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Preface

Agency Summary

The Virginia Cannabis Control Authority ("CCA" or "authority") is responsible for the regulation of cannabis in the Commonwealth pursuant to Chapter 6 (§ 4.1-600 et seq.) of Title 4.1 of the Code of Virginia. This mission includes regulatory oversight and control of the Commonwealth's medical cannabis program, adult-use retail market, and regulated hemp products.

Pursuant to Chapter 6, the authority is an independent political subdivision of the Commonwealth, exclusive of the legislative, executive, or judicial branches of state government. A five-person board of directors guides and is ultimately responsible for the governance of the authority. A chief executive officer manages the day-to-day work of the CCA. The Governor appoints and the General Assembly confirms both the board and the CEO. A career, nonpolitical staff of employees reports to the CEO and, via the CEO, to the board.

The CCA is advised by the Cannabis Public Health Advisory Council (advisory council), a 21-member advisory group comprised of health experts. The Governor and General Assembly appoint members of the advisory council and the members select the chair and vice-chair. The advisory council's responsibilities include assessing and monitoring public health issues, trends, and impacts related to cannabis.

In addition to its rulemaking and regulatory enforcement roles, the CCA is responsible for creating and disseminating guidance and other resources on how to engage with cannabis legally and safely. The CCA's public health and safety responsibilities also include development and implementation of a safe driving campaign that highlights the dangers of drug-impaired driving.

More information is available at https://www.cca.virginia.gov/.

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Chapter 20 Fees

3VAC10-20-10. Definitions.

In addition to words and terms defined in the Cannabis Control Act (§ 4.1-600 et seq. of the Code of Virginia), the following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

“Additional cultivation location" means a secondary site at which the board has authorized a pharmaceutical processor to cultivate cannabis plants pursuant to § 4.1-1602 of the Code of Virginia and the requirements of 3VAC10-30-160.

“Dual-use facility" means a pharmaceutical processor or cannabis dispensing facilities that has been authorized by the board to exercise dual-use privileges in accordance with § 4.1-1602.1 of the Code of Virginia.

"Marijuana products" means the same as that term is defined in § 4.1-600 of the Code of Virginia and includes “cannabis product” as defined in § 4.1-1600 of the Code of Virginia, unless otherwise provided by law or regulation.

"PIC" means the pharmacist-in-charge whose name is on the pharmaceutical processor or cannabis dispensing facility application for a permit that has been issued and who shall have oversight of the processor's dispensing area or cannabis dispensing facility.

"Responsible party" means the person designated on the permit, license, or registration application who shall have oversight of the operations of the marijuana establishment or regulated hemp product retail facility in accordance with 3VAC10-40-120.

3VAC10-20-15. General provisions.

A. All fees are required by the board as specified. Unless otherwise provided, all fees paid to the board shall not be refundable.

B. The handling fee for returned check or dishonored credit card or debit card shall be $50.

C. Change fees apply applicable to all licenses, permits, and registrations.

1. Change of name	$200
2. Change of PIC, responsible party, or any other information provided on the application.	$200
3. Change of ownership not requiring a criminal background check.	$200
4. Change of ownership requiring a criminal background check.	$500
5. Any acquisition, expansion, remodel, or change of location requiring an inspection.	$5,000

D. A qualified impact licensee applicant may request that the board reduce or waive applicant or license fee described in this chapter by submitting a fee waiver request for Authority approval at the time of initial or renewal application, in a manner prescribed by the board. The Authority may, in its discretion and on a case-by-case basis, approve the fee reduction or waiver.

3VAC10-20-20. Repealed.

3VAC10-20-30. Pharmaceutical processor permit fee.

Pharmaceutical processor permit.

A. Application.	$10,000
B. Initial permit.	$120,000
C. Annual renewal of permit.	$100,000
D. Application for additional cultivation location.	$5,000
E. Initial authorization of additional cultivation location.	$80,000
F. Annual renewal of additional cultivation location authorization.	$64,000
G. Reinspection fee.	$5,000
H. Registration of each marijuana product.	$50

3VAC10-20-40. Cannabis dispensing facility fees.

Cannabis dispensing facility permit.

A. Application.	$4,000
B. Initial permit.	$40,000
C. Annual renewal of permit.	$30,000
D. Reinspection fee.	$5,000

3VAC10-20-50. Repealed.

3VAC10-20-60. Marijuana cultivation facility fees.

Marijuana cultivation facility.

A. Application.

1. Tier I cultivation facility.	$3,000
2. Tier II cultivation facility.	$3,000
3. Tier III cultivation facility.	$5,500
4. Tier IV cultivation facility.	$7,500
5. Tier V cultivation facility.	$7,500

B. Initial authorization.

1. Tier I cultivation facility.	$20,000
2. Tier II cultivation facility.	$25,000

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3. Tier III cultivation facility.	$30,000
4. Tier IV cultivation facility.	$35,000
5. Tier V cultivation facility.	$50,000
C. Annual renewal.	
1. Tier I cultivation facility.	$15,000
2. Tier II cultivation facility.	$20,000
3. Tier III cultivation facility.	$25,000
4. Tier IV cultivation facility.	$30,000
5. Tier V cultivation facility.	$45,000
D. Reinspection fee.	$5,000
E. Registration of each marijuana product.	$50

3VAC10-20-70. Marijuana processing facility fees.

Marijuana processing facility.

A. Application.	$5,000
B. Initial authorization.	$30,000
C. Annual renewal.	$25,000
D. Reinspection fee.	$5,000
E. Registration of each marijuana product.	$50

3VAC10-20-80. Retail marijuana store fees.

Retail marijuana store.

A. Application.	$4,000
B. Initial authorization.	$20,000
C. Annual renewal.	$15,000
D. Reinspection fee.	$2,500

3VAC10-20-90. Microbusiness fees.

Microbusiness.

A. Application.	$1,000
B. Initial authorization.	$2,500

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C. Annual renewal.	$6,000
D. Reinspection fee.	$1,000
E. Registration of each marijuana product.	$25

3VAC10-20-100. Marijuana transporter license fees.

Marijuana transporter.

A. Application.	$500
B. Initial authorization.	$2,500
C. Annual renewal.	$5,000
D. Reinspection fee.	$500

3VAC10-20-110. Marijuana delivery operator license fees.

Marijuana delivery operator.

A. Application.	$500
B. Initial authorization.	$2,500
C. Annual renewal.	$5,000
D. Reinspection fee.	$500

3VAC10-20-120. Marijuana testing facility license fees.

Marijuana testing facility.

A. Application.	$1,000
B. Initial authorization.	$2,000
C. Annual renewal.	$2,000
D. Reinspection fee.	$2,000

3VAC10-20-130. Regulated hemp product retail facility fees.

Regulated hemp product retail facility.

A. Application.	$1,000
B. Annual registration.	$1,000

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Chapter 30 Licensure of Marijuana and Hemp Establishments

3VAC10-30-10. Definitions.

In addition to words and terms defined in the Cannabis Control Act (§ 4.1-600 et seq. of the Code of Virginia), the following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

"90-day supply" means the amount of cannabis products reasonably necessary to ensure an uninterrupted availability of supply for a 90-day period for patients either included on a valid, unexpired written certification issued by a practitioner or established by a pharmacist during initial consultation.

“Additional cultivation location" means a secondary site at which the board has authorized a pharmaceutical processor to cultivate cannabis plants pursuant to § 4.1-1602 of the Code of Virginia and the requirements of 3VAC10-30-160.

"Certification" means a form established by the board, consistent with requirements of § 4.1-1601 of the Code of Virginia, issued by a practitioner for the use of cannabis products for treatment of or to alleviate the symptoms of any diagnosed condition or disease determined by the practitioner to benefit from such use.

"Daycare" means a “child day center” or “family day home” as defined in § 22.1-289.02 of the Code of Virginia.

“Dual-use facility" means a pharmaceutical processor or cannabis dispensing facilities that has been authorized by the board to exercise dual-use privileges in accordance with § 4.1-1602.1 of the Code of Virginia.

"Electronic tracking system" means an electronic radio-frequency identification (RFID) seed-to-sale tracking system that tracks the marijuana from either the seed or immature plant stage until the marijuana product is sold to a patient, parent, legal guardian, consumer, or registered agent or until the marijuana, including the seeds, parts of plants, and extracts, are destroyed. The electronic tracking system shall include, at a minimum, a central inventory management system and standard and ad hoc reporting functions as required by the board and shall be capable of otherwise satisfying required recordkeeping.

“Material owner" means (i) for a publicly traded entity, voting rights that entitle a person to individually elect or appoint one or more of the members of the board of directors or other governing board or the ownership or beneficial holding of 5% or more of the securities of the publicly traded entity, and (ii) for a privately held entity, the ownership of any security or beneficial interest in the entity.

“Medical cannabis products” means “cannabis product” as defined in § 4.1-1600 of the Code of Virginia.

"On duty" means that a pharmacist, the responsible party, or a person who is qualified to provide supervision is on the premises at the address of the marijuana establishment or regulated hemp product retail facility and is available as needed.

"PIC" means the pharmacist-in-charge whose name is on the pharmaceutical processor or cannabis dispensing facility application for a permit that has been issued and who shall have oversight of the processor's dispensing area or cannabis dispensing facility.

"Qualifying patient" means a Virginia resident who has received from a practitioner, as defined in § 4.1-1600 of the Code of Virginia, a written certification for the use of cannabis products for treatment of or to alleviate the symptoms of any diagnosed condition or disease.

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"Resident" means an individual who resides within the geographical boundaries of the Commonwealth. If a person is a minor, residency may be established by evidence of Virginia residency by a parent or legal guardian.

"Responsible party" means the person designated on the processor permit, license, or registration application who shall have oversight of the operations of the marijuana establishment or regulated hemp product retail facility in accordance with 3VAC10-40-120.

"School" means (i) any public school from kindergarten through grade 12 operated under the authority of any locality within the Commonwealth, (ii) any private or religious school that offers instruction at any level or grade from kindergarten through grade 12, and (iii) any private or religious nursery school or preschool, or any private or religious child-care center required to be licensed by the Commonwealth.

"Temporary residency" means a person does not maintain a principal place of residence within Virginia but resides in Virginia on a temporary basis as evidenced by documentation substantiating such temporary residence.

3VAC10-30-20. Licenses and transfers.

A. The board shall not issue licenses in excess of:

1. X tier I marijuana cultivation facilities;
2. X tier II marijuana cultivation facilities;
3. X tier III marijuana cultivation facilities;
4. X tier IV marijuana cultivation facilities;
5. 5 tier V marijuana cultivation facilities;
6. X marijuana processing facilities; and
7. 350 retail marijuana stores.

B. No permit or license shall be assigned, sold, or transferred, nor shall ownership or control of a license be changed, unless the licensee has received prior written approval by the board. Any such change made without approval of the board is void and shall constitute grounds for immediate suspension or revocation of all affected licenses.

C. Prior to any change in ownership, the licensee shall request approval in a manner prescribed by the board and pay required fees.

1. Upon any change in ownership, the dispensing or sales records for the two years immediately preceding the date of change of ownership and other required information shall be provided to the new owners on the date of change of ownership in substantially the same format as previously used immediately prior to the transfer to provide continuity of services.

2. The previous owner shall be held responsible for ensuring the proper and lawful transfer of records on the date of the transfer.

3. If a new owner's share constitutes 5.0% or greater of the total ownership, the new owner shall submit to fingerprinting and the criminal history record search required of § 4.1-1000 and § 4.1-1602 of the Code of Virginia.

D. No impact licensee, nor any person holding a direct or indirect beneficial interest therein, shall sell, assign, or transfer a controlling interest of more than 49 percent of the license to any person or entity for a period of five years from the date the license is issued unless the transfer is made as part of an estate plan to a family member or into a trust for the benefit of the licensee's immediate family.

E. In the event an impact licensee seeks to sell, assign, or transfer a controlling interest of more than 49 percent of the license more than five years after issue and the transferee is a person or entity that does not qualify as an impact license applicant, the board may allow the change in ownership to occur but may revoke impact license privileges upon review. The new license holder shall pay to the board any outstanding amount owed by the transferor to the board as well as any other fee or assessment as determined by the board.

3VAC10-30-30. Requirements for practitioner issuing a certification.

A. Prior to issuing a certification for cannabis products for any diagnosed condition or disease, the practitioner shall meet the requirements of § 4.1-1601 of the Code of Virginia.

B. A practitioner issuing a certification shall:

1. Conduct an assessment and evaluation of the patient in order to diagnose the patient or confirm another medical provider's diagnosis. This shall include an examination of the patient and the patient's medical history, prescription history, and current medical condition;

2. Develop a treatment plan for the patient;

3. Be of the opinion that the potential benefits of cannabis products would likely outweigh the health risks of such use to the qualifying patient;

4. Authorize on the written certification the use of botanical cannabis for a minor patient if the practitioner determines such use is consistent with the standard of care to dispense botanical cannabis to a minor. If not specifically included on the initial written certification, authorization for botanical cannabis may be communicated verbally or in writing to the pharmacist at the time of dispensing;

5. Explain proper administration and the potential risks and benefits of the cannabis product to the qualifying patient, and if the qualifying patient lacks legal capacity, to a parent or legal guardian prior to issuing the written certification;

6. Be available or ensure that another practitioner, as defined in § 4.1-1600 of the Code of Virginia, is available to provide follow-up care and treatment to the qualifying patient, including physical examinations, to determine the efficacy of cannabis products for treating the diagnosed condition or disease;

7. Comply with generally accepted standards of medical practice, except to the extent such standards would counsel against certifying a qualifying patient for cannabis products;

8. Maintain medical records in accordance with 18VAC85-20-26 for all patients for whom the practitioner has issued a certification; and

9. Access or direct the practitioner's delegate to access the Virginia Prescription Monitoring Program of the Department of Health Professions for the purpose of determining which, if any, covered substances have been dispensed to the patient.

C. The practitioner shall use the practitioner's professional judgment to determine the manner and frequency of patient care and evaluation, which may include the use of telemedicine, provided that the use of telemedicine:

1. Includes the delivery of patient care through real-time interactive audio-visual technology;

2. Conforms to the standard of care expected for in-person care; and

3. Transmits information in a manner that protects patient confidentiality.

D. A practitioner shall not delegate the responsibility of diagnosing a patient or determining whether a patient should be issued a certification. Employees under the direct supervision of the practitioner may assist with preparing a certification, so long as the final certification is approved and signed by the practitioner before it is issued to the patient.

E. The practitioner shall provide instructions for the use of cannabis products to the patient, parent, or guardian, as applicable.

F. Upon request, a practitioner shall make a copy of medical records available to an agent of the Board of Medicine or Board of Pharmacy for the purpose of enabling the board to ensure compliance with the law and regulations or to investigate a possible violation.

G. If the authority determines that a practitioner has violated, attempted to violate, solicited any person to violate, or consented to any violation of this chapter, the authority may restrict that practitioner's ability to issue written certifications for patients in the future or report information to the applicable licensing board.

3VAC10-30-40. Prohibited practices for practitioners.

A. A practitioner who issues certifications shall not:

1. Directly or indirectly accept, solicit, or receive anything of value from any person associated with a pharmaceutical processor or provider of paraphernalia, excluding information on products or educational materials on the benefits and risks of cannabis products;

2. Offer a discount or any other thing of value to a qualifying patient, parent, guardian, or registered agent based on the patient's agreement or decision to use a particular pharmaceutical processor or cannabis product;

3. Examine a qualifying patient for purposes of diagnosing the condition or disease at a location where medical cannabis products are dispensed or produced; or

4. Directly or indirectly benefit from a patient obtaining a certification. Such prohibition shall not prohibit a practitioner from charging an appropriate fee for the patient visit.

B. A practitioner who issues certifications and such practitioner's coworker, employee, spouse, parent, or child shall not have a direct or indirect financial interest in a pharmaceutical processor, a cannabis dispensing facility, or any other entity that may benefit from a qualifying patient's acquisition, purchase, or use of cannabis products, including any formal or informal agreement whereby a pharmaceutical processor or other person provides compensation if the practitioner issues a certification for a qualifying patient or steers a qualifying patient to a specific pharmaceutical processor or cannabis product.

C. A practitioner shall not issue a certification for himself or for family members, employees, or coworkers.

D. A practitioner shall not provide product samples containing cannabis other than those approved by the U.S. Food and Drug Administration.

3VAC10-30-50. Registered agents.

A. A patient or the patient's parent or legal guardian may designate a registered agent to receive cannabis products on behalf of the patient. Such designated individual shall register with the board unless the individual's name is listed on the patient's written certification.

B. An individual may serve as a registered agent for no more than two patients.

C. For a voluntary registration application to be approved, the following shall be submitted:

1. The name, address, and birth date of each patient for whom the individual intends to act as a registered agent;

2. A copy of the written certification issued to the patient for the use of cannabis products for treatment of or to alleviate the symptoms of any diagnosed condition or disease;

3. Proof of identity in the form of a copy of a government-issued identification card;

4. Payment of the applicable fee; and

5. Such other information as the board may require to determine the applicant's suitability for registration or to protect public health and safety.

D. A registration is valid until the expiration of the patient's written certification. A new registration application must be submitted upon the issuance of each written certification unless the designated registered agent is listed on the written certification.

3VAC10-30-60. Denial of a registered agent application.

A. The board may deny an application of the registration of a registered agent if the applicant:

1. Does not meet the requirements set forth in law or regulation or fails to provide complete information on the application form;

2. Does not provide acceptable proof of identity, residency or temporary residency, or age of the patient to the board;

3. Provides false, misleading, or incorrect information to the board;

4. Has had a registration request denied or registered agent status denied, suspended, or revoked by the board in the previous six months;

5. Has presented a certification issued by a practitioner who is not authorized to certify patients for cannabis products; or

6. Has a prior conviction of a violation of any law pertaining to controlled substances.

B. If the board denies an application of a registered agent applicant, the board shall provide the applicant with notice of the grounds for the denial and shall inform the applicant of the right to request a hearing pursuant to § 2.2-4019 of the Code of Virginia.

3VAC10-30-70. Reporting requirements for practitioners, patients, parents, legal guardians, or registered agents.

A. A practitioner shall report to the board, in a manner prescribed by the board, the death of a patient or a change in status of a patient for whom the practitioner has issued a certification if such change affects the patient's continued eligibility to use cannabis products or the practitioner's inability to continue treating the

patient. A practitioner shall report such death, change of status, or inability to continue treatment not more than 15 days after the practitioner becomes aware of such fact.

B. A patient, or the parent or legal guardian of a patient, who has been issued a written certification shall notify the board of any change in the information provided to the board not later than 15 days after such change. The patient, parent, or legal guardian shall report changes that include a change in name, address, contact information, medical status of the patient, or change of the certifying practitioner. The patient, parent, or legal guardian shall report such changes in a manner prescribed by the board.

C. A registered agent who has been issued a registration shall notify the board of any change in the information provided to the board not later than 15 days after such change, including a change in the identifying information of the patient for whom the registered agent is serving as a registered agent.

D. If a patient, parent, legal guardian, or registered agent becomes aware of the unauthorized use of the written certification or registration of such registered agent, the patient, parent, legal guardian, or registered agent shall notify the board not later than five business days after becoming aware of the unauthorized use.

3VAC10-30-80. Invalidation of the registration of registered agent.

The board may invalidate the registration of a registered agent under the following circumstances:

1. The patient's practitioner notifies the board that the practitioner is withdrawing the written certification submitted on behalf of the patient, and 30 days after the practitioner's withdrawal of the written certification, the patient has not obtained a valid written certification from a different practitioner;

2. The registered agent provided false, misleading, or incorrect information to the board;

3. The patient is no longer a resident of Virginia or is no longer temporarily residing in Virginia;

4. The registered agent obtained more than a 90-day supply of cannabis products in a 90-day period;

5. The registered agent sold or improperly provided cannabis products to any person, including another registered agent;

6. The registered agent tampered, falsified, altered, modified, or allowed another person to use, tamper, falsify, alter, or modify the registration of the patient or registered agent;

7. The registered agent failed to notify the board of a change in registration information or notified the board of such change more than 15 days after the change; or

8. The registered agent violated any federal or state law or regulation.

3VAC10-30-90. Dual-use facility employee licenses.

A. A pharmacist with a current, unrestricted license issued by the Board of Pharmacy practicing at the location of the address on the pharmaceutical processor or cannabis dispensing facility application shall be in full and actual charge of the dispensing area of a pharmaceutical processor or of a cannabis dispensing facility and shall serve as the pharmacist-in-charge.

B. A pharmacist with a current, unrestricted license issued by the Board of Pharmacy shall provide personal supervision on the premises of the dispensing area of the pharmaceutical processor or of a cannabis dispensing facility at all times during its hours of operation, unless all cannabis products are contained in a vault or other similar container to which only the pharmacist has access controls.

C. The person who is designated as the responsible party for a pharmaceutical processor shall practice at the location of the address on the pharmaceutical processor application, shall have oversight of the cultivation and production areas, and shall possess:

1. A current, unrestricted license as a pharmacist issued by the Board of Pharmacy;

2. A degree in chemistry, pharmacology, or a field related to the cultivation of plants;

3. A certification recognized by the board; or

4. At least two years of verifiable experience cultivating plants or extracting chemicals from plants.

D. A person who holds a current, unrestricted registration as a pharmacy technician pursuant to § 54.1-3321 of the Code of Virginia may perform the following duties under supervision of a pharmacist:

1. The entry of drug dispensing information and drug history into a data system or other recordkeeping system;

2. The preparation of labels for dispensing the cannabis product or patient information;

3. The removal of the cannabis product to be dispensed from inventory;

4. The measuring of the cannabis product to be dispensed;

5. The packaging and labeling of the cannabis product to be dispensed and the repackaging thereof;

6. The packaging and labeling of bulk cannabis oil, botanical cannabis, and usable cannabis intended to be wholesale distributed pursuant to 3VAC10-40-50;

7. The stocking or loading of devices used in the dispensing process;

8. The selling of the cannabis product to the patient, parent, legal guardian or registered agent; and

9. The performance of any other task restricted to pharmacy technicians by the board of pharmacy's regulations.

E. A pharmacist with a current, unrestricted license; a registered pharmacy intern who has completed the first professional year of pharmacy school; or a pharmacy technician with a current, unrestricted registration issued by the Board of Pharmacy may perform duties associated with the cultivation and extraction as authorized by the pharmaceutical processor and duties associated with the dispensing of the products as authorized by the PIC or as otherwise authorized in law.

F. A pharmaceutical processor may employ individuals with less than two years of experience to perform cultivation-related duties under the supervision of an individual who has received a degree in a field related to the cultivation of plants or a certification recognized by the board or who has at least two years of experience cultivating plants.

G. A pharmaceutical processor may employ individuals with less than two years of experience to perform extraction-related duties under the supervision of an individual who has a degree in chemistry or pharmacology or at least two years of experience extracting chemicals from plants.

H. At no time shall the dispensing area of a pharmaceutical processor operate or be accessed without a pharmacist on duty. At no time shall the cultivation and production area operate or be accessed without an employee on duty who satisfies the requirements for providing direct supervision for the activities in the respective areas.

I. No person who has had a license or registration suspended or revoked or been denied issuance of such license or registration shall serve as an employee or agent of the pharmaceutical processor or its cannabis dispensing facilities unless such license or registration has been reinstated and is current and unrestricted.

3VAC10-30-100. Publication of notice of open applications.

A. When there is an available permit or license, the authority shall publish a notice of open applications.

1. Such notice shall include information on how to obtain and complete an application, the required fees, the criteria for issuance of a permit or license, and the deadline for receipt of applications.

2. The criteria set forth in the notice of open applications shall include the following:

a. Any history of disciplinary action imposed by a state or federal regulatory agency;

b. The applicant's ability to maintain adequate control against the diversion, theft, and loss of the marijuana, including the seeds, any parts, or extracts of the marijuana plants or the marijuana products;

c. The applicant's ability to maintain the knowledge, understanding, judgment, procedures, security controls, and ethics to ensure optimal safety and accuracy in the dispensing and sale of marijuana products; and

d. The extent to which the applicant or any of the applicant's owners have a financial interest in another license, permit, registrant, or applicant.

B. The board shall have the right to amend the notice of open applications prior to the deadline to submit an application. Such amended notice shall be published in the same manner as the original notice of open applications.

C. The board shall have the right to cancel a notice of open applications prior to the award of a permit or license.

D. The provisions set forth in this subsection shall not apply to pharmaceutical processors applying a permit to operate a cannabis dispensing facility or an additional cultivation location.

3VAC10-30-110. Initial application and award of preliminary approval.

A. Submission of initial application.

1. An applicant shall submit the required application fee and all requested application materials in a manner prescribed by the board.

2. An applicant may only submit one application for a license type in response to any notice of open applications issued by the authority pursuant to § 4.1-1000 of the Code of Virginia. 3. In the event any information contained in the application or accompanying documents changes after being submitted, the applicant shall immediately notify the authority in writing and provide corrected information in a timely manner so as not to disrupt the selection process.

B. Identification of Qualified Applicants. Following the deadline for receipt of applications, the authority shall identify qualified applicants by evaluating each complete and timely submitted application based on compliance with requirements set forth in notice of open applications.

1. When circumstances warrant, the authority may verify information contained in an application and accompanying documentation in order to assess the operational abilities of the applicant.

2. The authority shall disqualify any applicant who:

a. Fails to submit an application by the published deadline;

b. Fails to pay all applicable fees;

c. Fails to timely notify the board of any changes or corrected information; or

d. Fails to cooperate with any Authority inquiries or investigations related to an application or accompanying documentation.

C. Awarding of Preliminary Approval.

1. Following review, the board shall notify applicants of denial or preliminary approval. The decision of the board not to grant preliminary approval to an applicant shall be final.

2. In the event the Authority determines there is more than one qualified applicant, the Authority may hold a lottery, or similar process, to select the applicant to award preliminary approval for a permit or license.

3. In the event the board determines that there are no qualified applicants to award preliminary approval, the board may republish, in accordance with 3VAC10-30-100, a notice of open applications.

3VAC10-30-120. Preliminary approval.

A. Following the award of preliminary approval, the selected applicant shall submit information necessary for the board to evaluate the criminal background of the selected applicant's material owners in accordance with subsection J of § 4.1-1000 of the Code of Virginia. No person who has been convicted of a felony under the Code of Virginia or another jurisdiction within the last five years shall be a material owner of, be employed by, or act as an agent of a marijuana establishment.

B. Upon request of the authority, the selected applicant shall provide additional information or documents within 10 calendar days from the date of the Authority's request for more information.

C. The board may revoke preliminary approval if the authority determines the selected applicant:

1. Submits incomplete, false, inaccurate, or misleading information or documentation;

2. Fails to cooperate in any investigation conducted by the authority;

3. Fails to secure property to operate at a location that is more than 1,000 feet of a school or daycare;

4. Is in violation of Virginia Code § 4.1-810(B) or § 4.1-1602(K) based on the results of criminal background checks of the selected applicant's material owners; or

5. Fails to comply with all requirements for a marijuana establishment.

D. If granted preliminary approval, an applicant shall have 18 months from date of notification to complete all requirements for issuance of a permit or license, including providing a separate and distinct physical address where the applicant intends to operate, documentation of separate and distinct capital to support the proposed operations, employment of a PIC, responsible party, and other personnel necessary for operation of a marijuana establishment, construction or remodeling of a facility, installation of equipment, and securing local zoning approval.

E. In the event preliminary approval is rescinded pursuant to this section, the board may award preliminary approval for a permit or license by selecting from among the qualified applicants who applied for the permit or license or publishing a new notice of open applications.

3VAC10-30-130. Granting of a permit or license.

A. The board may issue a permit or license when all requirements of the board have been met, including:

1. Designation of a PIC and/or responsible party;

2. Evidence of utilization of an electronic tracking system; 3. A satisfactory inspection of the marijuana establishment conducted by agents of the board;

4. The name and address of the marijuana establishment, which shall not be within 1,000 feet of a school or daycare;

5. The name and address of the marijuana establishment's material owners;

6. Details regarding the applicant's plans for security to maintain adequate control against the diversion, theft, or loss of marijuana products; and

7. Information necessary for a criminal background check in accordance with §§ 4.1-1000 and 4.1-1602 of the Code of Virginia and 3VAC10-30-120.

B. The board shall not award a permit or license until the marijuana establishment has corrected any deficiency identified by inspectors, and if warranted, the marijuana establishment has been satisfactorily reinspected.

C. Before the board issues any permit or license the applicant shall attest to compliance with all state and local laws and ordinances.

D. A permit or license shall not be issued to any person to operate from a private dwelling or residence.

E. Once the marijuana establishment has commenced operation it shall inform the authority of its normal hours of operation.

F. If the marijuana establishment is not operational within 18 months from the date the license is issued, the board shall rescind the license unless an extension is granted for good cause shown.

1. A marijuana processing facility, retail marijuana store, or marijuana testing facility shall be deemed to have commenced operation if it is in receipt of marijuana, marijuana products, or other substances.

2. A marijuana cultivation facility shall be deemed to have commenced operation if marijuana plants are under cultivation by the licensee.

3. A microbusiness shall be deemed to have commenced operation if it is in receipt of marijuana or marijuana products or if marijuana plants are under cultivation.

4. A marijuana delivery operator or marijuana transporter shall be deemed to have commenced operation if it is in receipt of marijuana or marijuana products for delivery.

G. Each marijuana establishment shall have a designated supervisor present and in actual charge of the business being conducted at any time the responsible party is not present at the address of the marijuana establishment and the establishment is kept open for business, whether or not the privileges of the license are being exercised. Once the marijuana establishment has commenced operation it shall inform the authority of the identity of the designated supervisor.

1. The name of the designated supervisor shall be kept posted in a conspicuous place in the establishment, in letters not less than one inch in size, during the time the designated supervisor is in charge. The posting of the name of a designated manager shall qualify such person to act in that capacity until disapproved by the authority.

2. The authority reserves the right to disapprove any person as a designated supervisor if it shall have reasonable cause to believe that any condition exists that would justify the authority in refusing to issue such person approval.

3. Before disapproving a designated manager, the authority shall provide the responsible party a notice of the ground for the denial and shall inform the responsible party of the right to request a hearing pursuant to § 2.2-4019 of the Code of Virginia.

H. A microbusiness licensee shall engage in the commercial cultivation, processing, and retail sale of marijuana. Licensees shall be fully operational within 18 months from the date the license is issued unless an extension is granted for good cause shown.

I. In the event a permit or license is rescinded pursuant to this section, the board may award preliminary approval for a permit or license by selecting from among the qualified applicants who applied for the permit or license subject to rescission. If no other qualified applicant who applied for such permit or license satisfied the criteria for awarding a permit or license, the board shall publish a notice of open applications for a permit or license in accordance with 3VAC10-30-100.

3VAC10-30-135. Granting of a regulated hemp product facility registration.

A. The applicant must submit the required information and applicable registration fee for each registration to the board, along with the following information and documentation:

1. The name and address of the regulated hemp product retail facility;

2. The name and address of the regulated hemp product retail facility's material owners;

3. Name and signature of responsible party regulated hemp product retail facility; and

4. Details regarding the applicant's plans for security to maintain adequate control against the diversion, theft, or loss of regulated hemp product.

B. Prior to issuing the registration, an agent of the board shall perform an inspection of the regulated hemp product retail facility. The registration shall not be awarded until any deficiency identified by inspectors has been corrected and the regulated hemp product retail facility has been satisfactorily reinspected if warranted.

C. A regulated hemp product retail facility shall comply with all state and local laws and ordinances.

D. A registration shall not be issued to any person to operate from a private dwelling or residence.

E. Once regulated hemp product retail facility is in possession of regulated hemp products, a responsible party or designated supervisor according to 3VAC10-30-135(F) shall be on duty at all times during the declared hours of operation.

F. Each regulated hemp product retail facility shall have a designated supervisor present and in actual charge of the business being conducted at any time the responsible party is not present at the address of the regulated hemp product facility and the facility is kept open for business, whether or not the privileges of the registration are being exercised. Once the regulated hemp product retail facility has commenced operation it shall inform the authority of the identity of the designated supervisor.

1. The name of the designated supervisor shall be kept posted in a conspicuous place in the establishment, in letters not less than one inch in size, during the time the designated supervisor is in charge. The posting of the name of a designated manager shall qualify such person to act in that capacity until disapproved by the authority.

2. The authority reserves the right to disapprove any person as a designated supervisor if it shall have reasonable cause to believe that any condition exists that would justify the authority in refusing to issue such person approval.

3. Before disapproving a designated manager, the authority shall provide the responsible party a notice of the ground for the denial and shall inform the responsible party of the right to request a hearing pursuant to § 2.2-4019 of the Code of Virginia.

3VAC10-30-140. Application for and granting of a permit for a cannabis dispensing facility.

A. Pursuant to § 4.1-1602 of the Code of Virginia, the board may issue up to five cannabis dispensing facility permits for each health service area. A permit may be issued to a facility that is owned, at least in part, by the pharmaceutical processor located in that health service area for the dispensing of cannabis products that have been cultivated and produced on the premises of a pharmaceutical processor. Each cannabis dispensing facility shall be located within the same health service area as the pharmaceutical processor.

B. A separate application and fee for each cannabis dispensing facility permit shall be submitted to the board, along with the following information and documentation:

1. The name and address of the facility, which shall not be within 1,000 feet of a school or daycare;

2. The name and address of the cannabis dispensing facility's material owners;

3. Name and signature of pharmacist-in-charge practicing at the facility;

4. Details regarding the applicant's plans for security to maintain adequate control against the diversion, theft, or loss of cannabis products; and

5. Information necessary for the board to conduct a criminal background check on the facility material owners.

C. Prior to issuing the permit an agent of the board shall perform an inspection of the facility. The permit shall not be awarded until any deficiency identified by inspectors has been corrected and the facility has been satisfactorily reinspected if warranted.

D. A cannabis dispensing facility shall comply with all state and local laws and ordinances.

E. A cannabis dispensing facility permit shall not be issued to any person to operate from a private dwelling or residence.

F. If the cannabis dispensing facility is not operational within 90 days from the date the permit is issued, the board shall rescind the permit unless an extension is granted for good cause shown.

G. A cannabis dispensing facility shall be deemed to have commenced operation if it is in receipt of cannabis products from a pharmaceutical processor.

H. Once the facility is in possession of cannabis products, a pharmacist be on duty at all times during the declared hours of operation.

3VAC10-30-145. Denial of an application.

A. The board may deny an application for a permit, license, or registration if the applicant:

1. Submits an incomplete, false, inaccurate, or misleading application;

2. Fails to pay all applicable fees;

3. Fails to disclose any violations, enforcement actions, or compliance issues related to previous regulated hemp product retail registration under the Virginia Department of Agriculture and Consumer Services; or

4. Fails to comply with all requirements for a marijuana establishment or regulated hemp product retail facility.

B. If the board denies an application for a permit, license, or registration, the board shall provide the applicant with notice of the grounds for the denial and shall inform the applicant of the right to request a hearing pursuant to § 2.2-4019 of the Code of Virginia.

3VAC10-30-150. Denial of a cannabis dispensing facility permit application.

A. The board may deny an application for a permit, license, or registration if the applicant:

1. Submits an incomplete, false, inaccurate, or misleading application;

2. Fails to pay all applicable fees; or

3. Fails to comply with all requirements for a marijuana establishment or regulated hemp product retail facility.

B. If the board denies an application for a permit, license, or registration, the board shall provide the applicant with notice of the grounds for the denial and shall inform the applicant of the right to request a hearing pursuant to § 2.2-4019 of the Code of Virginia.

3VAC 10-30-160. Application for and granting of authorization for an additional cultivation location.

A. Pursuant to § 4.1-1602 of the Code of Virginia, the board may authorize a pharmaceutical processor to establish one additional cultivation location. The additional cultivation location shall be located within the same health service area as the pharmaceutical processor.

B. A separate application and fee for an additional cultivation location shall be submitted to the board, along with the following information and documentation:

1. The name and address of the facility, which shall not be within 1,000 feet of a school or daycare;

2. Details regarding the applicant's plans for security to maintain adequate control against the diversion, theft, or loss of cannabis;

3. The distance of the proposed additional cultivation location from the pharmaceutical processor;

4. Details regarding access to a secure transportation network between the proposed additional cultivation location and the pharmaceutical processor;

5. The economic viability of the additional cannabis cultivation at the proposed location; and

6. Any demonstrated demand for additional cannabis cultivation.

C. Prior to authorizing an additional cultivation location, an agent of the board shall perform an inspection of the facility. If inspectors identify any deficiency, the board shall not authorize an additional cultivation location until the pharmaceutical processor has corrected any deficiency identified and the facility has been satisfactorily reinspected, if warranted.

D. An additional cultivation location shall comply with all state and local laws and ordinances.

E. An additional cultivation location authorization shall not be issued to any person to operate from a private dwelling or residence.

F. No person who has been convicted of a felony under the laws of the Commonwealth or another jurisdiction within the last five years shall be employed by or act as an agent of an additional cultivation location.

G. If the additional cultivation location is not operational within 180 days from the date the authorization is issued, the board shall rescind the authorization unless an extension is granted for good cause shown.

H. An additional cultivation location shall be deemed to have commenced operation if cannabis plants are under cultivation by the processor in accordance with the approved application.

I. Once the board has authorized an additional cultivation location, a pharmaceutical processor may begin cultivation of cannabis, and the responsible party or a person who is qualified to provide supervision in accordance with this section shall be present during hours of operation to ensure the safety, security, and integrity of the cannabis.

3VAC10-30-170. Denial of an additional cultivation location application.

A. The board may deny an application for an additional cultivation location if the applicant:

1. Submits an incomplete, false, inaccurate, or misleading application;

2. Fails to pay all applicable fees; or

3. Fails to comply with all requirements for an additional cultivation facility location.

B. If the board denies an application of an additional cultivation location, the board shall provide the applicant with notice of the grounds for the denial and shall inform the applicant of the right to request a hearing pursuant to § 2.2-4019 of the Code of Virginia.

3VAC10-30-180. Marijuana establishment facility modifications.

A. Unless otherwise provided in law or regulation, the PIC or the responsible party designated for the marijuana establishment shall provide any notification or information that is required from a marijuana establishment with respect to its designated areas of oversight.

B. Prior to making any change to the marijuana establishment name, the marijuana establishment shall submit an application for such change to the board and pay the fee.

C. Any person wishing to engage in the acquisition of an existing marijuana establishment or change the location, structure, or approved security system of an existing marijuana establishment shall submit an application to the board and pay the required fee.

1. An authorized agent of the board shall inspect any proposed location or structural changes prior to issuance of a permit or license.

2. Marijuana or marijuana products shall not be moved to a new location until an authorized agent of the Board grants approval.

3VAC10-30-190. Marijuana establishment closing.

A. At least 30 days prior to the date a marijuana establishment closes, either temporarily or permanently, the owner shall:

1. Notify the board; and

2. Post a notice on the window or door of the marijuana establishment.

B. The proposed disposition of all marijuana, industrial hemp extracts, marijuana products, dispensing records, patient information records, and other required records, as applicable, shall be reported to the Board. If the marijuana, marijuana products, and records are to be transferred to another marijuana establishment located in Virginia, the owner shall inform the board and if applicable, medical cannabis patients and include on the public notice the name and address of the marijuana establishment to whom the marijuana, marijuana products, and records are being transferred and the date of transfer.

C. The board may approve exceptions to the public notice requirement due to exigent circumstances, including sudden closing due to fire, destruction, natural disaster, death, property seizure, eviction, bankruptcy, or other emergency circumstances. If the marijuana establishment is not able to meet the notification requirements, the owner shall ensure that the board and public are properly notified as soon as the owner knows of the closure and shall disclose the emergency circumstances preventing the notification within the required deadlines.

3VAC10-30-200. Regulated hemp product retail facility registration.

A. Pursuant to § 4.1-1700 of the Code of Virginia, the board may issue regulated hemp product retail facility registrations for the sale of regulated hemp products.

B. In the event any information contained in the application or accompanying documents changes after being submitted, the applicant shall immediately notify the authority and provide corrected information in a timely manner so as not to disrupt the registration processing period.

C. If the regulated hemp product retail facility is not operational within 180 days from the date the registration is issued, the board shall rescind the registration unless an extension is granted for good cause shown.

D. Unless otherwise provided in law or regulation, the owner or responsible party designated on the application of the regulated hemp product retail facility registration shall provide any notification or information that is required from a regulated hemp product retail facility.

E. Prior to making any change to the regulated hemp product retail facility name, the regulated hemp product retail facility shall submit an application for such change to the board and pay the required fee.

F. Any person wishing to engage in the acquisition of an existing regulated hemp product retail facility, or change the location, structure, or approved security system of an existing regulated hemp product retail facility shall submit an application to the authority and pay the required fee.

1. An authorized agent of the board shall inspect any proposed location or structural changes prior to issuance of a registration.

2. Regulated hemp products shall not be moved to a new location until an authorized agent of the board grants approval.

G. At least 30 days prior to the date a regulated hemp product retail facility closes, either temporarily or permanently, the owner shall:

1. Notify the board; and

2. Post a notice on the window or door of the regulated hemp product retail facility.

H. The proposed disposition of all regulated hemp products and required records, as applicable, shall be reported to the board. If the regulated hemp products and records are to be transferred to another regulated hemp product retail facility located in Virginia, the owner shall inform the board and the name and address of the regulated hemp product retail facility to whom the regulated hemp products and records are being transferred and the date of transfer.

I. The board may approve exceptions to the public notice requirement due to exigent circumstances, including sudden closing due to fire, destruction, natural disaster, death, property seizure, eviction, bankruptcy, or other emergency circumstances. If the regulated hemp product retail facility is not able to meet the notification requirements, the owner shall ensure that the board and public are properly notified as soon as the owner knows of the closure and shall disclose the emergency circumstances preventing the notification within the required deadlines.

J. In the event of an exception to the notice, the responsible party or owner shall provide notice as far in advance of closing as allowed by the circumstances.

DRAFT

Chapter 40 Regulated Operations

Part I. General Provisions

3VAC10-40-10. Definitions.

In addition to words and terms defined in the Cannabis Control Act (§ 4.1-600 et seq. of the Code of Virginia), the following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise**:**

"Batch" means a specific quantity of (i) marijuana product infused, manufactured, or prepared for distribution or sale from the same set of ingredients at the same time and identified by unique batch identifier or (ii) harvested botanical marijuana product that is uniform in strain, grown from one or more seeds or cuttings that are planted and harvested at the same time, cultivated under the same conditions, and identified by a unique batch identifier.

"Additional cultivation location" means a secondary site at which the board has authorized a pharmaceutical processor to cultivate cannabis plants pursuant to § 4.1-1602 of the Code of Virginia and the requirements of 3VAC10-30-160.

"Marijuana product advertising" means the act of providing consideration for the publication, dissemination, solicitation, or circulation of visual, oral, or written communication through any means to directly induce any person to patronize a particular marijuana establishment or to purchase particular approved marijuana products. Advertising includes marketing.

"Cartoon" means any drawing, sketch, computer-generated illustration, or other depiction of an object, person, animal, creature, or any similar caricature that meets any of the following criteria:

1. The use of comically exaggerated features;
2. The attribution of human characteristics to animals, plants, or other objects;
3. The attribution of animal, plant, or other object characteristics to humans; or
4. The attribution of unnatural or extra-human abilities.

“Certificate of analysis” or “COA” means an official document issued by a marijuana testing facility or an accredited independent laboratory that shows results of laboratory tests performed on a product.

"Companion" means a person who provides fellowship and protection for an elderly person or person with an illness, injury, or disability who requires assistance with self-care.

“Consumer” means a person who is 21 years or age or older and does not have any non-age-related legal restrictions barring them from purchasing or using retail marijuana in Virginia.

“Designated supervisor” means the employee identified pursuant to 3VAC10-30-130 and 3VAC10-30-135.

"Endorse" means declaring public approval, support, or recommendation of a practitioner, including sharing information online and hosting or facilitating events that would promote a particular practitioner's services above others. Patient education events are permissible provided the event (i) is clearly focused on patient education and (ii) offers information about multiple practitioners without favor or emphasis on a particular practitioner.

"Immediate container" means a container that is in direct contact with marijuana or a marijuana product or, if a wrapper is in direct contact with the marijuana or the marijuana product, with the wrapper.

"Marijuana products" means the same as that term is defined in § 4.1-600 of the Code of Virginia and includes “cannabis product” as defined in § 4.1-1600 of the Code of Virginia, unless otherwise provided by law or regulation.

"On duty" means that a pharmacist, the responsible party, or a person who is qualified to provide supervision is on the premises at the address of the marijuana establishment or regulated hemp product retail facility and is available as needed.

"Package" or "packaging" means any inner or outer container or covering.

"Inventory tracking" means an ongoing system for recording quantities of marijuana products received, dispensed, or otherwise distributed by a marijuana establishment.

"PIC" means the pharmacist-in-charge whose name is on the pharmaceutical processor or cannabis dispensing facility application for a permit that has been issued and who shall have oversight of the processor's dispensing area or cannabis dispensing facility.

"Qualifying patient" means a Virginia resident who has received from a practitioner, as defined in § 4.1-1600 of the Code of Virginia, a written certification for the use of cannabis products for treatment of or to alleviate the symptoms of any diagnosed condition or disease.

"Registered marijuana product" means marijuana flower, concentrated marijuana, marijuana extracts, and products that are infused with marijuana or an extract thereof intended for use or consumption by humans and approved by the board.

"Responsible party" means the person designated on the permit, license, or registration application who shall have oversight of operations of the marijuana establishment or regulated hemp product retail facility in accordance with 3VAC1-40-120.

“Sales area” means as any secured area within the licensed premises where retail marijuana store employees sell marijuana or marijuana products to adults 21 and older.

“Secured area" means a building, room or other contiguous area within the licensed premises where marijuana is grown, cultivated, harvested, stored, weighed, packaged, sold, processed for sale, or disposed under control of the marijuana establishment.

3VAC10-40-20. General provisions.

A. A marijuana establishment or regulated hemp product retail facility shall only sell marijuana products or regulated hemp products containing tetrahydrocannabinol in a child-resistant, secure, and light-resistant container.

B. The PIC, pharmacist, responsible party, or designated supervisor on duty shall restrict access to the marijuana establishment to:

1. A person whose responsibilities necessitate access to the marijuana establishment and then for only as long as necessary to perform the person's job duties; or

2. A person who is a patient, parent, legal guardian, registered agent, a companion of the patient, or consumer, in which case such person shall not be permitted behind the service counter or in other secured areas where marijuana plants, extracts, or marijuana products are stored.

C. While inside the marijuana establishment, all employees shall wear name tags or similar forms of identification that clearly identify them, including their position at the marijuana establishment.

D. A marijuana establishment or regulated hemp product retail facility that will remain closed during its normal hours of operations for longer than two business days shall immediately notify the board.

E. The marijuana establishment or regulated hemp product retail facility shall establish, implement, and adhere to a written alcohol-free, drug-free, and smoke-free workplace policy that shall be available to the board or the board's agent upon request.

F. A marijuana establishment must prominently display a decal issued by the Authority. The decal must be displayed outside and within the facility at all times.

3VAC10-40-25. General requirements for dual-use facilities.

A. Only a pharmacist may dispense cannabis products to patients or parents or legal guardians of patients who are minors or vulnerable adults, or to a registered agent. A pharmacy technician who meets the requirements of 3VAC10-30-145 D may assist, under the direct supervision of a pharmacist, in the dispensing and selling of cannabis products.

B. A pharmacist, pharmacy technician, or an employee of the pharmaceutical processor or cannabis dispensing facility who has routine access to confidential patient data and who has signed a patient data confidentiality agreement with the processor or dispensing facility may determine eligibility for access to the processor or facility by verifying through a verification source recognized by the board that the registration of the patient, parent, legal guardian, or registered agent is current.

C. All pharmacists and pharmacy technicians shall, at all times while at the pharmaceutical processor or cannabis dispensing facility, have their current license or registration available for inspection by the board or the board's agent.

D. A pharmaceutical processor or cannabis dispensing facility shall be open for patients, parents, legal guardians, or registered agents to purchase cannabis products for a minimum of 35 hours a week, except as otherwise authorized by the board.

E. A pharmaceutical processor or cannabis dispensing facility that closes the dispensing area during its normal hours of operation shall implement procedures to notify patients, parents, legal guardians, and registered agents of when the pharmaceutical processor or cannabis dispensing facility will resume normal hours of operation. Such procedures may include telephone system messages and conspicuously posted signs.

3VAC10-40-30. Facility prohibitions for marijuana establishments.

A. No marijuana establishment shall:

1. Conduct regulated operations in any place except the approved facility at the address of record on the license or permit application;

2. Sell, deliver, transport, or distribute marijuana, including marijuana products, to any other facility except as authorized by §4.1-804 and §4.1-805 of the Code of Virginia and 3VAC10-40-50;

3. Produce or manufacture marijuana products for use outside of Virginia;

4. Provide marijuana product samples, except as otherwise authorized by regulation;

5. Endorse or promote a practitioner; or

6. Provide anything of value, directly or indirectly, to a practitioner.

B. When a pharmacist, responsible party, or designated supervisor is not on the premises and directly supervising the activity within the dispensing or sales area of the marijuana establishment:

1. The dispensing or sales area shall not be open or in operation;

2. No person shall be in the dispensing or sales area unless all marijuana products are contained in a vault or other similar container to which only the pharmacist, responsible party, or designated supervisor has access controls; and

3. The dispensing or sales area shall be closed and properly secured.

C. Employee access to secured areas is only permissible when a pharmacist, responsible party, or designated supervisor is on the premises.

D. No marijuana establishment shall sell anything other than marijuana products except for devices for administration of regulated products or hemp-based CBD products.

E. Except as otherwise provided in this section, no person other than a marijuana establishment employee shall be allowed behind the service counter or in other secured areas of the licensed facility.

F. Marijuana testing facility staff may enter a marijuana establishment for the sole purpose of identifying and collecting marijuana or marijuana product test samples to conduct laboratory tests.

G. A marijuana establishment shall submit a written request for entry to secured areas of the licensed facility by parties of more than 5 persons to the authority.

H. An employee of a business that is contracted by a marijuana establishment may be allowed on the premises of the licensee to perform the employee's duties (e.g. security, cleaning, electrical, plumbing) without requesting board authorization. The marijuana establishment should apply the requirements for visitor access found in subsection K of this section to the contracted employee.

I. All persons authorized to enter the secured areas of the marijuana establishment shall obtain a visitor identification badge from an establishment employee prior to entering the establishment.

1. An employee shall escort and monitor an authorized visitor at all times the visitor is in the marijuana establishment.

2. The visitor identification badge shall remain visible at all times the visitor is in the marijuana establishment, and the visitor shall return the visitor identification badge to an employee upon exiting the marijuana establishment.

3. All visitors shall log in and out. The marijuana establishment shall maintain the visitor log that shall include the name, the date, time, and purpose of the visit and be available to the board.

4. If an emergency requires the presence of a visitor and makes it impractical for the marijuana establishment to obtain required prior authorization from the authority, the marijuana establishment shall provide written notice to the board as soon as practicable after the onset of the emergency. Such notice shall include the name and company affiliation of the visitor, the purpose of the visit, and the date and time of the visit. A marijuana establishment shall monitor the visitor and maintain a log of such visit as required by this subsection.

J. No marijuana products shall be sold, dispensed, or distributed via any other manner outside of a marijuana establishment; however, a parent, legal guardian, registered agent, or licensed delivery operator may deliver marijuana products to the patient or consumer in accordance with regulations adopted by the board.

1. No marijuana or marijuana product shall be dispensed or sold using an automated dispensing or vending machine.

2. No marijuana establishment may conduct retail marijuana sales using a drive-thru sales window, curbside pickup, or an automated dispensing or vending machine.

3. Notwithstanding any other provision of law, a pharmaceutical processor or cannabis dispensing facility may utilize a drive-thru sales window to dispense medical cannabis products to a patient,

registered agent, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369 of the Code of Virginia, such patient's parent or legal guardian.

K. A pharmaceutical processor or cannabis dispensing facility providing drive-through or services shall:

1. Dispense through a window or other opening in the exterior wall of the facility that enables an employee to serve a qualifying patient or a registered agent without the qualifying patient or registered agent leaving their vehicle;

2. Pass a pre-operation inspection before use;

3. Meet all other requirements for a sales area, including:

a. The window or opening in the exterior wall shall be constructed to prevent unauthorized entry;

b. Security lighting, alarms systems, and video surveillance;

c. Displaying the licensed dispensary's license and hours of operation at the entrance to the drive-through dispensing zone; and

d. Secured doors and other access points between secured areas and sale areas; and

e. Adhere to its standard operating procedures and requirements for dispensing medical cannabis.

4. Only fulfill pre-orders through the drive-through method.

L. Notwithstanding the requirements of subsection E of this section, an agent of the board or local law enforcement or other federal, state, or local government officials may enter any area of a marijuana establishment necessary to perform such individual's governmental duties.

3VAC10-40-35. Facility prohibitions for regulated hemp product retail facilities.

A. No regulated hemp product retail facility shall:

1. Conduct regulated operations in any place except the approved facility at the address of record on the registration application for the regulated hemp product retail facility;

2. Sell, deliver, transport, or distribute regulated hemp products to any other facility except as authorized by § 4.1-1700 of the Code of Virginia and 3VAC10-40-50;

3. Produce or manufacture regulated hemp products for use;

4. Provide regulated hemp product samples, except as otherwise authorized by regulation;

5. Endorse or promote a practitioner; or

6. Provide anything of value, directly or indirectly, to a practitioner.

B. When a facility owner, responsible party, or designated supervisor is not on the premises and is directly supervising the activity within the sales area of the regulated hemp product retail facility:

1. The sales area shall not be open or in operation;

2. No person shall be in the sales area unless all regulated hemp products are contained in a vault or other similar container to which only the owner, responsible party, or designated supervisor has access controls; and

3. The sales area shall be closed and properly secured.

C. Employee access to secured areas of the regulated hemp product retail facility is only permissible when the owner, responsible party, or designated supervisor is on the premises.

D. No person other than a regulated hemp product retail facility employee shall be allowed behind the service counter or in other areas of the regulated hemp product retail facility where regulated hemp products are stored.

E. No regulated hemp products shall be sold, dispensed, or distributed via any other manner outside of a regulated hemp product retail facility except in accordance with regulations adopted by the board. No regulated hemp product retail facility may conduct retail sales of regulated hemp product using a drive-thru sales window, curbside pickup, or an automated dispensing or vending machine.

F. Notwithstanding the requirements of subsection D of this section, an agent of the board or local law enforcement or other federal, state, or local government officials may enter any area of a regulated hemp product retail facility necessary to perform such individual's governmental duties.

3VAC10-40-40. Electronic tracking.

A. A marijuana establishment must implement and maintain an electronic tracking system as prescribed by the authority.

B. A marijuana establishment shall identify, monitor, and track all marijuana through a unique identifier assigned at seed acquisition or plant propagation. Each harvest or production lot of marijuana products must be separated and assigned a unique batch identifier that is traceable in the statewide seed-to-sale tracking system. All marijuana inventory, including immature plants, seeds, and mature plants, must be physically tagged and tracked individually with unique identifier tags that are easily accessible and plainly visible.

C. A marijuana establishment shall maintain a record of all marijuana through cultivation and processing until transferred, distributed to qualifying patients, parents, legal guardians, registered agents, or consumer, or otherwise disposed of according to 3VAC10-50-110.

D. A regulated hemp product retail facility shall maintain a record of all regulated hemp products received, transferred, disposed, sold, or otherwise distributed.

3VAC10-40-50. Wholesale distribution.

A. Marijuana and marijuana products from a batch that have passed the tests required in 3VAC10-60-50 and are packaged and labeled for sale with an appropriate expiration date in accordance with 3VAC10-60-50 may be wholesale distributed between marijuana establishments.

B. Marijuana and marijuana products that have not been packaged for sale and have not passed the tests required in 3VAC10-60-50 and do not bear an appropriate expiration date may be wholesale distributed between facilities that are licensed by the Board to process, label, and package marijuana and marijuana products. Prior to distribution, marijuana and marijuana products shall be labeled in compliance with 3VAC10-70-30.

C. A marijuana establishment engaged in wholesale distribution of marijuana products shall create a record of the transaction that shows (i) the date of distribution; (ii) the names and addresses of the marijuana establishment distributing the product and the marijuana establishment receiving the product; (iii) the kind and quantity of product being distributed; and (iv) the batch information, including the unique batch identifier, testing date, processing or manufacturing date, and expiration date. The record of the transaction shall be maintained by the distributing marijuana establishment with its records of distribution, and a copy of the record shall be provided to and maintained by the marijuana establishment receiving the product in its records of receipt. Such records shall be maintained by each processor or facility for three years in compliance with 3VAC10-40-70.

D. A marijuana establishment authorized to engage in wholesale distribution of marijuana and marijuana products shall create a record of the transaction.

1. The record of the transaction shall show (i) the date of distribution; (ii) the names and addresses of the marijuana establishment distributing the marijuana and marijuana products and the marijuana establishment receiving the marijuana and marijuana products; (iii) the quantity or weight of the marijuana and marijuana products in each container; (iv) the quantity of each type of container being distributed; (v) the identification of the contents of each container, including a brief description of the type or form marijuana and marijuana product and the strain name, as appropriate; (vi) unique batch identifier so as to facilitate any warnings or recalls the board or marijuana establishment deem appropriate; and (vii) the dates of harvest and packaging.

2. The record of the transaction shall be maintained by the distributing marijuana establishment with its records of distribution, and a copy of the record shall be provided to and maintained by the marijuana establishment receiving the product in its records of receipt.

3. Such records shall be maintained by each marijuana establishment for three years in compliance with 3VAC10-40-70.

E. A marijuana establishment engaged in the wholesale distribution of marijuana products shall provide the receiving marijuana establishment with a copy of the lab results for the distributed product or electronic access to the information that can be shared upon request to patients, parents, legal guardians, registered agents, practitioners who have certified qualifying patients, consumer, or an agent of the board.

F. A marijuana establishment engaged in the wholesale distribution of marijuana products shall store and handle the items and maintain policies and procedures that include a process for executing or responding to mandatory and voluntary recalls in a manner that complies with 3VAC10-50-40.

G. If a marijuana establishment participating in wholesale distribution uses an electronic system for the storage and retrieval of records related to distribution, the marijuana establishment shall use a system that is compliant with 3VAC10-40-70.

3VAC10-40-60. Inventory requirements.

A. Upon commencing operation, each marijuana establishment shall conduct an initial comprehensive inventory of all marijuana, and marijuana products at the marijuana establishment. If a marijuana establishment commences business with no marijuana or marijuana products on hand, the pharmacist or responsible party shall record this fact as the initial inventory.

B. Each marijuana establishment shall establish ongoing inventory controls and procedures to conduct inventory reviews and comprehensive inventories of all marijuana plants, including the seeds, parts of plants, extracts, and marijuana products that shall enable the facility to detect any diversion, theft, or loss in a timely manner.

C. For all inventories conducted by a marijuana establishment:

1. The responsible party shall ensure all required inventories are performed in the cultivation and production areas, and the PIC or responsible party shall ensure all required inventories are performed in the dispensing area.

2. The inventory shall be conducted by a pharmacist, pharmacy technician, responsible party, or designated supervisor who provides supervision of cultivation or production-related activities.

3. The inventories shall include, at a minimum, the date of the inventory, a summary of the inventory findings, and the name, signature, and title of the person who conducted the inventory.

D. Upon commencing operation, each marijuana establishment shall conduct a weekly inventory of all marijuana plants, including the seeds, parts of plants, and marijuana products in stock, that shall comply with the requirements of subsection C of this section.

E. Upon commencing operation, each marijuana establishment shall maintain inventory tracking of all marijuana products received and dispensed that accurately indicates the physical count of each marijuana product on hand at the time of performing the inventory. Inventory tracking shall include a reconciliation of each marijuana product at least monthly with a written explanation for any difference between the physical count and the theoretical count.

F. The record of all marijuana products sold, dispensed, or otherwise disposed of shall show the date of sale or disposition; the name of the marijuana establishment; the name and address of the patient, parent, legal guardian, or registered agent to whom the marijuana product was sold if applicable; the kind and quantity of marijuana product sold or disposed of; and the method of disposal.

G. A complete and accurate record of all marijuana plants, including the seeds, parts of plants, and marijuana products on hand, shall be prepared annually on the anniversary of the initial inventory or such other date that the PIC or responsible party may choose, so long as it is not more than one year following the prior year's inventory.

H. Upon commencing operation, each regulated hemp product retail facility shall conduct an initial comprehensive inventory of all regulated hemp products at the regulated facility. If a regulated facility commences business with no regulated hemp products on hand, the owner or responsible party shall record this fact as the initial inventory. Each regulated hemp product retail facility shall establish inventory tracking controls and procedures to conduct inventory reviews and comprehensive inventories of all regulated hemp products that shall enable the facility to detect any diversion, theft, or loss in a timely manner. A complete and accurate record of all regulated hemp products, including all required certificates of analysis, shall be prepared and submitted to the authority monthly upon the commencement of operations or such other date that the responsible party may choose, so long as it is not more than one month following the prior month's inventory. The inventories shall include, at a minimum, the date of the inventory, a summary of the inventory findings, and the name, signature, and title of the person who conducted the inventory.

I. All inventories, procedures, and other documents required by this section shall be maintained on the premises and made available to the board or its agent.

J. Inventory records shall be maintained for three years from the date the inventory was taken.

K. Whenever a person authorized to enforce state or federal law for the purpose of investigation or as evidence removes any sample or record, such person shall tender a receipt in lieu thereof and the receipt shall be kept for a period of at least three years.

3VAC10-40-70. Recordkeeping requirements.

A. If a marijuana establishment or regulated hemp product retail facility uses an electronic system for the storage and retrieval of patient information or other records related to cultivating, producing, distributing, and dispensing or selling marijuana or regulated hemp products, as applicable, the marijuana establishment or regulated hemp product retail facility shall use a system that:

1. Guarantees the confidentiality of the information contained in the system;

2. Is capable of safeguarding against erasures and unauthorized changes in data after the information has been entered and verified by the pharmacist or responsible party; and

3. Is capable of being reconstructed in the event of a computer malfunction or accident resulting in the destruction of the data bank.

B. All records relating to inventory, laboratory results, and dispensing or sales shall be maintained for a period of three years and shall be made available to the board upon request.

3VAC10-40-80. Storage and handling requirements.

A. A marijuana establishment shall:

1. Have storage areas that provide adequate lighting, ventilation, sanitation, space, equipment, and security conditions for authorized activities;

2. Store marijuana plants, seeds, parts of plants, and extracts, including marijuana products, that are outdated, damaged, deteriorated, misbranded, adulterated, or whose containers or packaging have been opened or breached, in a separate quarantined storage area until such marijuana plants, seeds, parts of plants, extracts, or marijuana products are destroyed;

3. Be maintained in a clean, sanitary, and orderly condition and be free from infestation by insects, rodents, birds, or vermin of any kind;

4. Compartmentalize all areas in the facility based on function and shall restrict access between compartments;

5. Make marijuana or marijuana products accessible only to the minimum number of specifically authorized employees essential for efficient operation; and

6. Return such items to their secure location immediately after completion of the production, transfer, or analysis process or at the end of the scheduled business day.

B. If a production process cannot be completed at the end of a working day, the pharmacist, responsible party, or designated supervisor shall securely lock the processing area or tanks, vessels, bins, or bulk containers containing marijuana, including the seeds, parts of plants, extracts, and marijuana products, inside an area or building that affords adequate security.

C. The marijuana establishment shall store all marijuana and marijuana products in such a manner as to prevent diversion, theft, or loss and return the marijuana or marijuana products to their secure location at the completion of the dispensing, sales, or at end of the scheduled business day.

D. The marijuana establishment shall establish, maintain, and comply with written policies and procedures regarding best practices for the secure operations. These shall include policies and procedures that:

1. Restrict movement between compartments;

2. Provide for different colored identification cards for employees based on the compartment to which the employees are assigned at a given time so as to ensure that only employees necessary for a particular function have access to that compartment of the facility; and

3. Document the chain of custody of all marijuana or marijuana products.

E. A marijuana establishment shall establish, maintain, and comply with written policies and procedures regarding best practices for the secure and proper dispensing of marijuana products.

F, The PIC or responsible party of a marijuana establishment shall establish, maintain, and comply with written policies and procedures for authorized activities, security, storage, and inventory of marijuana or marijuana products, as applicable. Such policies and procedures shall include methods for identifying, recording, and reporting diversion, theft, or loss and for correcting all errors and inaccuracies in

inventories. A marijuana establishment shall include in their written policies and procedures a process for:

1. Handling mandatory and voluntary recalls of marijuana products distributed or received via wholesale distribution. The process shall be adequate to deal with recalls due to any action initiated at the request of the board and any voluntary action by the marijuana establishment to (i) remove defective or potentially defective marijuana products from the market or (ii) promote public health and safety by replacing existing marijuana products with improved products or packaging;

2. Preparing for, protecting against, and handling any crises that affect the security or operation of any facility in the event of labor strike, fire, flood, or other natural disaster, or other situations of local, state, or national emergency;

3. Ensuring that any outdated, damaged, deteriorated, misbranded, or adulterated products including marijuana or marijuana products, are segregated from all marijuana, including seeds, parts of plants, extracts, and marijuana products, is destroyed. This procedure shall provide for written documentation of the marijuana, including seeds, parts of plants, extracts, and marijuana product disposition; and

4. Ensuring the oldest stock of marijuana, including seeds, parts of plants, extracts, and marijuana products are used first. The procedure may permit deviation from this requirement if such deviation is temporary and appropriate.

3VAC10-40-90. Cooperative agreements.

A. Impact licensees and microbusinesses may request, in a manner prescribed by the board, approval from the Authority to:

1. Enter into cooperative agreements;

2. Lease space and equipment and cultivate, process, and sell marijuana and marijuana products on the premises of another licensee; and

3. Process marijuana and marijuana products out of a shared processing space.

B. No more than one license authorizing outdoor cultivation may be exercised on any given parcel of land, nor on parcels that are contiguous and under common ownership or control to said parcel.

C. Each licensee within the shared space is required to comply with all inventory tracking, record keeping, and security requirements required for marijuana establishments by law and regulation, unless otherwise authorized by the board.

Part II. Personnel And Security

3VAC10-40-100. Employee training.

A. All employees of a marijuana establishment shall complete training prior to the employee commencing work at the marijuana establishment. At a minimum, the training shall be in the following areas:

1. The proper use of security measures and controls that have been adopted for the prevention of diversion, theft, or loss of marijuana, including the seeds, any parts or extracts of the marijuana plants, and marijuana products;

2. Procedures and instructions for responding to an emergency;

3. Professional conduct, ethics, state and federal statutes and regulations regarding privacy and confidentiality;

4. Rules and regulations regarding the legal cultivation, processing, transportation, handling, and sale of marijuana in Virginia;

5. Health and safety education regarding marijuana use, including but not limited to, health risks associated with marijuana usage, safe and responsible marijuana consumption, and responsible service;

6. Safety and sanitation procedures;

7. Proper use of the statewide seed-to-sale tracking system; and

8. Procedures for verifying the identity and age of qualifying patients, parents, legal guardians, registered agents, or consumers, as applicable to the license type.

B. The PIC or the responsible party shall ensure the continued competency of all employees in the respective areas for which they have oversight through continuing in-service training that is provided at least annually, is designed to supplement initial training, and includes any guidance specified by the board.

C. The PIC or the responsible party shall be responsible for maintaining a written record documenting the initial and continuing training of all respective employees that shall contain:

1. The name of the person receiving the training;

2. The dates of the training;

3. A general description of the topics covered;

4. The name of the person supervising the training; and

5. The signatures of the person receiving the training and the PIC or the responsible party; and,

6. Attestation that the person receiving the training demonstrates an understanding of the course material.

D. When a change of PIC or responsible party for the marijuana establishment occurs, the new PIC or responsible party shall review the training record and sign it, indicating that the new PIC or responsible party understands its contents.

E. A marijuana establishment shall maintain the record documenting the employee training and make it available in accordance with regulations.

F. A marijuana establishment must make a copy of the training material, detailing all topics covered in the required employee training, accessible to employees while at the licensed premises.

3VAC10-40-110. Pharmacy technicians; ratio; supervision and responsibility.

A. The ratio of pharmacy technicians to pharmacists on duty in the areas of a pharmaceutical processor designated for production or dispensing or in a cannabis dispensing facility shall not exceed six pharmacy technicians to one pharmacist.

B. The pharmacist providing direct supervision of pharmacy technicians may be held responsible for the pharmacy technicians' actions. Any violations relating to the dispensing of cannabis products resulting from the actions of a pharmacy technician shall constitute grounds for action against the license of the pharmacist and the registration of the pharmacy technician. As used in this subsection, "direct supervision" means a supervising pharmacist who:

1. Is on duty where the pharmacy technician is performing routine production of cannabis products or dispensing functions; and

2. Conducts in-process and final checks on the pharmacy technician's performance.

C. Pharmacy technicians shall not:

1. Counsel a patient, a patient's parent, legal guardian, or registered agent regarding (i) cannabis products or other drugs either before or after cannabis products have been dispensed or (ii) any medical information contained in a patient medication record;

2. Consult with the practitioner who certified the patient, or the practitioner's agent, regarding a patient or any medical information pertaining to the patient's cannabis product or any other drug the patient may be taking;

3. Interpret the patient's clinical data or provide medical advice;

4. Determine whether a different formulation of cannabis product should be substituted for the cannabis product or formulation recommended by the practitioner or requested by the patient or parent or legal guardian; or

5. Communicate with a practitioner who certified a patient or the practitioner's agent to obtain a clarification on a qualifying patient's written certification or instructions.

3VAC10-40-120. Responsibilities of the responsible party.

A. The person who is designated as the responsible party for a pharmaceutical processor, marijuana cultivation facility, marijuana processing facility, or microbusiness shall practice at the location of the address on the application, shall have oversight of the cultivation and production areas, and shall possess at least two years of verifiable experience cultivating plants or extracting chemicals from plants.

B. A person may only serve as the responsible party for one marijuana establishment or regulated hemp product retail facility at any one time. The responsible party shall be employed full time in a managerial position at the location of the marijuana establishment or regulated hemp product retail facility and shall be actively engaged in daily operations of the establishment during normal hours of operation.

C. The responsible party shall be aware of and knowledgeable about all policies and procedures pertaining to the operations of the marijuana establishment or regulated hemp product retail facility.

D. The responsible party shall ensure compliance with all security measures to protect the marijuana or regulated hemp products within the establishment premises from diversion at all times and ensure that authorized business operations are performed in a safe and compliant manner and free of adulteration and misbranding.

E. The responsible party shall be responsible for ensuring that:

1. All employees practicing in the secured areas of the licensed or registered premise are properly trained;

2. All record retention requirements are met;

3. All requirements are met for the physical security of the marijuana, including the seeds, any parts or extracts of the marijuana plants, and marijuana or regulated hemp products within the licensed or registered premise; and

4. Any other required filings or notifications regarding all areas of the licensed or registered premise are made on behalf of the marijuana establishment or regulated hemp product retail as set forth in this chapter; and

5. The following items are conspicuously posted in the marijuana establishment or regulated hemp product retail facility in a location and in a manner so as to be clearly and readily identifiable to consumers;

a. Marijuana establishment license or regulated hemp product retail facility registration, and;

b. The price of all cannabis or regulated hemp products offered by the marijuana establishment or regulated hemp product retail facility.

F. When the responsible party ceases practice at a marijuana establishment or regulated hemp product retail facility or no longer wishes to be designated as the responsible party, the responsible party shall immediately notify the board and indicate the effective date on which the responsible party ceased or will cease to be the responsible party.

G. A responsible party who is absent from a marijuana establishment or regulated hemp product retail facility for more than 30 consecutive days shall be deemed to no longer be the responsible party. If the responsible party knows of an upcoming absence of longer than 30 days, the responsible party shall be responsible for notifying the board. For unanticipated absences by the responsible party that exceed 15 days with no known return date within the next 15 days, the license, registration, or permit holder shall immediately notify the board within 48 hours and shall obtain a new responsible party.

H. If the responsible party resigns or otherwise ceases employment, the marijuana establishment or regulated hemp product retail facility shall notify the board within 48 hours. The marijuana establishment or regulated hemp product facility shall submit a change of responsible party application designating the new responsible party within 14 days of the former responsible party's resignation or termination date. It shall be unlawful for a marijuana establishment or regulated hemp product retail facility to operate without a new responsible party designated past the 14-day deadline unless the board receives a request for an extension prior to the deadline. The authority may grant an extension for up to an additional 14 days for good cause shown.

3VAC10-40-130. Responsibilities of the PIC.

A. The PIC of a pharmaceutical processor shall not serve as PIC of any other pharmaceutical processor or cannabis dispensing facility at any one time. A processor shall employ the PIC at the pharmaceutical processor for at least 35 hours per week, except as otherwise authorized by the board. A person may serve simultaneously as the PIC for no more than two cannabis dispensing facilities located within the same health service area at any one time.

B. The PIC or the pharmacist on duty shall control all aspects of the practice in the dispensing area of the pharmaceutical processor or in a cannabis dispensing facility. Any decision overriding such control of the PIC or other pharmacist on duty may be grounds for disciplinary action against the pharmaceutical processor or cannabis dispensing facility permit.

C. The PIC of a pharmaceutical processor or cannabis dispensing facility shall be responsible for ensuring that:

1. Pharmacy technicians are registered and properly trained;

2. All record retention requirements pertaining to the dispensing area are met;

3. All requirements for the physical security of the cannabis products are met;

4. The pharmaceutical processor or cannabis dispensing facility has appropriate pharmaceutical reference materials to ensure that cannabis products can be properly dispensed;

5. The following items are conspicuously posted in the pharmaceutical processor or cannabis dispensing facility in a location and in a manner so as to be clearly and readily identifiable to patients, parents, legal guardians, or registered agents:

a. Pharmaceutical processor permit or cannabis dispensing facility permit;

b. Licenses for all pharmacists practicing at the pharmaceutical processor or cannabis dispensing facility; and

c. The price of all cannabis products offered by the pharmaceutical processor or cannabis dispensing facility; and

6. Any other required filings or notifications are made on behalf of the dispensing area of the pharmaceutical processor or cannabis dispensing facility as set forth in this chapter.

D. When the PIC ceases practice at a pharmaceutical processor or cannabis dispensing facility or no longer wishes to be designated as PIC, the PIC shall immediately return the permit to the board indicating the effective date on which the PIC ceased to be the PIC.

E. A PIC who is absent from practice for more than 30 consecutive days shall be deemed to no longer be the PIC. If the PIC knows of an upcoming absence of longer than 30 days, the PIC shall be responsible for notifying the board. For unanticipated absences by the PIC that exceed 15 days with no known return date within the next 15 days, the permit holder shall immediately notify the board within 48 hours and shall obtain a new PIC.

F. If the PIC resigns or otherwise ceases employment, the pharmaceutical processor or cannabis dispensing facility shall notify the board within 48 hours. The pharmaceutical processor or cannabis dispensing facility shall submit a change of PIC application within 14 days of the PIC's resignation or termination date. It shall be unlawful for a pharmaceutical processor or cannabis dispensing facility to operate without a new PIC designated past the 14-day deadline unless the board receives a request for an extension prior to the deadline. The authority may grant an extension for up to an additional 14 days for good cause shown.

3VAC10-40-140. Security requirements.

A. At no time shall a marijuana establishment cultivate marijuana or maintain marijuana products in excess of the quantity required for normal, efficient operation.

B. A marijuana establishment shall properly secure all marijuana and marijuana products. To secure these items, a marijuana establishment shall:

1. Maintain all marijuana and marijuana products in a secure area or location accessible only by the minimum number of authorized employees essential for efficient operation;

2. Store all cut parts of marijuana plants, and marijuana products in an approved safe or approved vault within the marijuana establishment and not sell marijuana products when the marijuana establishment is closed;

3. Keep all approved safes, approved vaults, or any other approved equipment or areas used for the production, cultivation, harvesting, processing, manufacturing, or storage of marijuana products securely locked or protected from entry, except for the actual time required to remove or replace the marijuana, seeds, parts of plants, extracts, or marijuana products;

4.Secure all primary and secondary points of entry into the marijuana establishment, including maintaining commercial-grade, non-residential door locks and securing any secondary entrances including windows, roofs, and ventilation systems;

5. Restrict access to keys or codes to all safes, approved vaults, or other approved equipment or areas in the dispensing or sales area to employees at the marijuana establishment;

6. Restrict access to keys or codes to all safes, approved vaults, or other approved equipment or secured areas in the to the responsible party and to those authorized by the responsible party. The responsible party shall authorize access to employees in the establishment or persons supervising cultivation-related or production-related activities at the establishment; and

7. Not allow keys to be left in the locks or otherwise accessible to persons not authorized by the PIC or responsible party.

C. The PIC or responsible party may designate employees, other than a pharmacist or designated supervisor at the marijuana establishment, to have the ability to unlock a secured area to gain entrance to perform required job duties, but only during hours of operation of the marijuana establishment. At no time shall these employees have access to the security system.

D. The marijuana establishment shall have an adequate security system to prevent and detect diversion, theft, or loss of marijuana, or marijuana products. A failure notification system and a back-up alarm system with an ability to remain operational during a power outage shall be installed in each marijuana establishment. The installation and the operation of the system shall meet accepted alarm industry standards, subject to the following conditions:

1. The system shall include a sound, microwave, photoelectric, ultrasonic, or other generally accepted and suitable device;

2. The system shall be monitored in accordance with accepted industry standards, be maintained in operating order, have an auxiliary source of power, and be capable of sending an alarm signal to the monitoring entity when breached if the communication line is not operational;

3. The system shall fully protect the entire facility and shall be capable of detecting any failure in the system when activated;

4. The system shall include a duress alarm, a panic alarm, and an automatic voice dialer;

5. Access to the alarm system shall be restricted to the authorized employees of the marijuana establishment, and the system shall be activated whenever the marijuana establishment is closed for business; and

6. Access to the alarm system in areas of a marijuana establishment that are designated for authorized activities shall be restricted to the responsible party and to those authorized by the responsible party.

E. A marijuana establishment shall keep the outside perimeter of the premises well lit.

F. A marijuana establishment shall have fixed video cameras in all areas that may contain marijuana, or marijuana products and at all points of entry and exit, which shall be appropriate for the normal lighting conditions of the area under surveillance.

1. The marijuana establishment shall direct cameras at all approved safes, approved vaults, dispensing areas, or sales areas, and any other area where marijuana plants, or marijuana products being produced, harvested, manufactured, stored, or handled. At entry and exit points, the marijuana establishment shall angle cameras so as to allow for the capture of clear and certain identification of any person entering or exiting the facility.

2. The video system shall have:

a. A failure notification system that provides an audible, text, or visual notification of any failure in the surveillance system or video surveillance system storage device. The failure notification system shall provide an alert to the marijuana establishment within five minutes of the failure, either by telephone, email, or text message;

b. The ability to immediately produce a clear color still photo that is a minimum of 9600 dpi from any camera image, live or recorded;

c. A date and time stamp embedded on all recordings. The date and time shall be synchronized and set correctly and shall not significantly obscure the picture; and

d. The ability to remain operational during a power outage.

3. All video recordings shall allow for the exporting of still images in an industry standard image format. Exported video shall have the ability to be archived in a proprietary format that ensures authentication of the video and guarantees that no alteration of the recorded image has taken place. Exported video shall also have the ability to be saved in an industry standard file format that can be played on a standard computer operating system.

4. The marijuana establishment shall make 24-hour recordings from all video cameras available for immediate viewing by the board or the board's agent upon request and shall retain the recordings for at least 30 days. If a marijuana establishment is aware of a pending criminal, civil, or administrative investigation or legal proceeding for which a recording may contain relevant information, the marijuana establishment shall retain an unaltered copy of the recording until the investigation or proceeding is closed or the entity conducting the investigation or proceeding notifies the PIC or responsible party that it is not necessary to retain the recording.

G. Licensees with an outdoor cultivation operation must implement security measures, in addition to those required of all licensees, to be sufficient to prevent and detect diversion, theft, or loss of marijuana seeds, plants, extracts, or marijuana products. Additional security measures for outdoor operations include:

1. Fencing, building structure, or physical obstacles to prevent unauthorized entry to any cultivation area;

2. Motion-activated flood-lights, which may face away from the plant canopy; and

3. Video-surveillance with an unobscured view of the cultivation area.

H. The marijuana establishment shall maintain all security system equipment and recordings in a secure location so as to prevent theft, loss, destruction, or alterations. All security equipment shall be maintained in good working order and shall be tested at least every six months. The marijuana establishment shall keep all onsite surveillance rooms locked and shall not use such rooms for any other function.

I. A marijuana establishment shall limit access to surveillance areas to persons who are essential to surveillance operations, law-enforcement agencies, security system service employees, the board or the board's agent, and others when approved by the board. A marijuana establishment shall make available a current list of authorized employees and security system service employees who have access to the surveillance room of the establishment or facility.

J. Any other safeguard the board determines necessary subsequent to a physical site inspection of a licensed premises.

K. If diversion, theft, or loss of marijuana, or cannabis products has occurred from a marijuana establishment, the board may require additional safeguards to ensure the security of the products.

L. All marijuana establishment authorized to dispense marijuana and marijuana products or conduct retail sales of marijuana and marijuana product shall limit access to the dispensing area or sales floor to

customers that are at least 21 years of age or a qualified patient, registered agent, or, if such patient is a minor or a vulnerable adult as defined in § 18.2-369, such patient's parent or legal guardian.

3VAC10-40-150. Reportable events.

A. A marijuana establishment or regulated hemp product retail facility shall immediately notify appropriate law-enforcement authorities and the board upon becoming aware of any of the following:

1. Diversion, theft, loss, or discrepancies identified during inventory;

2. Unauthorized destruction of any marijuana or regulated hemp products; or

3. Any loss or unauthorized alteration of records related to regulated products or qualifying patients.

B. A marijuana establishment or regulated hemp product retail facility shall provide the notice required by subsection A of this section to the board by way of a signed statement that details the circumstances of the event, including an accurate inventory of the quantity and registered marijuana or regulated hemp product names of marijuana or regulated hemp product diverted, stolen, lost, destroyed, or damaged and confirmation that the local law-enforcement authorities were notified. A marijuana establishment or regulated hemp product retail facility shall make such notice no later than 24 hours after discovery of the event.

C. A marijuana establishment or regulated hemp product retail facility shall notify the board no later than the next business day, followed by written notification no later than 10 business days, of any of the following:

1. An alarm activation or other event that requires a response by public safety personnel;

2. A breach of security; or

3. The failure of the security alarm system due to a loss of electrical support or mechanical malfunction that is expected to last longer than eight hours.

D. In addition to the notice required by subsection C of this section, the marijuana establishment or regulated hemp product retail facility shall provide written notification to the board no later than 10 business days that details the circumstances of the event and identifies corrective measures taken, if any.

E. A pharmacist, responsible party, marijuana establishment, or regulated hemp product retail facility shall immediately notify the board of an employee convicted of a felony.

F. A marijuana establishment or regulated hemp product retail facility shall immediately notify the board upon becoming aware or having reasonable suspicion of a violation of any provision of 3VAC10-30-30 or 3VAC10-30-40.

Part III. Advertising

3VAC10-40-160. General provisions.

A marijuana establishment or regulated hemp product retail facility may engage in marketing activities related to products, the medical cannabis program, the company, and related communications, except those marketing activities that:

1. Include false or misleading statements;

2. Promote excessive consumption;

3. Depict a person younger than 21 years of age consuming marijuana or a regulated hemp product containing tetrahydrocannabinol;

4. Appeal to minors, including labeling, packaging, advertising, or marketing that is pleasing or appealing to, or targets, individuals younger than 21 years of age by using or including, among other things:

a. Cartoons or mascots;

b. Bubble-type or other cartoon-like font;

c. Similarities to products, or words that refer to products that are commonly associated with, or marketed in a manner so as to be attractive to, individuals younger than 21 years of age, including any imitation of food, candy, soda, drinks, cookies, or cereal (with the exception of using the name of a cultivar), in labeling, packaging, advertising, or marketing;

d. Terms "candy" or "candies" or variants in spelling such as "kandy" or "kandeez" (with the exception of cultivar names);

e. Symbols, images, characters, public figures, phrases, toys, or games that are commonly used to market products to individuals younger than 21 years of age; or

f. Audio that may be attractive to individuals younger than 21 years of age, including audio using children's voices or cartoon voices.

5. Contain any seal, flag, crest, coat of arms, or other insignia that is likely to mislead patients or the general public to believe that the marijuana product or regulated hemp product has been endorsed, made, or used by the Commonwealth of Virginia or any of its representatives except where specifically authorized.

3VAC10-40-170. Prohibited practices.

A. A marijuana establishment or regulated hemp product retail facility shall not advertise (i) through any means unless at least 85% of the audience is reasonably expected to be 18 years of age or older, as determined by reliable, up-to-date audience composition data or (ii) on television or the radio at any time outside of regular school hours for elementary and secondary schools.

B. Advertising shall not:

1. Display marijuana or regulated hemp products or images of products where the advertisement is visible to members of the public from any street, sidewalk, park, or other public place; or

2. Include coupons, giveaways of free marijuana or regulated hemp products, or distribution of merchandise that displays anything other than the facility name and contact information.

C. No outdoor marijuana or regulated hemp product advertising shall be placed within 500 linear feet on the same side of the road, and parallel to such road, measured from the nearest edge of the sign face upon which the advertisement is placed to the nearest edge of a building or structure located on the real property of (i) a school or daycare, (ii) a public or private playground or similar recreational or child-centered facility, or (iii) a substance use disorder treatment facility. However, (a) if there is no building or structure on a playground or similar recreational facility, the measurement shall be from the nearest edge of the sign face upon which the advertisement is placed to the property line of such playground or similar recreational facility and (b) if a public or private school providing grade K through 12 education is located across the road from a sign, the measurement shall be from the nearest edge of the sign face upon which the advertisement is placed to the nearest edge of a building or structure located on such real property across the road.

D. Signs placed on the property of a marijuana establishment or regulated hemp product retail facility shall not:

1. Display imagery of marijuana or regulated hemp products or the use of marijuana or regulated hemp products; or

2. Draw undue attention to the facility, but may be designed to assist patients, parents, legal guardians, and registered agents to find the marijuana establishment or regulated hemp product retail facility.

E. A marijuana establishment or regulated hemp product retail facility shall not advertise at any sporting event or use any billboard advertisements.

F. No marijuana or regulated hemp product advertising shall be on or in a public transit vehicle, public transit shelter, bus stop, taxi stand, transportation waiting area, train station, airport, or any similar transit-related location.

G. No advertising shall be conducted through the marketing of free promotional items, including gifts and "free" or "donated" marijuana or regulated hemp products.

3VAC10-40-180. Permitted practices.

A. A marijuana establishment or regulated hemp product retail facility may list its business in public telephone books, business directories, search engines, or other places where it is reasonable for a business to maintain an informational presence of its existence and a description of the nature of the business. A marijuana establishment or regulated hemp product retail facility shall not engage in the use of pop-up digital advertisements.

B. A marijuana establishment or regulated hemp product retail facility may display the following information on its website or social media site:

1. Name and location of the marijuana establishment or regulated hemp product retail facility;

2. Contact information for the marijuana establishment or regulated hemp product retail facility;

3. Hours and days the marijuana establishment or regulated hemp product retail facility is open for dispensing marijuana or regulated hemp products;

4. Laboratory results;

5. Product information and pricing;

6. Directions to the marijuana establishment or regulated hemp product retail facility; and

7. Educational materials regarding the use of marijuana products that are supported by substantial, current clinical evidence or data.

C. A marijuana establishment or regulated hemp product retail facility may provide communication and engagement for educational purposes with health care practitioners, patients, parents, legal guardians, registered agents, and the general public, including the dissemination of information permitted by 3VAC10-40-160 and educational materials.

3VAC10-40-190. Advertising requirements.

A. Advertising must accurately and legibly identify the marijuana establishment or regulated hemp product retail facility responsible for its content and include a statement that marijuana products or regulated hemp products are for use by patients and persons 21 years of age or older only.

B. Any advertisement for marijuana or regulated hemp products that is related to the benefits, safety, or efficacy, including therapeutic or medical claims, shall:

1. Be supported by substantial, current clinical evidence or data; and

2. Include information on side effects or risks associated with the use of marijuana or regulated hemp products.

C. Any website or social media site owned, managed, or operated by a marijuana establishment or regulated hemp product retail facility shall employ a neutral age-screening mechanism that verifies that the user is at least 21 years of age or a qualified patient, including by using an age-gate, age-screen, or age verification mechanism.

D. All outdoor signage must comply with local or state requirements.

Part IV. Transportation and Delivery

3VAC10-40-200. Repealed.

3VAC10-40-210. Repealed.

3VAC10-40-220. Repealed.

3VAC10-40-230. Repealed.

3VAC10-40-235. General requirements.

A. Prior to transporting marijuana to another marijuana establishment offering marijuana delivery to consumers or patients, a marijuana establishment submit the following items to the authority:

1. A list of the employees authorized to transport or deliver marijuana, along with a copy of each authorized employee s valid driver license; and

2. For each transport or delivery vehicle:

a. License plate number, vehicle identification number, make, and model;

b. A copy of the vehicle registration and proof of insurance;

c. A description of the locked, safe, and secure storage compartments in the vehicle; and

d. A description of the security system, form of secure communication, global positioning system (GPS) monitoring device, and any other equipment or system required pursuant to 3VAC10-40-245.

B. A marijuana establishment shall provide written notice to the authority, along with the documentation required in subsection A of this section, in the event the facility adds or removes a transport or delivery vehicle or an authorized employee.

C. No marijuana establishment shall advertise, offer, or commence delivery or transport operations prior to receiving written approval from the authority.

D. The board may suspend or revoke the privileges of any marijuana establishment or employee to transport or deliver usable marijuana, marijuana oil, or marijuana products for failure to comply with board regulations.

3VAC10-40-240. Repealed.

3VAC10-40-245. Vehicle security.

A. All transport or delivery vehicles shall be properly registered with the Commonwealth and be insured in the Commonwealth. Marijuana establishments shall maintain registration and insurance documents and provide the documents to the authority and law-enforcement officials upon request.

B. A transport or delivery vehicle shall bear no marking or outward appearance, including brand or company names, that would indicate to a reasonable person that the vehicle is used to transport marijuana.

C. At all times during the transportation of marijuana, a transport or delivery vehicle shall be equipped with the following functioning features:

1. Heating and air conditioning systems sufficient for maintaining appropriate temperatures for the storage of marijuana during transport in accordance with recommendations provided by the originating marijuana establishment to protect the quality and integrity of the marijuana;

2. A locked, safe, and secure storage compartment where marijuana will be stored during transport that (i) is a secured part of the vehicle, (ii) is not easily removed, and (iii) ensures marijuana is not visible from the outside of the vehicle;

3. A GPS monitoring device that is secured to the vehicle in a manner not easily removed and able to remain powered on when the transport vehicle is not running, the information from which shall be maintained in accordance with 3VAC10-40-265;

4. A secure form of communication between the transporting employee or delivery operator and the marijuana establishment, and any originating facility if required by 3VAC10-40-265 G, at all times during the transportation of marijuana. Secure forms of communication shall include a two-way digital or analog radio, cellular phone, and satellite phone, taking into consideration the functionality of the communication device within the geographic area of the transport; and

5. An adequate vehicle security system to prevent adulteration, diversion, theft, and loss of marijuana, including an audible alarm system.

D. Access to transport vehicle security equipment and records shall be limited to persons who are (i) essential to security operations, (ii) law-enforcement agents, (iii) security system service employees, (iv) agents of the authority, and (v) approved by the authority. A marijuana establishment shall maintain a current list of all individuals that have access to any transport vehicle security equipment and records.

E. The authority may inspect a transport or delivery vehicle, as well as its equipment, including security systems, forms of secure communication, and GPS monitoring devices at any time without prior notice. If the authority determines that the transport or delivery vehicle does not satisfy the requirements of this section, or that such transport or delivery vehicle requires additional security measures to address public health and safety concerns, the marijuana establishment shall not use the transport vehicle until such time as it receives a satisfactory inspection from the authority.

3VAC10-40-250. Repealed.

3VAC10-40-255. Manifests.

A. Prior to transporting marijuana between marijuana establishments or from a marijuana establishment to a testing laboratory:

1. The originating facility shall prepare a transport manifest on a form and in a manner prescribed by the authority, itemizing all marijuana to be transported. A separate copy of the transport manifest shall be provided to the transporting employee to accompany the itemized marijuana at all times during transport.

2. The originating facility shall securely transmit a copy of the transport manifest to the receiving facility at least 24 hours prior to transport.

3. An authorized transportation employee or delivery operator shall review the transport manifest prepared by the originating facility and confirm that it accurately describes the type and quantity of

marijuana in the transport vehicle to be transported by the transporting employee or delivery operator, in the aggregate and for each delivery.

B. Prior to delivering marijuana to a consumer, qualifying patient, parent, legal guardian, or registered agent:

1. The marijuana establishment shall prepare a delivery manifest on a form and in a manner prescribed by the authority, itemizing all marijuana to be delivered. A separate copy of the delivery manifest shall be provided to the delivery employee or operator to accompany the itemized marijuana at all times during transport.

2. The delivery employee or operator shall review the delivery manifest prepared by the marijuana establishment and confirm that it includes sufficient identifying information for each consumer, patient, parent, legal guardian, or registered agent, including name and day and month of birth.

C. A transport vehicle shall not carry any marijuana for which a manifest has not been provided, and all marijuana shall be packaged in sealed, labeled, and tamper-resistant packaging at all times.

3VAC10-40-260. Repealed.

3VAC10-40-265. Transportation of marijuana.

A. A transporting employee or delivery operator shall remain with the transport vehicle at all times that the vehicle contains marijuana, provided that if there is only one transporting employee or delivery operator, the transporting employee or delivery operator may leave the vehicle, which shall be securely locked, only for:

1. Delivering or transferring marijuana to a consumer, qualifying patient, parent, legal guardian, registered agent, pharmaceutical processor, or cannabis dispensing facility;

2. Meals, when the transport lasts more than three hours round trip;

3. Rest periods required by law;

4. Refueling; or

5. Exigent circumstances, including collisions, traffic stops, mechanical breakdowns, weather emergencies, or medical emergencies.

B. A transporting employee or delivery operator shall carry transportation credentials at all times during the transportation of marijuana and display such credentials to the appropriate persons at the originating facility prior to each instance of transportation of marijuana, and to any law-enforcement official or authorized authority representative upon request. For purposes of this section, "transportation credentials" shall mean the transporting employee or delivery operator 's valid driver's license, a copy of the marijuana establishment’s permit or license, and all transport or delivery manifests for marijuana contained in the transport vehicle.

C. A marijuana establishment shall inspect and test all security systems, secure communications, and global positioning system (GPS) monitoring devices of each transport vehicle at least once per day of use, prior to the transport vehicle's first departure. The individual conducting the inspection on behalf of the marijuana establishment shall create a signed record of the inspection that includes (i) the name of the individual; (ii) the vehicle identification number of the transport vehicle; (iii) the date of inspection; and (iv) the status of all inspected systems, equipment, and devices. The marijuana establishment shall maintain all inspection records.

D. A transport vehicle shall not transport marijuana unless every security system, form of secure communication, and GPS monitoring device is in good working order and functioning properly.

E. If any security system, form of secure communication, or GPS monitoring device fails during the transportation of marijuana, the transporting employee or delivery operator shall immediately notify the marijuana establishment and all impacted originating facilities of the specific failure and return directly to the marijuana establishment or originating facility. Such transport vehicle shall not resume transportation of marijuana until all systems resume full functioning capacity.

F. The marijuana establishment shall create a confidential delivery schedule within 24 hours of the transport and only provide the transporting employee or delivery operator with a copy of such confidential delivery schedule immediately prior to departure.

G. A transporting employee or delivery operator shall communicate with the marijuana establishment upon arriving at and departing from each scheduled delivery location.

H. A transporting employee or delivery operator shall strictly adhere to the delivery schedule provided by the marijuana establishment and not make any unscheduled stops. In the case of an emergency unscheduled stop, the transport vehicle shall remain securely locked, and the transporting employee or delivery operator shall verbally communicate with the marijuana establishment, describing the reason for the emergency unscheduled stop, the location and the duration of the emergency unscheduled stop, the activities of the transporting employee or delivery operator, and the identities and activities of any persons interacting with the transport vehicle or the transporting employee or delivery operator. The marijuana establishment shall maintain a record of any communications related to an unscheduled stop.

I. For a period of not less than 90 days, a marijuana establishment shall maintain a record of the GPS information of each of its transport vehicles for the entire duration of any transportation of marijuana and make such information available to the authority upon request. A marijuana establishment may contract with the GPS provider or similar service provider to conduct GPS monitoring, provided that any such third-party GPS monitor shall comply with all applicable state and federal laws regarding patient confidentiality.

J. A transporting employee or delivery operator shall return any undeliverable marijuana to the respective originating facility directly after the last scheduled delivery.

K. No marijuana shall be stored in a transport vehicle after the facility's hours of operation, and in no event longer than 24 hours, unless the vehicle is contained within an enclosed, secure part of the facility.

L. A marijuana establishment shall report to the authority and local law enforcement any transport vehicle accidents, transport vehicle theft, diversion, loss, or adulteration and any other event deemed by the authority to be a reportable event in connection with the transportation of marijuana within 24 hours of such event being discovered.

3VAC10-40-270. Repealed.

3VAC10-40-275. Delivery of marijuana.

A. Marijuana establishments offering delivery shall require each consumer or patient requesting delivery to provide the marijuana establishment with the full legal name, date of birth, address, email address, and telephone number of the consumer, patient, or qualifying patient, and, if applicable, the legal name, date of birth, and address of the parent, legal guardian, or registered agent.

B. For each delivery of marijuana, a transporting employee or delivery operator shall confirm from a valid driver's license or other valid, government-issued photographic identification that the identity of the individual accepting the marijuana delivery is the same as the individual who ordered the marijuana and, if applicable, confirm the qualifying patient's registration number.

C. If the identity, age, or registration of the individual accepting the marijuana remains in question after presentation of the required documentation, the transporting employee or delivery operator shall (i)

immediately alert the originating facility and (ii) return the marijuana to the originating facility directly after the last scheduled delivery.

D. Marijuana products may only be delivered between the hours of 6 a.m. and midnight.

3VAC10-40-280. Repealed.

3VAC10-40-285. Delivery and transportation incident notification.

A. A marijuana establishment transporting or delivering marijuana must report any traffic stop, breakdown, collision, or unscheduled stop lasting more than two hours to the authority within 24 hours. Any incident resulting in transport vehicle theft, regulated product diversion, loss, or adulteration of regulated products must be reported to law enforcement and the authority as soon as possible.

B. A marijuana establishment shall make a good faith effort to contact the authority if exigent circumstances require removal of marijuana or marijuana products from the vehicle prior to arrival at the destination listed on the transport manifest. Authorized employees, transporters, and delivery operators shall make a good faith effort to protect the shipment from diversion.

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Chapter 50 Regulated Products

3VAC10-50-10. Definitions.

In addition to words and terms defined in the Cannabis Control Act (§ 4.1-600 et seq. of the Code of Virginia), the following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

"90-day supply" means the amount of cannabis products reasonably necessary to ensure an uninterrupted availability of supply for a 90-day period for patients either included on a valid, unexpired written certification issued by a practitioner or established by a pharmacist during initial consultation.

"Certification" means a form established by the board, consistent with requirements of § 4.1-1601 of the Code of Virginia, issued by a practitioner for the use of cannabis products for treatment of or to alleviate the symptoms of any diagnosed condition or disease determined by the practitioner to benefit from such use.

"Closed-loop system" means machinery in which volatile hydrocarbon substances are self-contained without the loss or escape of those substances.

"Dispensing error" means one or more of the following was discovered after the final verification by the pharmacist, regardless of whether the patient received the product:

1. Variation from the intended product to be dispensed, including:
    a. Incorrect product;
    b. Incorrect product strength;
    c. Incorrect dosage form;
    d. Incorrect patient; or
    e. Inadequate or incorrect packaging, labeling, or directions.
2. Failure to exercise professional judgment in identifying and managing:
    a. Known therapeutic duplication;
    b. Known drug-disease contraindications;
    c. Known drug-drug interactions;
    d. Incorrect drug dosage or duration of drug treatment;
    e. Known drug-allergy interactions;
    f. A clinically significant, avoidable delay in therapy; or
    g. Any other significant, actual, or potential problem with a patient's drug therapy.
3. Delivery of a cannabis product to the incorrect patient.
4. An act or omission relating to the dispensing of cannabis product that results in, or may reasonably be expected to result in, injury to or death of a patient or results in any detrimental change to the medical treatment for the patient.

"Flammable solvent" means a liquid that has a flash point below 100 degrees Fahrenheit. Flammable solvents include hydrocarbon-based solvents.

"Hydrocarbon-based solvent" means a type of solvent composed of hydrogen and carbon compounds, such as N-butane, isobutene, propane, or any isomer or combination thereof.

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“Medical cannabis products” means “cannabis product” as defined in § 4.1-1600 of the Code of Virginia.

"On duty" means that a pharmacist, the responsible party, or a person who is qualified to provide supervision is on the premises at the address of the marijuana establishment or regulated hemp product retail facility and is available as needed.

"PIC" means the pharmacist-in-charge whose name is on the pharmaceutical processor or cannabis dispensing facility application for a permit that has been issued and who shall have oversight of the processor's dispensing area or cannabis dispensing facility.

"Qualifying patient" means a Virginia resident who has received from a practitioner, as defined in § 4.1-1600 of the Code of Virginia, a written certification for the use of cannabis products for treatment of or to alleviate the symptoms of any diagnosed condition or disease.

"Responsible party" means the person designated on the permit, license, or registration application who shall have oversight of operations of the marijuana establishment or regulated hemp product retail facility in accordance with 3VAC10-40-120.

3VAC10-50-20. General Provisions.

A. No marijuana product or product containing tetrahydrocannabinol shall contain any of the following:

1. Any regulated drug or controlled substance other than marijuana; and

2. Non-cannabinoid additives that are psychotropic or would increase the potency, toxicity, or addictive properties of marijuana, including alcohol, caffeine, and nicotine. This prohibition shall not apply to the combination of marijuana product or product containing tetrahydrocannabinol with sugar or a product in which caffeine is naturally occurring, such as chocolate.

B. Any marijuana plant, seed, parts of plant, extract, or products containing tetrahydrocannabinol not in compliance with this chapter shall be deemed adulterated.

C. No inhalable marijuana product or hemp product intended for smoking intended to be vaporized or inhaled shall contain vitamin E acetate.

D. Once the required testing and analysis of marijuana product has been completed, the certificate of analysis provided to the originating marijuana establishment shall be uploaded to the electronic seed-to-sale tracking system. The certificate of analysis must be made available to patients or consumers upon request.

E. No marijuana establishment shall provide marijuana product samples that contain active cannabinoids to a customer, qualified patient, registered agent, patient's parent, or patient’s legal guardian.

3VAC10-50-30. Purchase limits and equivalent amounts.

A marijuana establishment shall not dispense or sell more than two ounces of marijuana or an equivalent amount of marijuana products during a single transaction to one person, except when dispensing an amount authorized by law to a qualifying patient. Two ounces of botanical marijuana is equivalent to:

1. Eight grams of marijuana concentrate; or

2. 800 milligrams of tetrahydrocannabinol in an edible marijuana product.

3VAC10-50-40. Recall of marijuana or marijuana products.

A. Marijuana establishments shall establish and implement written procedures for the mandatory and voluntary recall of marijuana and marijuana products that have been dispensed, sold, or otherwise

distributed to the public or other regulated establishments. Recall procedures shall be made available for authority inspection upon request.

B. A recall plan must include the following:

1. Designation of one or more employees to serve as recall coordinators. A recall coordinator shall be responsible for, among other duties, accepting the recalled marijuana or marijuana products;

2. Procedures for identifying and isolating the affected marijuana or marijuana products to prevent or minimize distribution to consumers, patients, parents, legal guardians, registered agents, other marijuana establishments, and approved laboratories;

3. Procedures to retrieve and dispose of the affected marijuana or marijuana products;

4. A communications plan to notify those affected by the recall, no later than 48 hours from issuing a recall notice;

5. Procedures for notifying the authority; and

6. Procedures for reporting information relating to the recall in a manner prescribed by the authority.

C. A marijuana establishment shall follow the procedures outlined in its recall plan, unless the marijuana establishment obtains the prior written approval of the authority. The marijuana establishment shall conduct recall procedures in a manner that maximizes the recall of affected marijuana or marijuana products and minimizes risks to public health and safety.

D. A marijuana establishment shall notify the authority upon becoming aware of any complaint made by a consumer, patient, parent, legal guardian, registered agent, or practitioner who reports an adverse event from using marijuana or marijuana products dispensed or sold by the marijuana establishment. The marijuana establishment shall investigate any complaint to determine if a voluntary recall or any other further action is required and notify the authority of the investigation findings.

E. If the authority receives information demonstrating that a recall is necessary to protect patients, consumers, or to protect public health and safety, and a marijuana establishment does not initiate a voluntary recall, then the authority may order a mandatory recall until the risk to such health and safety is no longer present.

F. Upon notification of a voluntary recall by the marijuana establishment or a mandatory recall order by the authority, the marijuana establishment shall cease dispensing or selling the affected marijuana or marijuana products immediately and make all reasonable efforts to remove the affected products from commerce. Affected products must be secured, segregated, clearly labeled not for sale or distribution, and separated from any other non-affected marijuana or marijuana products.

G. A marijuana establishment shall coordinate the disposal of recalled regulated products with the authority. The authority or its authorized agents may oversee the disposal to ensure that the recalled marijuana or marijuana products are disposed of in a manner that will not pose a risk to public health and safety.

H. The marijuana establishment shall report information relevant to the recall in a manner prescribed by the authority.

3VAC10-50-50. Cultivation and production of marijuana products.

A. No marijuana products shall have had pesticide chemicals or petroleum-based solvents, except for hydrocarbon-based solvents described in this chapter, used during the cultivation, extraction, production, or processing, except that the board may authorize the use of pesticide chemicals for purposes of addressing an infestation that could result in a catastrophic loss of marijuana crops.

B. Cultivation methods for marijuana plants, extraction methods used to produce the marijuana products, and the processing of marijuana products shall be performed in a manner deemed safe and effective based on current standards or scientific literature.

1. The cultivation, extraction, production, and processing of marijuana products may include the use of hydrocarbon-based solvents as described in 3VAC10-50-60.

2. The cultivation, extraction, production, and processing of marijuana products may include any other generally accepted technology, provided that:

a. The marijuana establishment complies with any applicable requirements contained in 3VAC10-50-60 regarding flammable solvents as defined in that section;

b. The marijuana establishment complies with any licensing, permitting, and general safety laws or regulations of any state or federal agency that governs the technology and the use of such technology; and

c. The marijuana establishment maintains sole responsibility for any adverse outcomes or violations of state or federal laws or regulations caused by such use.

C. A marijuana establishment may acquire industrial hemp extract, including isolates and distillates, for the purpose of formulating such extracts into allowable dosages of marijuana products, provided:

1. The marijuana establishment acquires the extracts from industrial hemp extract processed in compliance with state or federal law;

2. The extracts from industrial hemp acquired by a marijuana establishment are subject to the same third-party testing requirements applicable to marijuana plant extract as verified by testing performed by a marijuana testing facility located in Virginia and in compliance with state law; and

3. The industrial hemp dealer or processor provides such third-party testing results to the marijuana establishment before extracts from industrial hemp are acquired.

D. A marijuana establishment acquiring industrial hemp extract shall ensure receipt of a record of the transaction that shows the date of distribution, the names and addresses of the registered industrial hemp dealer or processor distributing the product and the marijuana establishment receiving the product, and the kind and quantity of product being distributed. The record of the transaction shall be maintained by the marijuana establishment with its records of receipt and within the statewide electronic seed-to-sale tracking system. Such records shall be maintained by each marijuana establishment for three years.

E. A marijuana establishment shall maintain policies and procedures for the proper storage and handling of industrial hemp extracts, including a process for executing or responding to mandatory and voluntary recalls in a manner that complies with 3VAC10-50-40.

H. The provisions set forth in the subsection are applicable only to licensees authorized by the Board to cultivate or process marijuana and marijuana products. No other licensees are authorized to conduct these regulated operations.

3VAC10-50-60. Use of hydrocarbon-based solvents or other flammable solvents.

A. Hydrocarbon-based solvents may be used in the cultivation, extraction, production, or processing of marijuana products provided that:

1. A marijuana establishment complies with all requirements in this section;

2. A marijuana establishment using hydrocarbon-based solvents shall comply with all regulations regarding use of hydrocarbon-based solvents in general industrial use as promulgated by the Occupational Safety and Health Administration and published in 29 CFR 1910 or any subsequent regulation governing such use, including regulations governing:

a. Ventilation requirements;

b. Air contaminants; and

c. Hazard communication;

3. A marijuana establishment using hydrocarbon-based solvents shall comply with any requirements issued by the Virginia Department of Labor and Industry regarding use of hydrocarbon-based solvents;

4. A marijuana establishment using hydrocarbon-based solvents shall comply with any requirements issued by the Virginia Department of Environmental Quality regarding use of hydrocarbon-based solvents;

5. A marijuana establishment using hydrocarbon-based solvents maintains sole responsibility for any adverse outcomes or violations of state or federal laws or regulations caused by such use;

6. A marijuana establishment using hydrocarbon-based solvents shall ensure that all equipment, counters, and surfaces used in the cultivation, extraction, production, or processing of marijuana products are food-grade and do not react adversely with any hydrocarbon solvent used. All counters and surface areas shall be constructed in a manner that reduces the potential development of microbials, molds, and fungi and can be easily cleaned;

7. A marijuana establishment using hydrocarbon-based solvents shall ensure that any room in which hydrocarbon-based solvents will be used contains an emergency eye-wash station;

8. A marijuana establishment using hydrocarbon-based solvents shall ensure that a professional grade, closed-loop extraction system capable of recovering solvent is used in the cultivation, extraction, production, or processing of marijuana products.

a. Closed-loop extraction systems must be commercially manufactured and bear a permanently affixed and visible serial number.

b. A marijuana establishment using a closed-loop extraction system must obtain certification from a licensed engineer that certifies that the system was commercially manufactured, is safe for its intended use, and is built to codes of recognized and generally accepted good engineering practices, such as the following: (i) the American Society of Mechanical Engineers (ASME); (ii) American National Standards Institute (ANSI); (iii) Underwriters Laboratories (UL); or (iv) the American Society for Testing and Materials (ASTM).

c. The certification must contain the signature and stamp of a professional engineer and include the serial number of the extraction unit certified;

9. A marijuana establishment using hydrocarbon-based solvents shall obtain a safety data sheet for each hydrocarbon-based solvent used and store such data sheet on the premises. All such records shall be subject to inspection by the board;

10. A marijuana establishment using hydrocarbon-based solvents shall develop standard operating procedures, good manufacturing practices, and a training plan prior to using such solvents. Standard operating procedures shall specifically address:

a. Safe and proper handling and use of hydrocarbon-based solvents;

b. Safe and proper operation of machinery and equipment;

c. Adequate cleaning and maintenance of machinery and equipment;

d. Incident reporting for any instances where the operator does not follow the stated standard operating procedures that identifies (i) the operator's name; (ii) the date and time of the incident; (iii) the supervising employees to whom the incident report will be sent; and (iv) an incident summary that includes whether any marijuana products or other substances escaped from the closed-loop system, the amount of escaped material, whether the material was destroyed, and how the incident was resolved; and

e. Safe and proper disposal of waste created during processes using hydrocarbon-based solvents; and

11. A marijuana establishment using hydrocarbon-based solvents shall ensure that any person using such solvents in a closed-loop system:

a. Is fully trained on how to use the system;

b. Has direct access to applicable material safety data sheets; and

c. Handles and stores the solvents safely.

B. If a marijuana establishment intends to use a flammable solvent, then a designated industrial hygienist or professional engineer who is not an employee of the marijuana establishment must:

1. Establish a maximum amount of flammable solvents and other flammable materials that may be stored within the marijuana establishment facility in accordance with applicable laws and regulations;

2. Determine what type of electrical equipment must be installed within the room in which flammable solvents are to be stored in accordance with applicable laws and regulations;

3. Determine whether a gas monitoring system must be installed within the room in which flammable solvents are to be used or stored, and if required, the system's specifications in accordance with applicable laws and regulations;

4. Determine whether a fire suppression system must be installed within the room in which the flammable solvents are to be used or stored, and if required, the system's specifications in accordance with applicable laws and regulations; and

5. Determine whether a fume vent hood or exhaust system must be installed within the room in which a flammable solvent will be used, and if required, the system's specifications in accordance with applicable laws and regulations.

C. If a marijuana establishment makes a material change to its use of flammable solvents in any part of the manufacturing process, a designated industrial hygienist or professional engineer who is not an employee of the marijuana establishment must recertify the standard operating procedures for use of flammable solvents determined under subsection B of this section.

D. A marijuana establishment shall maintain copies of all reports generated by or received from the designated industrial hygienist or professional engineer for inspection by the board.

E. A marijuana establishment shall not store more flammable solvents on site than exceeds the maximum amount allowable as identified by the designated industrial hygienist or professional engineer.

F. A marijuana establishment shall ensure that all appropriate safety and sanitary equipment, including personal protective equipment, is provided to and appropriately used by each employee handling a flammable solvent.

G. The board shall approve chemicals for use as hydrocarbon or other flammable solvents in the cultivation, extraction, production, or processing of marijuana products based on availability of testing for residual material of individual solvents. Approved chemicals include:

1. Ethanol;
2. Ethyl acetate;
3. Ethyl ether;
4. Heptane;
5. Hexane;
6. Pentane;
7. 2-propanol (IPA);
8. Butane; and
9. Propane.

The board recognizes butane and propane as Class 3 solvents with a permissible daily exposure of 50 mg per day.

H. The provisions set forth in the subsection are applicable only to licensees authorized by the board to cultivate or process marijuana and marijuana products. No other licensees are authorized to conduct these regulated operations.

3VAC10-50-70. Registration of products.

A. A marijuana establishment shall assign a product name to each product of marijuana. The marijuana establishment shall register each marijuana product name with the board in a manner prescribed by the board prior to any dispensing or sale and shall associate each registered marijuana product name with a specific laboratory test that includes the total cannabidiol (CBD) and total tetrahydrocannabinol (THC), a terpenes profile, and a list of all active ingredients, including:

1. Tetrahydrocannabinol (THC);
2. Tetrahydrocannabinol acid (THC-A);
3. Cannabidiols (CBD); and
4. Cannabidiolic acid (CBDA).

B. A marijuana establishment shall not label two products with the same registered marijuana product name unless the laboratory test results for each product indicate that the level of each listed active ingredient varies by no more than 15%. However, in cases where (i) the total tetrahydrocannabinol (THC) concentration is five milligrams or less per dose, the concentration of THC shall be within 0.5 milligrams per dose and (ii) the total cannabidiol (CBD) concentration is five milligrams or less per dose, the concentration of total CBD shall be within 0.5 milligrams per dose.

C. The board shall not register any marijuana product name that:

1. Is identical to or confusingly similar to the name of an existing commercially available product;
2. Is identical to or confusingly similar to the name of an unlawful product or substance;
3. Is confusingly similar to the registered marijuana product name of a previously approved marijuana product;
4. Is obscene or indecent;

5. May promote overconsumption or consumption by persons younger than 21 years of age;

6. May encourage the use of marijuana products for a disease or condition other than the disease or condition the practitioner intended to treat;

7. Is customarily associated with persons younger than 18 years of age; or

8. Is related to the benefits, safety, or efficacy of the marijuana product unless supported by substantial evidence or substantial clinical data.

3VAC10-50-80. Dispensing of medical cannabis products.

A. A pharmacist in good faith may dispense cannabis products to any patient, parent, legal guardian, or registered agent as indicated on the written certification.

1. Prior to the initial dispensing of cannabis products pursuant to each written certification, the pharmacist or pharmacy technician at the location of the pharmaceutical processor or cannabis dispensing facility shall:

a. Offer patients, parents, legal guardians, and registered agents the opportunity to consult with a pharmacist regarding the use of cannabis products, including information related to safe techniques for proper use and storage of cannabis products and for disposal of the products in a manner that renders them nonrecoverable;

b. View in person or by audiovisual means a current photo identification of the patient, parent, legal guardian, or registered agent; and

c. Verify in the Virginia Prescription Monitoring Program of the Department of Health Professions or other program recognized by the board that the written certification is valid and the date and quantity of the last dispensing of cannabis products to the patient.

2. A pharmacist or pharmacy technician employed by the pharmaceutical processor or cannabis dispensing facility shall make a paper or electronic copy of the current written certification that provides an exact image of the document that is clearly legible and shall maintain it on site or by electronic means for two years. The pharmaceutical processor and cannabis dispensing facility shall also provide an electronic copy of the written certification to the board.

3. Prior to any subsequent dispensing, the pharmacist or pharmacy technician shall verify that the written certification on file has not expired. An employee or delivery operator shall view a current photo identification and current registration of the patient, parent, legal guardian, or registered agent and shall maintain record of such viewing in accordance with policies and procedures of the pharmaceutical processor or cannabis dispensing facility.

B. A pharmacist may dispense a portion of a patient's 90-day supply of cannabis product. The pharmacist may dispense the remaining portion of the 90-day supply of cannabis products at any time except that no patient, parent, legal guardian, or registered agent shall receive more than a 90-day supply of cannabis products for a patient in a 90-day period from any pharmaceutical processor or cannabis dispensing facility. A pharmaceutical processor or cannabis dispensing facility may dispense more than one cannabis product to a patient at one time. However, no more than four ounces of botanical cannabis shall be dispensed for each 30-day period for which botanical cannabis is dispensed. In determining the appropriate amount of cannabis product to be dispensed to a patient, a pharmacist shall consider all cannabis products dispensed and adjust the amount dispensed accordingly.

C. A dispensing record shall be maintained for three years from the date of dispensing, and the pharmacist or pharmacy technician under the direct supervision of the pharmacist shall affix a label that conforms to the requirements of 3VAC10-70-45 to the container of cannabis product.

D. A pharmacist shall be responsible for verifying the accuracy of the dispensed product in all respects prior to dispensing and shall document that each verification has been performed.

E. A pharmacist shall document a patient's self-assessment of the effects of cannabis products in treating the patient's diagnosed condition or disease or the symptoms thereof.

F. If the authorization for botanical cannabis for a minor is communicated verbally or in writing to the pharmacist at the time of dispensing, the pharmacist shall also document such authorization. A pharmaceutical processor or cannabis dispensing facility maintain such documentation in writing or electronically for three years from the date of dispensing and such documentation shall be made available in accordance with regulation.

G. A pharmacist shall exercise professional judgment to determine whether to dispense cannabis products to a patient, parent, legal guardian, or registered agent if the pharmacist suspects that dispensing cannabis products to the patient, parent, legal guardian, or registered agent may have negative health or safety consequences for the patient or the public.

H. A pharmaceutical processor or cannabis dispensing facility may use and distribute inert product samples that do not contain any active cannabinoids for patient demonstration exclusively at the pharmaceutical processor or cannabis dispensing facility without the need for a written certification. Such inert product samples may not be sold or further distributed.

3VAC10-50-85. Retail sales of regulated products.

A. No marijuana establishment or regulated hemp product retail facility shall allow the consumption of any marijuana product or regulated hemp product on the licensed premises.

B. Pursuant to §§ 4.1-606 and 4.1-1104 of the Code of Virginia, no regulated establishment or facility shall sell a product containing tetrahydrocannabinol to any person whom the employees or agents of the establishment or facility knows or has reason at the time to believe is:

1. Younger than 21 years of age, except as provided in §§ 4.1-1601 and 4.1-1603; or

2. Intoxicated.

C. In determining whether the employee or agent of a marijuana establishment or regulated hemp product retail facility has reason to believe that a purchaser is not of legal age, the authority will consider the following factors:

1. Whether an ordinary and prudent person would have reason to doubt that the purchaser is of legal age based on the general appearance, facial characteristics, behavior, and manner of the purchaser; and

2. Whether the seller demanded, was shown, and acted in good faith in reliance upon bona fide evidence of legal age, as defined in subsection D of this section, and that evidence contained a photograph and physical description consistent with the appearance of the purchaser.

D. Bona fide evidence of legal age must meet the criteria set forth in § 4.1-1104 of the Code of Virginia. It is the responsibility of the employee of the marijuana establishment to verify the authenticity and validity of any the identification presented. Identification that has been visibly altered or has expired is not valid.

E. Notwithstanding the provisions of § 4.1-900 of the Code of Virginia, the authority will take action to suspend or revoke a marijuana establishment license if a licensee or registrant knowingly employs a person who has been convicted in any court of a felony or of any crime or offense involving moral turpitude, except if a licensee or registrant knowingly employs an agent or employee in a position that is

involved in the creation or maintenance of records required to be kept by the licensee under the provisions of Subtitle II of Title 4.1 of the Code of Virginia or authority regulations or in the preparation or filing of any tax return or report required under Subtitle II of Title 4.1 or Title 58.1 of the Code of Virginia or authority regulations, any person who has been convicted of a felony violation of the laws of the Commonwealth prohibiting robbery, burglary, larceny, embezzlement, computer crimes, forgery, false pretenses, issuing bad checks, false representations to obtain property or credit, credit card forgery or fraud, or money laundering, or a similar offense under the laws of any state or the United States.

F. If a marijuana establishment wishes to employ a person who has violated the laws of the Commonwealth, of any other state, or of the United States applicable to the manufacture, transportation, possession, use, or sale of marijuana, its derivatives, or its products, the licensee may (i) immediately employ the individual if the offenses occurred more than five years preceding the date of employment or (ii) apply to the authority for approval of such employment if the offense occurred within five years preceding the date of employment. The authority may conduct an investigation into the suitability of the person for employment and recommend approval or disapproval. Before disapproving the employment of a person, the authority shall accord the person the same notice, opportunity to be heard, and follow the same administrative procedures accorded to a licensee cited for a violation of Subtitle II of Title 4.1 of the Code of Virginia.

3VAC10-50-90. Dispensing error review and reporting; quality assurance program.

A. A pharmaceutical processor or cannabis dispensing facility shall implement and comply with a quality assurance program that describes, in writing, policies and procedures to detect, identify, and prevent dispensing errors.

B. A pharmaceutical processor or cannabis dispensing facility shall distribute the written policies and procedures to all employees and shall make the written policies and procedures readily available on the premises of the pharmaceutical processor or cannabis dispensing facility.

C. The policies and procedures shall include:

1. Directions for communicating the details of a dispensing error to the practitioner who certified a qualifying patient and to the qualifying patient, the patient's parent or legal guardian, the patient's registered agent, or appropriate family member if the patient is deceased or is unable to fully comprehend the communication. The communication shall describe methods of correcting the dispensing error or reducing the negative impact of the error on the qualifying patient; and

2. A process to document and assess dispensing errors to determine the cause of the error and an appropriate response.

D. A pharmaceutical processor or cannabis dispensing facility shall use the findings of its quality assurance program to develop systems and workflow processes designed to prevent dispensing errors. A pharmaceutical processor or cannabis dispensing facility PIC shall:

1. Inform pharmaceutical processor or cannabis dispensing facility employees of changes to policy, procedure, systems, or processes made as a result of recommendations generated by the quality assurance program;

2. Notify all employees that the discovery or reporting of a dispensing error shall be relayed immediately to a pharmacist on duty;

3. Ensure that a pharmacist performs a quality assurance review for each dispensing error. A pharmacist shall commence such review as soon as is reasonably possible, but no later than two business days from the date the dispensing error is discovered; and

4. Create a record of every quality assurance review. This record shall contain at least the following:

a. The date of the quality assurance review and the names and titles of the persons performing the review;

b. The pertinent data and other information relating to the dispensing error reviewed;

c. Documentation of contact with the patient, parent, legal guardian, or registered agent, where applicable, and the practitioner who certified the patient;

d. The findings and determinations generated by the quality assurance review; and

e. Recommended changes to pharmaceutical processor or cannabis dispensing facility policy, procedure, systems, or processes if any.

E. A pharmaceutical processor or cannabis dispensing facility maintain for three years a copy of the pharmaceutical processor's or cannabis dispensing facility's quality assurance program and records of all reported dispensing errors and quality assurance reviews in an orderly manner and filed by date.

3VAC10-50-95. Retail transaction error review and reporting.

A. A marijuana establishment shall implement and comply with a quality assurance program that describes, in writing, policies and procedures to detect, identify, and prevent retail transaction errors.

B. A marijuana establishment shall distribute the written policies and procedures to all employees and shall make the written policies and procedures readily available on the premises of the marijuana establishment.

C. The policies and procedures shall include:

1. Directions for promptly communicating the details of the transaction error that has occurred. The communication shall describe methods of correcting the transaction error as permitted by law; and

2. A process to document and assess each transaction error to determine the cause of the error and an appropriate response. The documentation shall include the date and time, product involved, employee involved, description of error, and the corrective action taken.

D. A marijuana establishment shall use the findings of its quality assurance program to develop systems and workflow processes designed to prevent retail transaction errors. A responsible party or designated supervisor shall:

1. Inform marijuana establishment employees of changes to policy, procedure, systems, or processes made as a result of recommendations generated by the quality assurance program;

2. Notify all establishment or facility employees that the discovery or reporting of a transaction error shall be relayed immediately to the responsible party or designated supervisor;

3. Ensure that the responsible party performs a quality assurance review for each transaction error, as soon as is reasonably possible, but no later than two business days from the date the transaction error is discovered; and

4. Create a record of every quality assurance review. This record shall contain at least the following:

a. The date of the quality assurance review and the names and titles of the persons performing the review;

b. The pertinent data and other information relating to the transaction error reviewed;

c. Documentation of contact or reasonable attempts of contact with the consumer;

d. The findings and determinations generated by the quality assurance review; and

e. Recommended changes to marijuana establishment or regulated hemp product facility policy, procedure, systems, or processes if any.

E. A marijuana establishment shall maintain for three years a copy of the quality assurance program and records of all reported transaction errors and quality assurance reviews in an orderly manner and filed by date.

3VAC10-50-100. Repealed.

3VAC10-50-110. Disposal of marijuana products.

A. To mitigate the risk of diversion, a marijuana establishment shall routinely and promptly dispose of undesired, excess, unauthorized, obsolete, adulterated, misbranded, or deteriorated green waste, extracts, and marijuana products, as applicable. Green waste includes marijuana plants, seeds, and parts of plants. Green waste shall be weighed, ground, and combined with a minimum of 51% non-cannabis waste to render the mixture inactive and unrecognizable. Once rendered unrecognizable, green waste shall be considered agricultural waste and may be disposed of accordingly.

B. The destruction and disposal of green waste, extracts, marijuana products, as applicable, shall be conducted under video surveillance. The persons destroying and disposing of the green waste, extracts, marijuana products shall maintain and make available a separate record of each occurrence of destruction and disposal indicating:

1. The date and time of destruction and disposal;

2. The manner of destruction and disposal;

3. The name and quantity of marijuana product and green waste destroyed and disposed of; and

4. The signatures of the persons destroying and disposing of the green waste, extracts, or marijuana products.

C. Disposal of green waste may be by incineration, inert composting, or any other means of disposal or destruction.

D. A marijuana establishment may sell or otherwise distribute inert composted green waste.

E. The record of destruction and disposal shall be maintained at the marijuana establishment for three years from the date of destruction and disposal.

3VAC10-50-120. Disposal of chemical, dangerous, and hazardous waste.

Disposal of chemical, dangerous, and hazardous waste must be conducted in a manner consistent with federal, state, and local statutes and regulations. This includes any waste product soaked in a flammable solvent.

1. Any waste that may be hazardous must be treated as hazardous waste in regard to storage, labeling, and disposal.

2. The marijuana establishment can, alternatively, test waste that may be hazardous for elemental impurities content.

a. When tested for elemental impurities content, materials that meet the definition of hazardous waste, as defined by the Resource Conservation and Recovery Act (RCRA) or other applicable federal, state, or local statutes and regulations, must be treated as hazardous waste. Such materials must be properly labeled, contained, stored, and disposed of in accordance with the Environmental Protection Agency, RCRA, and other applicable regulations for hazardous waste.

b. Materials that contain elemental impurities concentrations less than the allowable concentration limits specified in RCRA and are not designated hazardous waste by other applicable federal, state, or local statutes and regulations, may be disposed of in accordance with 3VAC10-50-110.

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Chapter 60 Testing of Regulated Products

3VAC10-60-10. Definitions.

In addition to words and terms defined in the Cannabis Control Act (§ 4.1-600 et seq. of the Code of Virginia), the following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

"Approved source" means a manufacturer of an industrial hemp extract or food containing an industrial hemp extract that operates (i) under inspection by the responsible food regulatory agency in the location in which such manufacturing occurs and (ii) in compliance with the laws, regulations, or criteria that pertain to the manufacturer of an industrial hemp extract or food containing an industrial hemp extract in the location in which such manufacturing occurs.

"Batch" means a specific quantity of (i) marijuana product infused, manufactured, or prepared for distribution or sale from the same set of ingredients at the same time and identified by unique batch identifier or (ii) harvested botanical marijuana product that is uniform in strain, grown from one or more seeds or cuttings that are planted and harvested at the same time, cultivated under the same conditions, and identified by unique batch identifier.

“Additional cultivation location" means a secondary site at which the board has authorized a pharmaceutical processor to cultivate cannabis plants pursuant to § 4.1-1602 of the Code of Virginia and the requirements of 3VAC10-30-160.

“Certificate of analysis” or “COA” means an official document issued by a marijuana testing facility or an accredited independent laboratory that shows results of laboratory tests performed on a product.

“Chain of custody” or “COC” means the chronological documentation that records the sequence of custody, control, transfer, analysis, and disposal of a batch.

“Designated sample collector” means an employee or agent of a marijuana establishment that is authorized and trained to collect test samples in accordance with established standard operating procedures and state and local laws and regulations.

"ISO/IEC 17025" means the general requirements specified by the joint technical committee of the International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC) for the competence of testing and calibration laboratories.

"Marijuana products" means the same as that term is defined in § 4.1-600 of the Code of Virginia and includes “cannabis product” as defined in § 4.1-1600 of the Code of Virginia, unless otherwise provided by law or regulation.

"Qualifying patient" means a Virginia resident who has received from a practitioner, as defined in § 4.1-1600 of the Code of Virginia, a written certification for the use of cannabis products for treatment of or to alleviate the symptoms of any diagnosed condition or disease.

“Test sample” means the homogenous representative sample taken from each batch of botanical marijuana or marijuana product for the required regulated product testing.

3VAC10-60-20. Marijuana testing facility requirements.

In addition to the criteria set forth in § 4.1-806 of the Code of Virginia, the board shall not issue a marijuana testing facility license unless such marijuana establishment:

1. Is independent from all other persons involved in the marijuana and hemp industry in Virginia, which shall mean that no person with a direct or indirect interest in the marijuana testing facility shall have a direct or indirect financial interest in a pharmacist, certifying practitioner, marijuana establishment, industrial hemp grower, industrial hemp processor, regulated hemp product retail facility, or any other entity that may benefit from the production, manufacture, dispensing, sale, purchase, or use of marijuana or regulated hemp products;

2. Has employed at least one person to oversee and be responsible for the laboratory testing who has earned from a college or university accredited by a national or regional certifying authority at least (i) a master's level degree in chemical or biological sciences and a minimum of two years of post-degree laboratory experience or (ii) a bachelor's degree in chemical or biological sciences and a minimum of four years of post-degree laboratory experience;

3. Has obtained a controlled substances registration certificate pursuant to § 54.1-3423 of the Code of Virginia authorizing the testing of marijuana products;

4. Has provided proof to the board of accreditation in testing and calibration in accordance with the most current version of the International Standard for Organization and the ISO/IEC 17025 or proof that the marijuana testing facility has applied for accreditation in testing and calibration in the most current version of ISO/IEC 17025. Any testing and calibration method utilized to perform a marijuana-related analysis for pharmaceutical processors shall be in accordance with the marijuana testing facility's ISO/IEC 17025 accreditation. The accrediting body shall be recognized by International Laboratory Accreditation Cooperation.

a. A marijuana testing facility applying for authorization to provide marijuana-related analytical tests for pharmaceutical processors shall receive ISO/IEC 17025 accreditation within eighteen months from the date the testing facility applied for ISO/IEC 17025 accreditation. A testing facility may request, and the board may grant for good cause shown, additional time for the testing facility to receive ISO/IEC 17025 accreditation.

b. A testing facility shall send proof of ISO/IEC 17025 accreditation to the board for marijuana-related analytical test methods for marijuana establishments for which it has received ISO/IEC 17025 accreditation no later than five business days after the date on which the accreditation was received.

c. A testing facility may use nonaccredited analytical test methods so long as the testing facility has commenced an application for ISO/IEC 17025 accreditation for analytical test methods for marijuana-related analysis for marijuana establishments. No testing facility shall use nonaccredited analytical test methods for marijuana-related analysis for marijuana establishments if it has applied for and has not received ISO/IEC 17025 accreditation within eighteen months. The testing facility may request, and the board may grant for good cause shown, additional time for the testing facility to utilize nonaccredited analytical test methods for marijuana-related analysis.

d. At such time that a testing facility loses its ISO/IEC 17025 accreditation for any marijuana-related analytical test methods for marijuana establishments, it shall inform the board within 24 hours. The testing facility shall immediately stop handling, testing, or analyzing marijuana for marijuana establishments; and

5. Complies with a transportation protocol for transporting marijuana or marijuana products to or from itself or to or from marijuana establishments.

3VAC10-60-30. Remediation.

A. If a test sample of marijuana concentrate product does not pass the microbiological, mycotoxin, heavy metal, or residual solvent test based on the standards set forth in 3VAC10-60-50, the batch may be

remediated with further processing. After further processing, the batch shall be retested for microbiological, mycotoxin, heavy metal, pesticide chemical residue, and residual solvent, and an active ingredient analysis and terpenes profile shall be conducted.

B. A marijuana concentrate product that does not pass the pesticide chemical residue test cannot be remediated.

C. If a test sample of botanical marijuana product does not pass the microbiological, mycotoxin, heavy metal, water activity, or moisture content test based on the standards set forth in 3VAC10-60-50, the batch may be remediated.

1. Once remediated, the batch shall be retested for microbiological, mycotoxin, heavy metal, pesticide chemical residue, water activity, and moisture content, and an active ingredient analysis and terpenes profile shall be conducted.

2. If the botanical marijuana batch fails retesting, it may be processed into marijuana concentrate, unless the failure is related to pesticide requirements, in which case the batch shall be disposed of in accordance with 3VAC10-50-110.

3. Any batch processed into marijuana concentrate shall comply with all testing standards set forth in 3VAC10-60-50.

D. A botanical marijuana product that does not pass the pesticide chemical residue test cannot be remediated.

3VAC10-60-40. Test sample collection procedures.

A. After processing and prior to dispensing, distribution or sale of marijuana concentrate product, the marijuana concentrate product, a marijuana establishment shall make a test sample available from each homogenized batch of product for a testing facility to (i) test for microbiological contaminants, mycotoxins, heavy metals, residual solvents, and pesticide chemical residue and (ii) conduct an active ingredient analysis and terpenes profile.

B. Prior to dispensing, distribution, or sale of botanical marijuana, a marijuana establishment shall make a test sample available from each harvest batch of botanical marijuana product to (i) test for microbiological contaminants, mycotoxins, heavy metals, pesticide chemical residue, water activity, and moisture content and (ii) conduct an active ingredient analysis and terpenes profile.

C. Prior to test sample collection, the marijuana establishment must separate (i) each harvest lot of botanical marijuana into no larger than 50-pound batches, or (ii) each production lot of marijuana concentrate product into no larger than 20,000-unit sale batches. Each batch must be assigned a unique batch number, which shall be documented and maintained in the electronic seed-to-sale tracking system for at least three years and available to the authority upon request.

D. A marijuana establishment shall maintain policies and procedures for obtaining representative homogenous samples from each harvest or product batch while maintaining sample integrity.

1. The licensed testing facility that will perform the testing shall determine the minimum sample size required, as long as the minimum sample size is at minimum 0.5% of the batch mass. If the testing facility dictates the necessity of reserve samples in accordance with established policies and procedures, the primary and reserve test samples shall be collected at the same time and in a manner to ensure the samples are homogenous.

2. The sample collection of marijuana and marijuana products, as applicable, shall be conducted under video surveillance. The designated sample collector shall maintain the recording for 30 days from the date of sampling, unless instructed otherwise by the board or the board's designees, and make available a separate record of each occurrence of sampling indicating:

a. The date and time of sample collection;

b. The business name and license number of the marijuana business of origin;

c. The unique batch number of each batch sampled; and

d. The name of the designated sample collector.

E. The established policies and procedures shall include:

1. A consistent, statistically valid, sample selection method that is appropriate to the matrix being sampled and results in homogenous representative samples;

2. Appropriate sampling practices and equipment, including the use of aseptic sampling technique, the sanitizing of equipment and tools, personal protective equipment, and sampling containers;

3. The documentation of observations and procedures used during sample collection;

4. The use of sampling containers that (i) will be sealed immediately after collection of test samples, (ii) indicate when tampering has occurred, and (iii) when the integrity of the test sample has been compromised;

5. Labeling collected samples with the product's name. unique sample identification number, license number of the sampling location, batch number, the date on which the test sample was taken, the identity of the person who collected the test sample, test sample weight, and a "FOR TESTING PURPOSES ONLY" identification label;

6. Transporting test samples in a manner that does not endanger the integrity of the test samples and that is in accordance with transportation requirements established by the authority; and

7. The process for properly documenting chain of custody for each test sample and retaining those records for a minimum of three years.

F. Test samples will be collected by a designated sample collector of the marijuana establishment that will be performing the mandatory testing of the samples. At minimum, the designated sample collector must:

1. Be trained on the established sampling policies and procedures in accordance with laws and regulations set forth by the authority;

2. Be given access to restricted areas of the marijuana establishment for the purpose of collecting test samples;

3. Have access to the entire harvest or production batch that test samples must be collected from;

4. Complete chain of custody paperwork, including recording the test sample details within the electronic seed-to-sale tracking system; and

5. Perform required duties in accordance with any additional requirements and guidance set forth by the Authority.

G. The testing facility shall perform a visual inspection for homogeneity and reject heterogeneous test samples.

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H. From the time that a batch of marijuana product has been sampled for testing until the testing facility provides the results from its tests and analysis, the marijuana establishment shall segregate and withhold from use the entire batch, except the test samples that have been removed for testing. During this period of segregation, the marijuana establishment shall maintain the batch in a secure, cool, and dry location so as to prevent the batch from becoming contaminated or losing its efficacy.

I. The originating marijuana establishment shall require the testing facility to immediately return or properly dispose of any test samples upon the completion of any testing, use, or research.

3VAC10-60-50. Testing requirements for marijuana and marijuana products.

A. A marijuana establishment shall use a licensed marijuana testing facility to handle, test, or analyze regulated products.

B. A test sample of marijuana concentrate product shall pass the microbiological, mycotoxin, heavy metal, or residual solvent test based on the standards set forth in this subsection. The batch may be remediated with further processing.

1.For purposes of the microbiological test, a marijuana concentrate product test sample shall be deemed to have passed if it satisfies the standards set forth in Table 1 of Section 1111 of the United States Pharmacopeia.

2. For purposes of the mycotoxin test, a sample of marijuana concentrate product shall be deemed to have passed if the sum of aflatoxins B1, B2, G1, and G2 and ochratoxin A is less than 20 parts per billion.

3. For purposes of the heavy metal test, a test sample of marijuana concentrate product shall be deemed to have passed if it meets the following standards:

Metal	Limits - parts per million (ppm)
Arsenic	<10 ppm
Cadmium	<4.1 ppm
Lead	<10 ppm
Mercury	<2 ppm

4. For purposes of the pesticide chemical residue test, a test sample of marijuana concentrate product shall be deemed to have passed if it satisfies the most stringent acceptable standard for a pesticide chemical residue in any food item as set forth in Subpart C of the federal Environmental Protection Agency's regulations for Tolerances and Exemptions for Pesticide Chemical Residues in Food (40 CFR Part 180).

5. For purposes of the active ingredient analysis, a test sample of the marijuana concentrate product shall be tested for:

a. Tetrahydrocannabinol (THC);

b. Tetrahydrocannabinol acid (THC-A);

c. Cannabidiols (CBD); and

d. Cannabidiolic acid (CBDA).

6. For the purposes of the residual solvent test, a test sample of the marijuana concentrate product shall be deemed to have passed if the test sample contains 290 parts per million or less of hexane and 5,000 parts per million or less of the other solvents approved by the board.

C. A test sample of botanical marijuana product shall pass the microbiological, mycotoxin, heavy metal, water activity, or moisture content test based on the standards set forth in this subsection.

1. For purposes of the microbiological test, a botanical marijuana test sample shall be deemed to have passed if it satisfies the standards set forth in the most current American Herbal Pharmacopoeia Cannabis Inflorescence Standards of Identity, Analysis, and Quality Control.

2. For purposes of the mycotoxin test, a test sample of botanical marijuana shall be deemed to have passed if the sum of aflatoxins B1, B2, G1, and G2 and ochratoxin A is less than 20 parts per billion.

3. For purposes of the heavy metal test, a test sample of botanical marijuana shall be deemed to have passed if it meets the following standards:

Metal	Limits - parts per million (ppm)
Arsenic	<10 ppm
Cadmium	<4.1 ppm
Lead	<10 ppm
Mercury	<2 ppm

4. For purposes of the pesticide chemical residue test, a test sample of botanical marijuana shall be deemed to have passed if it satisfies the most stringent acceptable standard for a pesticide chemical residue in any food item as set forth in Subpart C of the federal Environmental Protection Agency's regulations for Tolerances and Exemptions for Pesticide Chemical Residues in Food (40 CFR Part 180).

5. For purposes of the active ingredient analysis, a test sample of the botanical marijuana shall be tested for:

a. Total tetrahydrocannabinol (THC); and

b. Total cannabidiol (CBD).

6. For the purposes of water activity and moisture content for botanical marijuana, the botanical marijuana shall be deemed to have passed if the water activity rate does not exceed 0.65Aw and the moisture content does not exceed 15%.

D. If a test sample of marijuana and marijuana product passes the required tests listed in this section and any additional tests required by the authority, the entire batch may be utilized by the marijuana establishment for immediate packaging and labeling for sale. An expiration date shall be assigned to the product that is based upon validated stability testing that addresses product stability when opened and the shelf life for unopened products, except stability testing shall not be required for marijuana products if an expiration date of 12 months or less from the date of testing of the marijuana product. No marijuana product shall be produced that requires time and temperature control for safety. The authority may publish validation guidance for shelf stable edible marijuana products.

E. Once the licensed testing facility has completed its testing and analysis, it must provide a certificate of analysis to the originating marijuana establishment, which shall upload the certificate to the electronic

seed-to-sale tracking system. The certificate of analysis must be made available to patients or consumers upon request.

F. The marijuana establishment shall require the testing facility to file with the board an electronic copy of each laboratory test result for any batch that does not pass the required tests listed in this section at the same time that it transmits those results to the marijuana establishment. In addition, the testing facility shall maintain the laboratory test results and make them available to the board or an agent of the board.

G. Under no circumstances shall a marijuana establishment sell a marijuana product prior to the time that the testing facility has completed its testing and analysis and provided a certificate of analysis to the marijuana establishment.

H. Each marijuana establishment shall have such laboratory results available upon request to patients, parents, legal guardians, registered agents, practitioners who have certified qualifying patients, consumers, the board, or an agent of the board.

I. The authority may collect and test random samples from marijuana establishments and compare the results of its testing to the results reported by testing facilities.

3VAC10-60-60. Testing requirements for regulated hemp products.

A. A regulated hemp product retail facility must obtain a certificate of analysis for all regulated hemp product offered for retail sale on the premise. The certificate of analysis must be provided by an independent laboratory that meets the requirements set forth in subsection E of 2VAC5-595-50.

B. Regulated hemp products offered for retail sale shall pass the microbiological, mycotoxin, heavy metal, water activity, or moisture content test based on the standards set forth in this subsection.

1. For the purposes of total tetrahydrocannabinol concentration, a regulated hemp test sample shall be deemed to have passed if it contains a total tetrahydrocannabinol concentration of no greater than 0.3% and no more than two milligrams of total tetrahydrocannabinol per package.

2. For purposes of the microbiological test, a regulated hemp test sample shall be deemed to have passed if it satisfies the standards set forth in the most current American Herbal Pharmacopoeia Cannabis Inflorescence Standards of Identity, Analysis, and Quality Control.

3. For purposes of the mycotoxin test, a regulated hemp test sample shall be deemed to have passed if the sum of aflatoxins B1, B2, G1, and G2 and ochratoxin A is less than 20 parts per billion.

4. For purposes of the heavy metal test, a regulated hemp product test sample shall be deemed to have passed if it meets the following standards:

Metal	Limits - parts per million (ppm)
Arsenic	<10 ppm
Cadmium	<4.1 ppm
Lead	<10 ppm
Mercury	<2 ppm

5. For the purposes of residual solvent content, a regulated hemp product test sample shall be deemed to have based if it meets the following standards:

Residual solvent	Limits –parts per million (ppm)
1,2-Dichloroethene	≤5 ppm
1,1-Dichloroethene	≤8 ppm
Acetone	≤5,000 ppm
Acetonitrile	≤410 ppm
Benzene	≤2 ppm
Butane	≤2,000 ppm
Chloroform	≤60 ppm
Ethanol	≤5,000 ppm
Ethyl Acetate	≤5,000 ppm
Ethyl Ether	≤5,000 ppm
Ethylene Oxide	≤5 ppm
Heptane	≤5,000 ppm
Hexane	≤290 ppm
Isopropyl Alcohol	≤500 ppm
Methanol	≤3,000 ppm
Methylene Chloride	≤600 ppm
Pentane	≤5,000 ppm
Propane	≤2,100 ppm
Toluene	≤890 ppm
Trichloroethylene (1,1,2-Trichloroethene)	≤80 ppm
Xylenes, Total (ortho-, meta-, para-)	≤2,170 ppm

6. For purposes of the pesticide chemical residue test, a regulated hemp product test sample shall be deemed to have passed if it satisfies the most stringent acceptable standard for a pesticide chemical residue in any food item as set forth in Subpart C of the federal Environmental Protection Agency's regulations for Tolerances and Exemptions for Pesticide Chemical Residues in Food (40 CFR Part 180).

C. If the certificate of analysis verifies that the test sample of regulated hemp product passes the required tests listed in this subsection and any additional tests required by the authority, the entire product batch may be utilized by the regulated hemp product retail facility for retail sale.

D. If an industrial hemp extract is used as an ingredient in a food and that industrial hemp extract was produced by a manufacturer that is an approved source, that food containing an industrial hemp extract is not subject to the testing requirements prescribed in this subsection. However, a food containing an

industrial hemp extract that contains any contaminant in an amount that exceeds an acceptable criteria or tolerance established in this subsection is adulterated.

E. A regulated hemp product retail facility shall have the certificate of analysis for each regulated hemp product available upon request to consumers, the board, or an agent of the board.

F. The authority may collect and test random samples from regulated hemp product retail facilities and compare the results of its testing to the results reported on the certificate of analysis.

DIBR. Documents Incorporated by Reference (3VAC10-60)

Cannabis Inflorescence Standards of Identity, Analysis, and Quality Control, Revision 2014, American Herbal Pharmacopoeia, P.O. Box 66809, Scotts Valley, CA 95067

Section 1111 of The United States Pharmacopeia and National Formulary, revised November 1, 2016, U.S. Pharmacopeia Convention, 12601 Twinbrook Parkway Rockville, MD 20852-1790

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Chapter 70 Labeling and Packaging

3VAC10-70-10. Definitions.

In addition to words and terms defined in the Cannabis Control Act (§ 4.1-600 et seq. of the Code of Virginia), the following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

"Batch" means a specific quantity of (i) marijuana product infused, manufactured, or prepared for distribution or sale from the same set of ingredients at the same time and identified by unique batch identifier or (ii) harvested botanical marijuana product that is uniform in strain, grown from one or more seeds or cuttings that are planted and harvested at the same time, cultivated under the same conditions, and identified by unique batch identifier.

“Certificate of analysis” or “COA” means an official document issued by a marijuana testing facility or an accredited independent laboratory that shows results of laboratory tests performed on a product.

"Marijuana products" means the same as that term is defined in § 4.1-600 of the Code of Virginia and includes “cannabis product” as defined in § 4.1-1600 of the Code of Virginia, unless otherwise provided by law or regulation.

"Universal symbol" means the image established by the authority and made available on the authority's website indicating that the package contains medical marijuana.

3VAC10-70-20. Labeling of marijuana products.

A. Each container and layer of packaging containing marijuana or marijuana products shall prominently display the universal symbol.

B. Marijuana products produced shall be:

1. Unadulterated;

2. Processed, packaged, and labeled according to the U.S. Food and Drug Administration's Current Good Manufacturing Practice in Manufacturing, Packaging, Labeling, or Holding Operations for Dietary Supplements (21 CFR Part 111); and

3. Labeled with:

a. The name and address of the marijuana establishment;

b. The marijuana product name that was registered with the board pursuant to § 4.1-1407 or §4.1-1603.2 of the Code of Virginia;

c. A description of the product's purpose and instructions for use;

d. Child and safety warnings, as approved by the authority, in a conspicuous font;

e. A unique serial number that matches the product with the batch number, including the cultivator and processor if obtained through distribution, so as to facilitate any warnings or recalls the board, marijuana establishment deem appropriate;

f. The date of testing and packaging;

g. The name and address of the testing laboratory;

h. The expiration date, which shall be 12 months or less from the date of testing, unless supported by stability testing;

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i. The quantity or weight of marijuana products within each individual container;

j. A terpenes profile and a list of all active and inactive ingredients, including:

i. Tetrahydrocannabinol (THC);

ii. Tetrahydrocannabinol acid (THC-A);

iii. Cannabidiol (CBD); and

iv. Cannabidiolic acid (CBDA);

k. For inhalable marijuana products, the total percentage of cannabidiol (CBD) and tetrahydrocannabinol (THC);

l. For edible and topical marijuana products, total milligrams of CBD and THC in each package and serving; and

m. For marijuana products, a pass or fail rating based on the results of the required laboratory tests in accordance with 3VAC10-60-50 or a readable QR code on the product label that can be used to access to the certificate of analysis.

C. If the immediate container is too small, then an outer layer of packaging shall include the requirements of subdivision B 3 of this section and the immediate container shall include:

1. Marijuana establishment name, telephone number, and email or website;

2. The marijuana product name that was registered with the board pursuant to § 4.1-1407 or § 4.1-1603.2 of the Code of Virginia;

3. The serial number assigned to the product during production;

4. A prominently printed expiration date;

5. The quantity of marijuana products by weight, volume, or count and weight;

6. A list of all active ingredients, including:

a. Tetrahydrocannabinol (THC);

b. Tetrahydrocannabinol acid (THC-A);

c. Cannabidiol (CBD); and

d. Cannabidiolic acid (CBDA); and

7. For marijuana products, a pass or fail rating based on the results of the required laboratory tests in accordance with 3VAC10-60-50 or a readable QR code that can be used to access to the certificate of analysis.

D. Labels may be accordion, expandable, extendable, or layered to permit labeling of containers of any manner of size or shape.

E. Marijuana vaporizer cartridges shall bear a universal symbol no smaller than 1/4-inch wide by 1/4-inch high that is engraved, printed, or affixed with a sticker.

F. No marijuana establishment shall label marijuana products as "organic" unless the marijuana plants have been organically grown and the marijuana concentrate products have been produced, processed, manufactured, and certified to be consistent with organic standards in compliance with 7 CFR Part 205.

3VAC10-70-30. Labeling of marijuana products for wholesale distribution.

A. Marijuana and marijuana products shall not be adulterated.

B. Marijuana and marijuana products produced for wholesale distribution shall be:

1. Processed, packaged, and labeled according to the U.S. Food and Drug Administration's Current Good Manufacturing Practice in Manufacturing, Packaging, Labeling, or Holding Operations for Dietary Supplements (21 CFR Part 111), except as exempted in this section;

2. Packaged in a tamper-evident container; and

3. Labeled with:

a. The name and addresses of the marijuana establishment distributing the product and the marijuana establishment receiving the product;

b. The quantity or weight of the marijuana concentrate, botanical marijuana, or usable marijuana in the container;

c. Identification of the contents of the container, including a brief description of the type or form of marijuana concentrate, botanical marijuana, or usable marijuana and the strain name, as appropriate;

d. The prominent statement "Not Packaged for Final Sale";

e. A unique serial number that will match a marijuana product with the cultivator and manufacturer and batch number so as to facilitate any warnings or recalls the board or marijuana establishment deem appropriate; and

f. The date of packaging, the date of testing, and, for botanical cannabis, the date of harvest.

C. Marijuana and marijuana products produced for wholesale distribution shall comply with all laboratory testing and labeling requirements prior to dispensing.

3VAC10-70-35. Point of sale label requirements for marijuana products.

A. A marijuana product label shall be unobstructed and conspicuous so that it can be read by the consumer.

B. All required label information shall be located on the outside container or wrapper of the regulated product to be sold or be easily legible through the outermost container or wrapper. If the immediate container holding the regulated product is separable from the outermost packaging, the immediate container shall be labeled according to 3VAC10-70-20.

C. The label for a marijuana product shall include the following information in a type size no smaller than 6 point:

1. A serial number assigned to the sale of the product;

2. The regulated product name listed on the certificate of analysis;

3. The certificate of analysis product identification number;

4. A terpenes profile and a list of all active and inactive ingredients, including:

a. Tetrahydrocannabinol (THC);

b. Tetrahydrocannabinol acid (THC-A);

c. Cannabidiol (CBD); and

d. Cannabidiolic acid (CBDA);

5. A pass rating based on the laboratory's microbiological, mycotoxins, heavy metals, residual solvents, pesticide chemical residue analysis, and for botanical marijuana, the water activity and moisture content analysis, or a readable QR code on the regulated product label that can be used to access to the certificate of analysis pursuant to 3VAC10-60-50;

6. Any necessary cautionary statement required by the Authority;

7. A prominently printed expiration date; and

8. Directions for use and storage that can be read and understood by the ordinary individual.

3VAC10-70-40. Repealed.

3VAC10-70-45. Dispensing label requirements for cannabis products.

A. The pharmacist or pharmacy technician under the direct supervision of the pharmacist shall affix a label, in a manner provided by the board, to each cannabis product that includes:

1. A serial number assigned to the dispensing of the product;

2. The cannabis product name that was registered with the board pursuant to 3VAC10-50-70;

3. The serial number assigned to the product during production;

4. The date of dispensing the cannabis product;

5. The quantity of cannabis products dispensed;

6. A terpenes profile and a list of all active and inactive ingredients, including:

a. Tetrahydrocannabinol (THC);

b. Tetrahydrocannabinol acid (THC-A);

c. Cannabidiol (CBD); and

d. Cannabidiolic acid (CBDA);

7. A pass rating based on the laboratory's microbiological, mycotoxins, heavy metals, residual solvents, pesticide chemical residue analysis, and for botanical cannabis, the water activity and moisture content analysis or a readable QR code on the regulated product label that can be used to access to the certificate of analysis pursuant to 3VAC10-60-50;

8. The name of the patient;

9. The name of the certifying practitioner;

10. The amount recommended and directions for use as provided by the practitioner or dispensing pharmacist;

11. The name or initials of the dispensing pharmacist;

12. Name, address, and telephone number of the pharmaceutical processor or cannabis dispensing facility;

13. Any necessary cautionary statement;

14. A prominently printed expiration date; and

15. The recommended conditions of use and storage from the pharmaceutical processor or cannabis dispensing facility that can be read and understood by the ordinary individual.

B. The label shall be exempt from containing the items listed in subdivisions A 6, A 7, and A 14 of this section if the items are included on the batch label as required in 3VAC10-70-20 and are clearly visible to the patient.

C. No person except a pharmacist or a pharmacy technician operating under the direct supervision of a pharmacist shall alter, deface, or remove any label so affixed.

3VAC10-70-50. Repealed.

3VAC10-70-55. Marijuana packaging requirements.

A. Packaging shall be child-resistant, tamper-resistant, and light-resistant based on the following standards:

1. A package shall be deemed child-resistant if it satisfies the standard for "special packaging" as set forth in the Poison Prevention Packaging Act of 1970 Regulations, 16 CFR 1700.1(b)(4). A marijuana establishment shall maintain a copy of the certificate showing that any packaging containing marijuana or marijuana products is child-resistant and complies with the requirements of 16 CFR 1700.15 and 16 CFR 1700.25.

2. A package shall be deemed tamper-resistant if it has one or more indicators or barriers to entry that would preclude its contents from being accessed or adulterated without indicating to a reasonable person that the package was breached; and

3. A package shall be deemed light-resistant if it is entirely and uniformly opaque and protects the whole of its contents from the effects of light.

B. Packaging shall not (i) bear any reasonable resemblance to a trademarked, characteristic, or product-specialized packaging of any commercially available candy, snack, baked good, or beverage or (ii) be designed in any manner to be especially appealing to persons younger than 21 years of age according to 3VAC10-40-160.

3VAC10-70-60. Retail sale label requirements for regulated hemp products.

A. A regulated hemp product label shall be unobstructed and conspicuous so that it can be read by the consumer.

B. All required label information shall be located on the outside container or wrapper of the regulated product to be sold or be easily legible through the outermost container or wrapper. If the immediate container holding the regulated product is separable from the outermost packaging, the immediate container shall be labeled according to this section.

C. The label for a regulated product shall include the following information in a type size no smaller than 6 point:

1. The regulated product name listed on the certificate of analysis;

2. The certificate of analysis product identification number and date of testing;

3. The quantity of the product that constitutes a serving size;

4. A terpenes profile and a list of all active and inactive ingredients, including:

a. Tetrahydrocannabinol (THC);

b. Tetrahydrocannabinol acid (THC-A);

c. Cannabidiol (CBD); and

d. Cannabidiolic acid (CBDA);

5. The total percentage and milligrams of THC within a single serving of the regulated hemp product;

6. The total percentage and milligrams of THC within the regulated hemp product;

7. A pass rating based on the laboratory's microbiological, mycotoxins, heavy metals, residual solvents, pesticide chemical residue analysis, or a readable QR code on the regulated product label that can be used to access to the certificate of analysis pursuant to § 4.1-1701 of the Code of Virginia;

8. Any necessary cautionary statement required by the authority;

9. A prominently printed expiration date; and

10. Directions for use and storage that can be read and understood by the ordinary individual.

G. Labels may be accordion, expandable, extendable, or layered to permit labeling of containers of any manner of size or shape.

H. Inhalable regulated hemp product cartridges shall bear a universal symbol no smaller than 1/4-inch wide by 1/4-inch high that is engraved, printed, or affixed with a sticker.

I. No regulated hemp retail facility label regulated hemp products as "organic" unless the industrial hemp have been organically grown and the regulated hemp products have been produced, processed, manufactured, and certified to be consistent with organic standards in compliance with 7 CFR Part 205.

3VAC10-70-70. Regulated hemp product packaging requirements.

A. Packaging shall be child-resistant, tamper-resistant, and light-resistant based on the following standards:

1. A package shall be deemed child-resistant if it satisfies the standard for "special packaging" as set forth in the Poison Prevention Packaging Act of 1970 Regulations, 16 CFR 1700.1(b)(4);

2. A package shall be deemed tamper-resistant if it has one or more indicators or barriers to entry that would preclude its contents from being accessed or adulterated without indicating to a reasonable person that the package was breached; and

3. A package shall be deemed light-resistant if it is entirely and uniformly opaque and protects the whole of its contents from the effects of light.

B. Packaging shall not (i) bear any reasonable resemblance to a trademarked, characteristic, or product-specialized packaging of any commercially available candy, snack, baked good, or beverage or (ii) be designed in any manner to be especially appealing to persons younger than 21 years of age.

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Chapter 80 Compliance and Enforcement

3VAC 10-80-10. Definitions.

In addition to words and terms defined in the Cannabis Control Act (§ 4.1-600 et seq. of the Code of Virginia), the following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

"Certification" means a form established by the board, consistent with requirements of § 4.1-1601 of the Code of Virginia, issued by a practitioner for the use of cannabis products for treatment of or to alleviate the symptoms of any diagnosed condition or disease determined by the practitioner to benefit from such use.

"Qualifying patient" means a Virginia resident who has received from a practitioner, as defined in § 4.1-1600 of the Code of Virginia, a written certification for the use of cannabis products for treatment of or to alleviate the symptoms of any diagnosed condition or disease.

3VAC10-80-20. Grounds for action.

The board may suspend, revoke, or refuse to grant or renew a permit, license, or registration issued; place such permit, license, or registration on probation; place conditions on such permit, license, or registration; or take other actions permitted by statute or regulation on the following grounds:

1. Any criminal conviction under federal or state statutes or regulations or local ordinances, unless the conviction was based on a federal statute or regulation related to the possession, purchase, or sale of marijuana or regulated hemp products that is authorized under state law and regulations;

2. Any civil action under any federal or state statute or regulation or local ordinance (i) relating to the applicant's, licensee's, permit holder's, or registrant's profession or (ii) involving drugs, medical devices, or fraudulent practices, including fraudulent billing practices;

3. Failure to maintain effective controls against diversion, theft, or loss of marijuana, marijuana products, regulated hemp products, or other controlled substances;

4. Intentionally or through negligence obscuring, damaging, or defacing a permit, license, or registration or registration card;

5. Permitting another person to use the permit, license, or registration of a holder, the written certification of a qualifying patient, parent, or legal guardian, or the registration of a registered agent;

6. Failure to cooperate or give information to the board on any matter arising out of conduct at a marijuana establishment or regulated hemp product retail facility;

7. Discontinuance of business for more than 60 days, unless the board approves an extension of such period for good cause shown upon a written request from a marijuana establishment or regulated hemp product retail facility.

a. Good cause includes exigent circumstances that necessitate the closing of the establishment or facility; or

b. Good cause shall not include a voluntary closing of the marijuana establishment or regulated hemp product retail facility;

8. Failure to comply with requirements of Subtitle II of Title 4.1 of the Code of Virginia or any regulation of the board relating to marijuana establishment or regulated hemp product retail facility; or

9. Engaging in or attempting any fraud or deceit in connection with the operation of a marijuana establishment or regulated hemp product retail facility, including any application to the board related to the operation of a marijuana establishment or regulated hemp product retail facility.

3VAC10-80-30. Right to access.

A. The board and its authorized representatives, for purposes of inspection, investigation, review, or audit, shall have full and immediate access to:

1. Enter any premises licensed by the board or engaged in the cultivation, processing, distribution, or selling of marijuana or regulated hemp products in violation of the Cannabis Control Act;

2. Inspect and test any vehicle or equipment possessed by, in control of, or used by a licensee or their agents and employees for the purpose of conducting regulated activity;

3. Test any marijuana or hemp goods or marijuana- or hemp-related materials or products possessed by, in control of, or used by a licensee or their agents and employees for business purposes; and

4. Copy any materials, books, or records of any licensee or their agents and employees.

B. Failure to cooperate with and participate in any board investigation pending against the licensee may result in a violation subject to discipline.

3VAC10-80-40. Inspections.

A. The Authority shall conduct administrative inspections of marijuana establishments and regulated hemp product retail facilities to ensure compliance with the Cannabis Control Act and regulations adopted by the board. Prior notice of an inspection, investigation, review, or audit is not required.

B. Any inspection, investigation, review, or audit of a licensed premises shall be conducted anytime the licensee is exercising privileges under the license, or as otherwise agreed to by the board and the licensee or its agents, employees, or representatives.

C. The Authority will provide a summary of deficiencies recorded during an inspection or investigation to the marijuana establishment or regulated hemp product retail facility.

D. A marijuana establishment or regulated hemp product retail facility may be required to provide a plan of corrective action, including expected completion dates for the correction of all deficiencies listed, within a time prescribed by the Authority. A follow-up inspection may be conducted to ensure that all deficiencies have been corrected.

3VAC10-80-50. Notice to comply.

A. The Authority may issue notice to comply to a licensee for violations of the Cannabis Control Act or regulations adopted by the board discovered during an investigation or audit or observed during an inspection.

B. The notice shall describe the nature and facts of each violation, including a reference to the statute or regulation violated, and may indicate the manner in which the licensee must correct the violations to achieve compliance.

C. The Authority may serve the notice personally, by email, or by mail to the licensee or an employee, agent, or person delegated by the licensee to accept notice.

D. The licensee shall sign and return the notice and describe how compliance was achieved within 30 calendar days after the date of personal service or the date of emailing or mailing of the notice or a

different date specified by the Authority. The Authority may also require the licensee to provide a plan for review and approval by the Authority on a case-by-case basis.

E. Failure to correct the violations in the notice may result in disciplinary action.

3VAC10-80-60. Notice of violation.

A. The Authority may issue a notice of violation for violations of the Cannabis Control Act or regulations adopted by the board which shall include the violations alleged and the right to request a hearing pursuant to subsection B.

B. The recipient of a notice of violation may request a hearing in a manner prescribed by the Authority within the time set forth in the notice. The request shall include the following:

1. The appellee's name, mailing address, and daytime phone number;
2. The license number issued by the authority;
3. A copy of the notice and order; and
4. A clear and concise statement of the basis of the appeal.

C. If the recipient fails to submit a timely request for hearing pursuant to subsection B, the notice and order are not appealable, and the Authority may proceed upon the noticed violations without a hearing.

D. A hearing requested in response to a notice of violation will be scheduled and conducted in accordance with the Administrative Process Act (§ 2.2-4000 et seq.).

E. Failure to timely comply with a notice of violation may result in further action being taken by the Authority, including, but not limited to, suspension or revocation of a license, or further administrative or civil proceedings.

F. Fines must be paid within 30 calendar days of assessment. A license shall not be renewed without payment of all fines.

G. Nothing in this section shall be deemed to prevent the Authority from suspending or revoking a license where grounds for such suspension or revocation exist.

3VAC10-80-70. Order to cease unlicensed activity.

A. The Authority may issue an order to cease unlicensed activity to any person who is engaged in the cultivation, processing, distribution, or selling of marijuana or marijuana products in violation of the Cannabis Control Act.

B. Upon receipt of such order issued pursuant to subsection A, such person shall cease all activities described in the order to cease unlicensed activity.

C. Any individual aggrieved by an order issued pursuant to subsection A may appeal the order in accordance with the Administrative Process Act (§ 2.2-4000 et seq.).

3VAC10-80-80. Seizure of regulated products.

A. The Authority may seize marijuana, marijuana products, and regulated hemp products cultivated, processed, distributed, or sold in violation of the Cannabis Control Act or the regulations adopted by the board if a notice of violation and order to cease unlicensed activity has been issued.

B. To seize marijuana or marijuana products, the authority shall:

1. Provide initial notice to the licensee or product owner that the marijuana or marijuana products are subject to seizure and the reason for the seizure. Initial notice may be oral or written and may be provided in person or by telephone, mail, email, or other electronic means;

2. Affix a tag or marking to the marijuana, marijuana products, or regulated hemp products, or component thereof, subject to seizure; and

3. Provide an inventory of the seized items to the licensee or product owner.

C. The Authority shall provide a supplemental written notice to the licensee or product owner of the seized items that includes the following:

1. The factual and legal bases for the seizure;

2. A description of the marijuana, marijuana products, or regulated hemp products seized;

3. A request for a written plan to address the items seized and the issues(s) that resulted in the seizure;

4. A summary of the proceedings in accordance with the Administrative Process Act (§ 2.2-4000 et seq.).

5. Notification that the seized items cannot be removed, sold, or disposed of without authorization of the Authority; and

6. The penalty for violation of the seizure.

D. The licensee or product owner may submit a written plan to the Authority that describes how the licensee or product owner will address the items under seizure and the issues that resulted in the seizure.

1. If the Authority determines that the plan will resolve the issues that resulted in the seizure, and that all of the provisions of the Cannabis Control Act and regulations adopted by the board can be complied with, the Authority will approve the plan and supervise the completion of the plan.

2. If the Authority cannot approve the plan, or the Authority does not receive a response from the licensee or product owner within seven calendar days after providing the notice described in subsection C, the Authority may issue a summons for violations of the Cannabis Control Act and regulations adopted by the board.

E. A licensee, product owner, or their authorized representative may agree in writing to the voluntary destruction of the marijuana, marijuana products, and regulated hemp products subject to seizure. Destruction and disposal of the marijuana, marijuana products, or regulated hemp products shall be at the licensee or product owner's expense and shall be conducted with the approval of and under the supervision of the Authority.

F. A licensee or product owner shall not remove the tag or marking from marijuana, marijuana products, or regulated hemp products to be seized. A licensee or product owner shall not undertake corrective action or destruction of the items to be seized unless the Authority has provided written approval and removed the seizure tag.

G. A licensee or product owner shall not remove, sell, or dispose of any marijuana, marijuana products, or regulated hemp products to be seized without written permission of the Authority. Each item removed, sold, or disposed of without written permission of the Authority constitutes a separate violation.

H. A licensee may request permission to continue cultivation or harvesting of marijuana under seizure. The request shall be made to the Authority in a manner prescribed by the Authority and shall specify the cultivation or harvesting activities in which the licensee requests to engage. The Authority may, in its sole discretion, authorize and impose conditions on the continued cultivation or harvesting of marijuana under seizure.

I. Marijuana, marijuana products, and regulated hemp products found, cultivated, processed, produced, or manufactured at an unlicensed location, or derived from an unlicensed source, cannot be corrected and shall be destroyed.

3VAC10-80-90. Emergency decisions and order.

A. The Authority may issue an emergency decision and order for temporary, interim relief to prevent or avoid immediate danger to the public health, safety, or welfare. Such circumstances include, but are not limited to, the following:

1. The Authority has information that marijuana or hemp goods at a regulated premises have a reasonable probability of causing serious adverse health consequences or death;

2. To prevent the sale, transfer, or transport of contaminated or illegal marijuana or regulated hemp goods in possession of a licensee;

3. The Authority observes or has information that conditions at a regulated premises exist that present an immediate risk to worker or public health and safety;

4. To prevent illegal diversion of marijuana or regulated hemp goods, or other criminal activity at a regulated premises;

5. To prevent the destruction of evidence related to illegal activity or violations of the Cannabis Control Act or regulations adopted by the board; or

6. To prevent misrepresentation to the public, such as selling untested marijuana or hemp goods, providing inaccurate information about the marijuana or hemp goods, or marijuana or hemp goods that have been obtained from an unlicensed person.

B. Temporary, interim relief may include a suspension or administrative hold by one or more of the following:

1. An order temporarily suspending a license;

2. An order to segregate or isolate specific marijuana or hemp goods;

3. An order prohibiting the movement of marijuana or hemp goods to or from the premises;

4. An order prohibiting the sale of specific marijuana or hemp goods; or

5. An order prohibiting the destruction of specific marijuana or hemp goods;

C. The emergency decision and order issued by the Authority shall include a brief explanation of the factual and legal bases of the emergency decision that justify the Authority's determination that emergency action is necessary, and the specific actions ordered. The emergency decision and order shall be effective when issued or as otherwise provided by the decision and order.

D. A licensee or registrant subject to an administrative hold shall comply with the following:

1. Within 24 hours after receipt of notice of the administrative hold, physically segregate all designated marijuana or hemp goods in a limited-access area of the licensed premises. The licensee or registrant shall ensure that all marijuana or hemp goods subject to the administrative hold are safeguarded and preserved in a manner that prevents tampering, degradation, or contamination;

2. While the administrative hold is in effect, the licensee or registrant shall not sell, donate, transfer, transport, gift, or destroy the marijuana or hemp goods subject to the hold; and

3. A licensee or registrant may voluntarily surrender marijuana or hemp goods that are subject to an administrative hold. The licensee shall identify the marijuana or hemp goods being voluntarily surrendered in the seed to sale system.

E. To issue a temporary suspension, the Authority shall specify in the order that the licensee or registrant shall immediately cease conducting all regulated activities under its license or registration, unless otherwise specified in the order.

F. The Authority shall give notice of an emergency decision and order, and opportunity to be heard to the licensee or registrant prior to the effective date of the emergency decision and order, if practicable. Notice and hearing under this section may be oral or written and may be provided to the licensee or registrant, any person meeting the definition of owner for the license or registration, or to a manager or other personnel at the licensed premises.

G. Upon receipt of the notice, the licensee or registrant may request a hearing within three business days by submitting a written request for hearing to the Authority through electronic mail or other means prescribed by the Authority. The hearing shall commence within five business days after receipt of the written request for hearing, unless a later time is agreed upon by the Authority and the licensee or registrant. The emergency decision and order shall be affirmed, modified, or set aside as determined appropriate by the Authority within five business days after the hearing.

H. The authority provided by this section may be used in addition to any civil, criminal, or other administrative remedies available to the Authority.

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