. A replacement fee of \$25.00.

#### **22.7 *Expiration and Renewal***

- a. A registry identification card shall expire on June 30 of each calendar year and is renewable on or before June 30 of each calendar year for the fiscal year beginning July 1.
- b. A registry identification card shall expire upon notification to the Division by a dispensary, processor, or cultivation facility that the person is no longer employed by the dispensary, processor, or cultivation facility.
- c. Cardholders shall submit a renewal form to be provided by the Division and a fee of \$50.00 in order to renew their cards.
- d. Cards shall be renewed within ten (10) days of receipt of the items described in section c.
- e. Renewals received after the date of expiration shall be subject to a penalty 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.

## **22.8 *Separation of Employment***

A dispensary, processor, cultivation facility shall notify the Division of any separation of employment with a registered agent by filing a Notice of Separation of Employment with the Division any time a dispensary agent, processor agent, or cultivation facility's agent ceases to be employed by the dispensary, processor or cultivation facility. The Notice of Separation of Employment shall be filed within 7 days following an agent's last day of employment at the licensed facility.

## **22.9 *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 fees required by rule 22.4.
- b. The Division shall not issue a registry identification card to any person who fails to provide the information required in rule 22.2.

## **22.10 *Suspension and Revocation***

- a. The Division may revoke the registry identification card of a dispensary, processor, or cultivation facility agent who knowingly violates any provision set forth in Section 23 of these Rules.
- b. The Division may revoke or suspend the dispensary license, cultivation facility license, or processor license of a dispensary, cultivation facility or processor facility that the Division determines knowingly aided or facilitated a violation of any provision set forth in Section 23 of these Rules.

# **SECTION 23. PROHIBITED ACTIVITIES; GROUNDS FOR SUSPENSION, REVOCATION, OR LEVY OF FINE AGAINST ANY LICENSE OR REGISTRY IDENTIFICATION CARD.**

## **23.1 *Grounds for Suspension or Revocation of a Registry Identification Card***

The Division may suspend or revoke the registry identification card of any cultivation facility agent, processor agent, or dispensary facility's agent who knowingly violates any provision of the Amendment or the rules promulgated by the Commission, Department, or Division.

**23.2 *Grounds for Suspension, Revocation, or Placing of Monetary Fine against a Dispensary, Processor, or Cultivation Facility***

Any dispensary, cultivation, or processing license may be suspended, revoked, or may be assessed against the licensee a monetary fine of up to five thousand (\$5000) dollars for any violation of the Arkansas Medical Marijuana Act by any licensee or any employee, agent or servant of the licensee, including the following violations:

- a. False material statements made by a licensee to the Arkansas Medical Marijuana Commission during the application process;
- b. Failure of the licensed facility to pay taxes owed to the State of Arkansas or to any political subdivision of the State of Arkansas;
- c. Failure to prevent diversion or theft of medical marijuana;
- d. Allowing any employee, supervisor, volunteer, 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 dispensary, processor, or cultivation facility;
- e. Failure to allow entry to the licensed premises to Enforcement agents or duly authorized police officers in the course and scope of their employment;
- f. Failure to maintain operational alarm systems and video surveillance systems;
- g. Failure to maintain or keep any record required by these rules or Arkansas law;
- h. Failure to comply with advertising and marketing restrictions;
- i. Failure to properly package or secure medical marijuana on the licensed premises or during transport;
- j. Failure to properly dispose of medical marijuana;
- k. Operating a cultivation facility, processor, or dispensary when a license has been suspended;
- l. Failure to comply with any rule promulgated by the Arkansas Department of Health regarding medical marijuana;
- m. Failure to comply with any rule promulgated by the Arkansas Medical Marijuana Commission;
- n. Failure to comply with any law of the State of Arkansas concerning medical marijuana;
- o. Failure to comply with any local regulation regarding medical marijuana;
- p. Failure to comply with any rule of the Division.

- q. Knowingly aiding or facilitating in a violation of the Amendment, rules promulgated by the Commission, Department, or Division, or any other law of the State of Arkansas.

**23.3 *Grounds for Suspension, Revocation, or Placing of Monetary Fine against a Cultivation Facility License***

Any cultivation license may be suspended, revoked, or may be assessed against the licensee a monetary fine of up to five thousand (\$5000) dollars for any violation of the Arkansas Medical Marijuana Act by any licensee or any employee, agent or servant of the licensee, including the following violations:

- a. Possession of usable marijuana in excess of the amount reasonably necessary to meet the demand for and needs of qualifying patients as determined by the Arkansas Medical Marijuana Commission and the Arkansas Department of Health;
- b. Selling, delivering, or transporting marijuana in any form to any person or entity without the required license issued by the Arkansas Medical Marijuana Commission or an approved laboratory for testing purposes;
- c. Giving marijuana to any person or entity;
- d. Selling marijuana to any dispensary or cultivation facility that has a license under suspension, revocation, or that has not been renewed;
- e. Failure to properly label and package marijuana that is moved between the cultivation facility and a dispensary or other cultivation facility.
- f. Failure to utilize the Inventory Tracking System for reporting and inventory control.

**23.4 *Grounds for Suspension, Revocation, or Placing of Monetary Fine against a Processor License***

A processor license may be suspended, revoked, or a monetary fine of up to five thousand (\$5000) dollars may be assessed against the licensee for any violation of the Arkansas Medical Marijuana Act by any licensee or any employee, agent or servant of the licensee, including the following violations:

- a. Possession of usable marijuana in excess of the amount reasonably necessary to meet the demand for and needs of qualifying patients as determined by the Arkansas Medical Marijuana Commission and the Arkansas Department of Health;
- b. Growing, selling, or dispensing medical marijuana;



- c. Giving marijuana to any person or entity;
- d. Failure to properly label and package marijuana that is moved between the processor and a dispensary or cultivation facility.
- e. Failure to utilize the Inventory Tracking System for reporting and inventory control.

**23.5 *Grounds for Suspension, Revocation, or Placing of Monetary Fine against a Dispensary License***

Any dispensary license may be suspended, revoked, or assessed a monetary fine of up to five thousand (\$5000) dollars for any violation of the Arkansas Medical Marijuana Act by any licensee or any employee, agent or servant of the licensee, including the following violations:

- a. Accepting marijuana seeds, seedlings, plants, or usable marijuana from an unauthorized source;
- b. Transferring, selling, or delivering marijuana seedlings, plants, or usable marijuana to any entity or person, except as allowed by law by dispensaries, transporters, processors, and cultivation facilities licensed by the Arkansas Medical Marijuana Commission, qualifying patients, visiting qualifying patients, designated caregivers, and approved laboratories for testing purposes;
- c. Dispensing more than a total of two and one-half ounces (2 ½ oz.) of usable marijuana to either a qualifying patient or designated caregiver acting on behalf of a qualifying patient during a fourteen (14) day period. A dispensary shall not dispense more than a total of two and one-half ounces (2 ½ oz.) of usable marijuana to a visiting qualifying patient during a fourteen (14) day period;
- d. Failure to record and report required information for all transactions for the dispensing of usable marijuana;
- e. Giving samples of marijuana or marijuana products.
- f. Failure to utilize the Inventory Control Tracking System for reporting and inventory control.
- g. Use of a self-service machine such as a vending machine for the purchase and dispensing of medical marijuana.
- h. Failure to properly label and package marijuana or marijuana products that are to be sold to qualified patients, qualified visiting patients, and qualified patient care providers.

## **SECTION 24. PROCEDURE FOR LEVYING MONETARY PENALTIES AGAINST LICENSES AND FOR THE SUSPENSION AND REVOCATION OF LICENSES AND REGISTRY IDENTIFICATION CARDS; NOTICE REQUIREMENTS; HEARING PROCEDURES; AND APPEALS.**

### **24.1 *Violation Reports and Notices.***

- a. The Director of the Division, the Director of Enforcement, an enforcement agent, an employee of the board, or assisting law enforcement officer, may issue an inspection report, an advisory report, or a notice of violation before taking action to fine, suspend, or revoke a dispensary license, processor, cultivation facility license, or agent registry identification card.
- b. An inspection report documents an inspection of a licensed premises. An inspection report must be prepared on a form prescribed by the Alcoholic Beverage Control Board.
- c. The Director of the Division may issue a notice of violation if an inspection report or other credible information shows a licensed facility or its agent is in violation of the Arkansas Medical Marijuana Amendment; any Rule promulgated by the Division, the Medical Marijuana Commission, or the Department; any Order of the Division, the Medical Marijuana Commission, or the Department; or any law relating to marijuana; or any law relating to taxation.
- d. A notice of violation shall be delivered to the licensed facility at its licensed premises.
- e. A notice of violation regarding cultivation facility agent, dispensary agent, or processing facility agent shall be delivered to the agent at his or her place of employment. A copy of the notice shall be provided to the licensee of the cultivation facility, dispensary, processing facility.
- f. The notice shall describe any violation, and cite the applicable Constitutional Amendment provision, statute, Rule, order of the board, or other law. A violation report or notice may be the basis of a proceeding to fine, suspend, revoke, or otherwise penalize a licensed facility's license. The notice may include the Director's proposed fine, as well as any proposed penalty to be imposed. A licensed facility cultivation facility agent, processor agent, or dispensary agent, that receives a notice of violation shall in writing, not later than 10 days after service of the notice, either consent to the proposed penalty set forth in the notice and waive the right to a hearing, or request an opportunity to appear before the Director of Alcoholic Beverage Control Administration or an authorized hearing officer.

- g. If the licensee or agent consents to the penalty set forth in the offer and settlement served upon them and waives the right to a hearing, the licensee or agent shall fulfill the terms set forth in the notice of violation.
- h. If a hearing is requested, a hearing shall be scheduled, and the recipient of the violation shall receive a notice of hearing in compliance with these rules.
- i. If the recipient of the notice of violation fails to respond to the notice of violation, the Director shall enter an order in compliance with these rules.

**24.2 *All Hearings for Suspension, Revocation, or Money Fine of Licenses to be Before Director or Designated Hearing Officer Upon Notice of Hearing; Emergency Exception***

- a. All hearings for the suspension, revocation, or money fine of licenses or registry identification cards of dispensary agents, processor agents, and cultivation facility agents shall initially be before the Alcoholic Beverage Control Director or a Hearing Officer designated as provided in these rules pursuant to the notice required by these Rules, with an opportunity for interested parties to respond and present evidence and argument on all issues involved.
- b. 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 the license or registry identification card may be ordered pending proceedings for revocation or other action, which proceedings shall be promptly instituted and determined.
- c. If the Director makes the determination set out in (b), the provisions of rule 24.1 shall not apply.

**24.3 *Contents of Notice Required.***

- a. In every case in which a hearing is required by these Rules or by any law of the State of Arkansas pursuant to notice, such notice shall include the following:
  - 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 recipient of the notice that the license or registry identification card may be suspended or revoked.

**24.4 *Conduct of Hearing by Director or Hearing Officer***

In the conduct of any hearing held by the Director or the Hearing Officer designated as provided in these Rules, the Director or such Hearing Officer shall be authorized to examine or cause to be examined under oath any person, and to examine or cause to be examined books and records of any licensee or agent; to hear testimony, to take proof material for his information and for the purposes of the hearing; to administer or cause to be administered oaths; and for such purposes to 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. 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. 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 desired by him.

**24.5 *Order Denying, Suspending, Revoking or Imposing a Money Fine Against Licensee or Agent***

Whenever the Director shall deny, suspend, or revoke any license or application, or impose a money fine against any licensee or agent, he or she shall prepare an Order so providing, which shall be signed by the Director or some person designated by him or her. Said Order shall include findings of fact and conclusions of law, separately stated. 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. Said Order shall be mailed by certified mail by the Director to the licensee or agent to the address provided by the licensee or the agent. Said Order shall be final and binding on all parties until such Order has been appealed as provided in these Rules and a decision rendered by the Alcoholic Beverage Control Board.

**24.6 *Appeal by Person Aggrieved by Order of Director***

Any licensee or agent aggrieved by an Order of denial, suspension, revocation, or the imposition of a money fine by the Director may appeal from such Order to the Alcoholic Beverage Control Board by filing a notice of appeal with the Board. 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 was received by the recipient, as shown by the Certified Mail Return Receipt card returned to the Alcoholic Beverage Control Division. The notice of appeal shall designate the name of the licensee or agent. At least ten (10) days before the time set for the hearing the Alcoholic Beverage Control Division shall notify the licensee or agent 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. Such notice to the licensee or agent shall be mailed by regular first-class mail. Said hearing shall be held within at least sixty (60) days after the date of the filing of the notice of appeal unless the person appealing shall consent to a later hearing.

**24.7 *Conduct of Hearing by Board***

For the purpose of hearing or conducting any appeal authorized to be heard by it, the Board or any Hearing Officer designated as provided in these Rules, shall have the power to examine or cause to be examined under oath any licensee or agent, or any other person, and to examine or cause to be examined the books and records of any such licensee or agent; to hear testimony and to take proof, presented by the Division, Enforcement or such licensee or agent material for its information or the information of such Hearing Officer in hearing such appeal; to administer or cause to be administered oaths; and for such purposes to issue subpoenas requiring the attendance of witnesses and the production of books and records, such subpoenas to be effective in any part of this State; and any Circuit Court may by order duly entered require the attendance of witnesses and the production of relevant books and records subpoenaed by the Board and the Court may compel obedience to its orders by proceedings for contempt. A licensee or agent involved in a hearing before the Board shall be entitled, on request, to a subpoena for the compulsory attendance of witnesses desired by him.

**24.8 *Order by Board***

Within five (5) days after a hearing is concluded by the Board, the Board shall render its written decision or Order. Such written Order shall include findings of facts and conclusions of law, separately stated. 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. A copy of such Order shall be mailed by the Board by certified mail to the licensee or agent. Said Order shall be final and binding on the licensee or agent. Provided, however, that an appeal may be taken from any Order against a licensee or agent as provided for in these Rules.

**24.9 *Appeal from Board to Courts.***

Any licensee or agent aggrieved by an Order of the Board may appeal to the Circuit Court system in accordance with the Arkansas Administrative Procedure Act. 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.

**24.10 *Appellant to Pay Costs of Preparing Transcript of Board Hearings***

Pursuant to the provisions of the Arkansas Administrative Procedure Act, the Alcoholic Beverage Control Division shall prepare the certified copy of the agency record for filing in any appeal filed under the Arkansas Administrative Procedure Act. However, the Alcoholic Beverage Control Division will recover \$1.50 per page for each page of the transcript of the Alcoholic Beverage Control proceedings filed with the Circuit Court, if the Alcoholic Beverage Control Division is determined to be the prevailing party in the Administrative Procedure Act review. In the event any parties request that the Alcoholic Beverage Control Division provide a copy of the agency record, the Alcoholic Beverage Control Division shall be entitled to recover forty cents (\$.40) per page for each copy of the transcript. Any copies of Alcoholic Beverage Control files, records, or transcripts shall be paid for at the rates noted above. All monies received by the Alcoholic Beverage Control Division pursuant to the above provisions shall be deposited to the General Revenues of the State of Arkansas.

**24.11 *Admissibility of Evidence in Hearings***

In any hearing provided for by these Rules or by any law of the State of Arkansas, the Director, the Board and any Hearing Officer designated pursuant to these Rules to conduct such hearing, 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.

**24.12 *Designation of Hearing Officer***

Pursuant to the power granted to the Alcoholic Beverage Control 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 Alcoholic Beverage Control Division to conduct any hearing authorized by this Article or by any Medical Marijuana law of the State of

Arkansas.

**24.13 *Right to Counsel and to Cross-Examine Witnesses for Any Person Compelled to Appear at Hearing***

Any person compelled to appear at any hearing provided by these Rules or by any Arkansas Medical Marijuana law of the State of Arkansas, including but not limited to the violation recipient, shall have the right to be accompanied and advised by counsel and to cross-examine witnesses.

**24.14 *Suspended or Revoked License or Registry Identification Card to be Surrendered***

After a license or registry identification card has been suspended or revoked by Order of the ABC Director, the ABC Board, or any Court Order which has become final, notice thereof shall be given by the ABC Director to any authorized agent of the Alcoholic Beverage Control Enforcement Division and said agent shall immediately take possession of the license or registry identification card and return it to the Director.

**SECTION 25. ABANDONMENT OF LICENSE**

**25.1 *Notice of Intent to Commence Operations***

- a. If a licensed cultivator, licensed processor, licensed dispensary, or licensed transporter within 365 days of its initial license being issued or within 365 days of its renewal, if the initial license was issued prior to January 1, 2020, fails to notify the Division of its intent to commence operations pursuant to rule 4.2, the license shall be considered abandoned and shall be immediately surrendered to the Director.
- b. A licensed cultivator, licensed processor, licensed dispensary, or licensed transporter prior to the abandonment of the license may submit a written petition to Director for a one-time 60 day extension which will be granted upon a finding that the delay was not due to inattention on the part of the licensee and there is a good faith basis to grant the extension.

**25.2 *Petition for Return***

Within thirty (30) days of the date the license is abandoned, the licensee may petition the Board to have the license returned by submitting evidence of the following information:

- a. That all taxes and fees owing the state have been paid;

- b. The reason for the delay; and
- c. The date the licensee intends to commence operations.

### 25.3 ***Return of License***

The Board may return the license if the Board finds that:

- a. Business circumstances exist to justify the delay;
- b. The delay to commence operations was not due to mere deferral or inattention on the part of the licensee; and
- c. The license should be returned

### 25.4 ***License Revocation***

If the licensee does not petition for the return of the license, or if the Board rejects the petition, the license shall be considered revoked.