

TITLE 17 MARIJUANA REGULATIONS

CHAPTER 1 ISSUANCE OF REGULATIONS, CONSTRUCTION, DEFINITIONS, ETC.

17 CAR 1.01 Short Title.

This title may be referred to as the "EBCI Marijuana Regulations."

17 CAR 1.02 Issuance.

This title is issued by the EBCI Cannabis Control Board pursuant to Cherokee Code Section 17-18 and Cherokee Code Chapter 150, Article 2.

17 CAR 1.03 Construction.

Nothing contained in these regulations shall be so construed as to conflict with any provision of Cherokee Code Chapter 17 or of any other applicable section of the Cherokee Code. These regulations shall be liberally construed and applied in favor of strict regulation of the transactions, conduct, and procedures described within these regulations. Without limiting the generality of the foregoing, substance shall prevail over form and prohibitions of the direct performance of specified acts shall be construed to prohibit indirect performance of those acts.

17 CAR 1.04 Severability.

If any provision of these regulations be held invalid, it shall not be construed to invalidate any of the other provisions of these regulations.

17 CAR 1.05 Definitions.

- (a) As used in this title, unless the context otherwise requires, the words and terms defined in Cherokee Code Section 17-2 have the meanings ascribed to them in that section.
- (b) As used in this title, unless the context clearly otherwise requires, the following words and terms have the following meanings:
 - (1) "Analyte" means any compound, element, contaminant organism, species, or other substance for which a marijuana sample is tested by a cannabis laboratory.
 - (2) "Analytical Portion" means the portion of a test sample that is being processed for a particular laboratory test.
 - (3) "Applicant" means any person who has applied for the licensing of a cannabis facility or for issuance of an agent card.
 - (4) "Application" means a written request for the issuance of a license for a cannabis facility, for issuance of an agent card, or for approval of any act or transaction for which Board approval is required or permitted under Cherokee Code Chapter 17.
 - (5) "Batch" means the usable flower and trim contained within one or more specific lots of marijuana grown by a cannabis cultivation facility from one or more seeds or cuttings of the same strain of marijuana and harvested on or before a specified final date of harvest. For marijuana to be used for concentrate-based purposes, a batch must be in an amount up to 50 pounds. For marijuana to be used for non-concentrate purposes, a batch must be in an amount up to 15 pounds. For concentrated marijuana purposes, a batch is an amount up to four liters for liquids or 9 pounds for non-liquids.

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- (6) "Batch Number" means a unique numeric or alphanumeric identifier assigned to a batch by a cannabis facility when the batch is planted.
 - (7) "Board" means the EBCI Cannabis Control Board, also known as the CCB.
 - (8) "Board Agent" means any agent or employee of the Board, including, but not limited to the Executive Director, inspectors, auditors, and investigators. The Board is not prohibited from completing any task or responsibility delegated to a Board Agent.
 - (9) "CBD" means cannabidiol, which is a primary phytocannabinoid compound found in marijuana.
 - (10) "Chair" or "Board Chair" means the Chair of the EBCI Cannabis Control Board.
 - (11) "Day" means a calendar day not including Tribal government holidays.
 - (12) "Extraction" means the process or act of extracting THC or CBD from marijuana, including, without limitation, pushing, pulling, or drawing out THC or CBD from marijuana.
 - (13) "Fair market value" means the price that a buyer would pay to a seller in an arm's length transaction for cannabis in the wholesale market.
 - (14) "Foreign matter" means stems which are three millimeters or more in diameter and constitute more than five percent of the marijuana product; or any physical contaminant which is included in the marijuana product, including but not limited to powdery mildew or insects.
 - (15) "Growing unit" means an area within a cannabis cultivation facility in which growing operations are performed at all stages of growth. The term includes, without limitation, multiple rooms or areas that collectively are used to perform growing operations at all stages of growth regardless of whether each individual room or area has the capability to perform growing operations at all stages of growth.
 - (16) "Immature marijuana plant" means a marijuana plant with no observable flowers or buds.
 - (17) "Immediately" means within 24 hours.
 - (18) "Imminent health hazard" means a situation that requires immediate correction or cessation of operations to prevent injury or serious illness as determined by the Board.
 - (19) "Label" means written or printed material affixed to or included with marijuana or a marijuana product to provide identification or other information.
 - (20) "Law enforcement" means the Cherokee Indian Police Department.
 - (21) "Lot" means:
 - (A) The flowers from one or more marijuana plants of the same batch, in a quantity that weighs five pounds (2,268 grams) or less;
 - (B) The leaves or other plant matter from one or more marijuana plants of the same batch, other than full female flowers, in a quantity that weighs 15 pounds (6,804 grams) or less; or
 - (C) The wet flower, leaves, or other plant matter from one or more marijuana plants of the same batch used only for extraction, in a quantity that weighs 125 pounds (56,700 grams) or less within two hours of harvest.
 - (22) "Mature marijuana plant" means a marijuana plant which has flowers or buds that are readily observable by an unaided visual examination.
 - (23) "Multiple-serving edible marijuana product" means an edible marijuana product which is offered for sale to a consumer and contains, within a variance of 15 percent of the potency allowable, more than 10 milligrams and not more than 100 milligrams of THC. The term includes an edible marijuana product which contains multiple pieces, each of which contains 10 milligrams or less of THC, if the edible marijuana product offered for sale contains a total of more than 10 milligrams of THC.

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- (24) "Packaging" means the materials used to wrap or protect goods, including marijuana and marijuana products.
- (25) "Person" means a natural person, corporation, limited liability company, or other such entity.
- (26) "Pesticide" includes, but is not limited to, the following:
- (A) Any substance or mixture of substances, including any living organisms, any product derived therefrom and any fungicide, herbicide, insecticide, nematocide, and rodenticide, intended to prevent, destroy, control, repel, attract, or mitigate any insect, rodent, nematode, snail, slug, fungus, weed, and any other form of plant or animal life or virus, except a virus on or in living humans or other animals, which is normally considered to be a pest.
 - (B) Any substance or mixture of substances intended to be used as a plant regulator, defoliant, desiccant, and any other substance intended for that use.
- (27) "Potential total THC" means the sum of the percentage by weight of tetrahydrocannabinolic acid multiplied by 0.877 plus the percentage by weight of tetrahydrocannabinol.
- (28) "Potentially hazardous marijuana products and ingredients" means an item that is natural or synthetic and that requires temperature control because the item is in a form capable of supporting:
- (A) The rapid and progressive growth of infectious or toxigenic microorganisms;
 - (B) The growth and toxin production of *Clostridium botulinum*; or
 - (C) In raw shell eggs, the growth of *Salmonella enteritidis*.
 - (D) an animal item that is raw or heat-treated; an item of plant origin that is heat-treated or consists of raw seed sprouts; cut melons and tomatoes; garlic-in-oil mixtures that are not modified in a way that results in mixtures which prohibit growth; and whipped and/or infused butter.
 - (E) The term does not include an ingredient with a value of water activity of not more than 0.85; an ingredient with a pH level of not more than 4.6 when measured at 75°+/- 4°F (24°+/- 2.2°C); or an ingredient, in a hermetically sealed and unopened container, that is commercially processed to achieve and maintain commercial sterility under conditions of nonrefrigerated storage and distribution.
- (29) "Premises" means:
- (A) Any temporary or permanent structure, including, without limitation, any building, house, room, apartment, tenement, shed, carport, garage, shop, warehouse, store, mill, barn, stable, outhouse, or tent in possession of a person or entity regulated by this title; or
 - (B) Any conveyance by a person or entity regulated by this title, including, without limitation, any vessel, boat, vehicle, airplane, glider, house trailer, travel trailer, motor home, or railroad car, whether located above ground or underground and whether inhabited or not.
- (30) "Private Residence" means any building, buildings, or part of a building owned or leased by a public or private entity which serves as a private, non-transient residential dwelling unit. Private residences include, but are not limited to, single family homes, town houses, duplexes, condominiums, mobile homes, and apartments. Private residences could include permanent or temporary structures. Private residences do not include hotels, weekly hotels, monthly hotels, motels, camps, campers, motor homes, and/or other vehicles and industrial and commercial facilities that do not also serve as residences.
- (31) "Processing facility" or "cannabis processing facility" means a facility that processes, packages, and/or prepares cannabis or cannabis products to be sold to consumers. This is the same as a medical cannabis production facility as defined and used in Cherokee Code Chapter 17.
- (32) "Processing run" means:

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- (A) For the extraction of concentrated cannabis by a cannabis establishment, the combination of one or more lots used to make the same product in one homogenous mixture produced using the same method which results in not more than 2.2 pounds (997.90 grams) of concentrated cannabis.
- (B) For the production of cannabis products by a processing facility, one homogenous mixture produced at the same time using the same method and which may include a combination of concentrated cannabis and other materials for the production of cannabis products.
- (33) "Processing run number" means a unique numeric or alphanumeric identifier assigned to a processing run by a processing facility which accounts for each batch or lot or any concentrated cannabis used in the processing run.
- (34) "Proficiency testing" means the evaluation, relative to a given set of criteria, of the performance, under controlled conditions, of a medical cannabis independent testing laboratory in analyzing unknown samples provided by an external source.
- (35) "Proficiency testing program" means the program established by the Board to evaluate the proficiency of a cannabis independent testing laboratory.
- (36) "Proficiency testing provider" means a person or organization operating a proficiency testing program which has been certified as meeting the requirements of standard ISO/IEC 17043 of the International Organization for Standardization.
- (37) "Proficiency testing sample" means a sample, the composition of which is unknown to the medical cannabis independent testing laboratory, provided to a medical cannabis independent testing laboratory to test whether the medical cannabis independent testing laboratory can produce analytical results within certain criteria.
- (38) "Regulations" or "Rules" mean Title 17 of the Cherokee Administrative Code.
- (39) "Sample protocols" means the procedures specified by the Board which are required to be used to obtain samples of cannabis for quality assurance testing.
- (40) "Security equipment" means a system of video cameras, monitors, recorders, video printers, motion detectors, exterior lighting, electronic monitoring, and other ancillary equipment used for surveillance of a cannabis establishment.
- (41) "Seed-to-sale tracking system" means an electronic database which is used to monitor the current chain of custody of cannabis from the point of acquisition or planting to the end consumer and which is accessible by the Board, Board Agents, and by cannabis establishments.
- (42) "Separate operations" means any area in which a component cannabis establishment must maintain legal and operational separation from all other component cannabis establishments within a combined cannabis establishment.
- (43) "Single-serving medical edible cannabis product" means a medical edible-cannabis product which is offered for sale to a consumer and contains not more than 10 milligrams of THC.
- (44) "Surveillance" means the capability to observe and record activities being conducted outside and inside a medical cannabis establishment.
- (45) "Synthetic cannabinoid" means any synthetic compound that is designed or intended to mimic the effects of naturally occurring cannabinoids, including but not limited to compounds derived from THC and CBD, as well as any analogues or derivatives of such compounds, whether naturally or synthetically produced.
- (46) "Tribe" or "Tribal" means the Eastern Band of Cherokee Indians.
- (47) "Variance" means a modification, exception, or deviation from a requirement of this title.
- (48) "Vending Machine" is an automated machine that provides items to consumers.

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- (49) "Writing" or "written" means traditional written documents and electronic writings, including email.
- (c) The terms "cannabis facility," "cannabis licensee," or "licensee" are used interchangeable depending on the context but refer to the same definition, which is a person or entity which is the holder of a cannabis facility license issued by the Board.

17 CAR 1.06 Variance Procedure.

- (a) Upon request, the Board may grant a variance to any section in this title pursuant to the procedure in this section.
- (b) A variance request must be submitted to the Board in writing. The request must state the section(s) for which the variance is sought and a detailed description of the proposed conduct or activity.
- (c) Upon request, the Board may allow the person requesting the variance an opportunity to present evidence and argument in favor of the variance.
- (d) Variances are within the discretion of the Board. The Board shall evaluate the variance request based on the following criteria:
- (1) Health, safety, and welfare of the community surrounding the proposed conduct or activity;
 - (2) Compliance with this title without the variance would constitute a substantial hardship for the licensee;
 - (3) Feasible alternatives, or lack thereof, to the proposed conduct or activity;
 - (4) Best interests and potential negative impacts and consequences to the system of medical cannabis regulation;
 - (5) That the proposed conduct or activity complies with all other applicable sections of this title;
 - (6) That the proposed conduct or activity does not violate Cherokee Code Chapter 17 or any other provision of the Cherokee Code, and
 - (7) That the variance is as narrowly tailored as possible to accomplish the goal of the request.
- (e) The Board shall grant, deny, or allow for an alternative variance than that which is requested the one requested. Variances may be permanent, temporary, or for a specific period of time. Requests to modify a variance shall follow the same procedure of this section.
- (f) Exceeding the scope of a variance granted by the Board is a violation of this title to the extent the variance is exceeded.
- (g) The Board may revoke or modify a variance only upon
- (1) No less than thirty days written notice to the licensee,
 - (2) An opportunity to the licensee at issue to be heard on the proposed revocation, and
 - (3) Re-evaluation of the criteria in subsection (d) above.

CHAPTER 2 EBCI CANNABIS CONTROL BOARD; ORGANIZATION AND ADMINISTRATION

17 CAR 2.01 Board meetings.

- (a) Any member of the Board may place an item on a Board agenda for consideration by the entire Board.
- (b) Any person may request a special meeting. Special meetings may be held at the discretion of the Chair or by consent of a quorum of the Board.

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- (c) In the absence or incapacity of the Chair, any Board meeting shall be presided over by the Vice Chair.
 - (d) Unless otherwise ordered by the Chair, the original of any documentation supplementing an application or disciplinary action must be received by the Executive Director no later than seven days before the meeting. Documentation not timely received will not be considered by the Board unless the Board, in its discretion, otherwise allows. The Chair may defer to another meeting any matter with respect to which documentation has not been timely submitted.

17 CAR 2.02 Reserved.

17 CAR 2.03 Recessed Meetings.

Any meeting of the Board may be recessed or adjourned to consider matters which were duly noticed as items on the agenda of that meeting, to such time and place as the Board may designate. Notice of a recessed meeting to consider matters which were duly noticed as items on the agenda may be given by announcement at the meeting, but where any other matters are to be considered at a recessed meeting, such matters must be duly noticed as required by 17 CAR 2.04 or as otherwise required.

17 CAR 2.04 Service of notices in general.

- (a) Each licensee and applicant shall provide a point of contact to the Board for the purpose of sending notices and other communications from the Board. The point of contact should be the same person designated in 17 CAR 5.02. Each licensee and applicant is required to update this point of contact, including the contact's electronic mail address, within seven days and as often as is otherwise necessary. The original provision and subsequent updates of the point of contact shall be made to the Board's custodian of records by means designated by the Chair.
- (b) Except as otherwise provided by law or in these regulations, notices and other communications will be sent to an applicant or licensee through the point of contact by electronic mail as provided to the Board for the purpose of sending notices and other communications. Except as otherwise provided by law or in these regulations, notices and other communications sent to the point of contact by electronic mail shall satisfy any requirement to mail a notice or other communication.
- (c) Notices shall be deemed to have been served on the date the Board sent such notices to the point of contact's electronic mail address provided to the Board by a licensee or applicant, and the time period specified in any such notice shall commence to run from the date of such mailing.
- (d) Any applicant or licensee who desires to have notices or other communications mailed to a physical address shall provide the Board with a specific written request for that purpose, and notices and other communications will thereafter be sent to the applicant or licensee at such address.

17 CAR 2.05 Subpoenas.

The Board hereby delegates to the Executive Director the authority to issue subpoenas and subpoenas duces tecum as provided by these regulations. In the absence of the Executive Director, the Chair may designate another person to issue such subpoenas.

17 CAR 2.06 Employee records.

- (a) All records concerning Board employees are confidential as set out in the Cherokee Code Chapter 132 and the EBCI Personnel Policy.
- (b) Access to employee records declared confidential by this section shall be allowed only as set out in Cherokee Code Chapter 132 and the EBCI Personnel Policy.

17 CAR 2.07 Procedure for control of evidence.

When a Board Agent receives or seizes any article of property, the custodian of evidence for the Board shall place the evidence in a secure facility and enter in a suitable system sufficient information to establish a chain of custody. A failure to comply with this subsection, absent additional factors tending to show lack of trustworthiness, shall not render evidence inadmissible in any proceeding before the Board.

17 CAR 2.08 Other employees or agents of the Board.

- (a) The Board may employ, retain, or contract with hearing officers, experts, administrators, attorneys, investigators, consultants, and clerical personnel necessary to the discharge of its duties.
- (b) A hearing officer employed by the Board shall not act in any other capacity for the Board or occupy any other position of employment with the Board, and the Board shall not assign the hearing officer any duties which are unrelated to the duties of a hearing officer.
- (c) Each employee of the Board hired under this regulation is an at-will employee who serves at the pleasure of the Board. The Board may discharge an employee of the Board for any reason that does not violate public policy.

CHAPTER 3 DISCIPLINARY AND OTHER PROCEEDINGS BEFORE THE BOARD

17 CAR 3.01 Applicability.

- (a) This Chapter shall apply to disciplinary proceedings before the Board. Unless otherwise ordered by the Chair, this chapter shall apply to all such proceedings that are pending on the effective date of this regulation.
- (b) The Board is not bound by the Rules of Evidence or the Rules of Civil Procedure as applied in the Cherokee Courts, but will consult those sets of rules and shall take all reasonable steps to ensure fundamental fairness and due process of law.
- (c) For purposes of this chapter, the term “marijuana” includes marijuana, marijuana products, and concentrated marijuana.

17 CAR 3.02 Grounds for disciplinary action.

- (a) Any violation of any of the provisions of Cherokee Code Chapter 17 or this title is grounds for disciplinary action by the Board, including, without limitation, immediate revocation of a license for a cannabis facility.
- (b) Any violation of any of the provisions of Cherokee Code Chapter 17 or this title is grounds for disciplinary action by the Board, including, without limitation, immediate revocation of an agent card.

17 CAR 3.03 Imposition of civil penalty; revocation of suspension of license or agent card; corrective action.

- (a) The Board may:
 - (1) Subject to the provisions of this title, impose a civil penalty of not more than \$50,000 per violation on any person who fails to comply with or violates any provision of Cherokee Code Chapter 17 or this title.
 - (2) Except as otherwise provided in subsection (3) below, suspend or revoke a license or agent card. If the Board orders the suspension of a license or agent card, the Board shall prescribe the time period of the suspension in the written decision. If the Board orders the revocation of a license or agent card, the Board shall prescribe a period of not more than 10 years during which the person may not apply for reinstatement of the license or agent card; and

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- (3) If corrective action approved by the Board will cure the noncompliance or violation but will not be completed within 30 days after issuance of the order, suspend for more than 30 days the license or the agent card of a person who fails to comply with or violates the provisions of Cherokee Code Chapter 17 or this title.
 - (b) To determine the amount of a civil penalty assessed pursuant to this section, the Board will consider the gravity of the violation, the economic benefit or savings, if any, resulting from the violation, the size of the business of the violator, the history of compliance with Cherokee Code Chapter 17 or this title, action taken to remedy the violation, the effect of the penalty on the ability of the violator to continue in business, and any other similar matter as justice may require.

17 CAR 3.04 Category I violations.

- (a) The Board will determine a category I violation of Cherokee Code Chapter 17 or Title 17 of the Cherokee Administrative Regulations as follows:
 - (1) Category I violations are of a severity that make a person ineligible to receive, renew, or maintain a license or agent card, including, without limitation:
 - (A) Conviction of an excluded offense;
 - (B) Operating without all required permits, certificates, registrations, agent cards, and/or licenses;
 - (C) Making an intentionally false statement to the Board or Board Agents;
 - (D) Intentionally destroying or concealing evidence;
 - (E) Intentionally failing to pay or remit taxes, fines, or levy;
 - (F) Allowing noisy, disorderly, or unlawful activity that results in death or serious physical injury, that involves the unlawful use or attempted use of a deadly weapon against another person or that results in a sexual offense which is a felony;
 - (G) Operating a cannabis facility while the license for the cannabis facility is suspended or revoked;
 - (H) Transporting marijuana outside of the boundaries of Tribal lands, except where authorized by an agreement between the Eastern Band of Cherokee, State of North Carolina, and any other state where the transportation occurs;
 - (I) Making verbal or physical threats to a Board Agent or Board member;
 - (J) Failing to immediately admit Board, Board Agents, or law enforcement personnel who can provide adequate identification into the premises of a cannabis facility;
 - (K) Refusing to allow an inspection or obstructing regulatory personnel or law enforcement officer from performing his or her official duties;
 - (L) Purchasing or selling marijuana that has not passed the analytical testing performed by a cannabis laboratory required by this title without written approval from the Board;
 - (M) Intentionally modifying, adulterating, or otherwise transforming marijuana to avoid or frustrate the testing requirements of this title;
 - (N) Purchasing or selling cannabis not found in the seed-to-sale tracking system;
 - (O) Theft, diversion, or intentional removal in contravention of the Cherokee Code or this title of marijuana;
 - (P) Transporting or storing marijuana from an unlicensed source, other than samples stored at a cannabis laboratory; or
 - (Q) Any other conduct of substantially similar or equivalent severity, seriousness, or effect.

(b) Before consideration of the factors described in subsection (a)(1), the Board will presume that the following are appropriate penalties for violations of Cherokee Code Chapter 17 or Title 17 of the Cherokee Administrative Regulations:

(1) For a category I violation which is the:

- (A) First violation in the immediately preceding three years, a civil penalty of not more than \$50,000 and a suspension for not more than 30 days or revocation of a license or agent card.
- (B) Second or subsequent violation in the immediately preceding three years, revocation of a license or agent card.

17 CAR 3.05 Category II violations.

(a) The Board will determine a category II violation of Cherokee Code Chapter 17 or Title 17 of the Cherokee Administrative Regulations as follows:

(1) Category II violations are violations of a severity that create a present threat to public health or safety, including, without limitation:

- (A) Making an unintentional false statement or representation of fact to the Board or Board Agents;
- (B) Unintentionally destroying or concealing evidence;
- (C) Failing to verify the age of, or selling or otherwise providing marijuana or marijuana paraphernalia to, a person who is less than 21 years of age;
- (D) Allowing a person who is less than 21 years of age to enter or remain in a cannabis facility or transport vehicle;
- (E) Permitting sales by a person without a agent card;
- (F) Effecting a change in ownership and/or ownership interest without complying with all the Cherokee Code and Cherokee Administrative Regulations requirements and/or any additional Board guidance and orders regarding transfers of interest;
- (G) Allowing noisy, disorderly, or unlawful activity that involves use of a dangerous weapon against another person with intent to cause death or serious physical injury;
- (H) Allowing a person who is less than 21 years of age to work or volunteer at the cannabis facility;
- (I) Failing to cease operation and notify the Board or Board Agents during an imminent health hazard;
- (J) Purchase, cultivate, produce, or otherwise possess marijuana from an unapproved source;
- (K) Operating an unapproved extraction unit;
- (L) Selling an amount of marijuana in excess of transaction limits;
- (M) Failing to maintain required security alarm and surveillance systems;
- (N) Any intentional variance from approved procedures in a laboratory;
- (O) Failing to immediately notify the Board or Board Agents of a loss of possession or control of a cannabis facility;
- (P) Transferring, moving, or disturbing marijuana which has been quarantined by the Board without Board approval;
- (Q) Failing to renew the cannabis facility license on time; or
- (R) Any other conduct of substantially similar or equivalent severity, seriousness, or effect.

(b) Before consideration of the factors described in subsection (a)(1), the Board will presume that the following are appropriate penalties for violations of Cherokee Code Chapter 17 or Title 17 of the Cherokee Administrative Regulations:

- (1) For a category II violation which is the:
 - (A) First violation in the immediately preceding three years, a civil penalty of not more than \$25,000 and a suspension for not more than 20 days of a license or agent card.
 - (B) Second violation in the immediately preceding three years, a civil penalty of not more than \$50,000 and a suspension for not more than 30 days of a license or agent card.
 - (C) Third or subsequent violation in the immediately preceding three years, revocation of a license or agent card.

17 CAR 3.06 Category III violations.

(a) The Board will determine a category III violation of Cherokee Code Chapter 17 or Title 17 of the Cherokee Administrative Regulations as follows:

- (1) Category III violations are violations of a severity that create a potential threat to public health or safety, including, without limitation:
 - (A) Transporting marijuana in an unauthorized vehicle;
 - (B) Without Board approval, allowing consumption by any person of alcohol, marijuana, or other intoxicants on the premises of the cannabis facility or in areas adjacent to the premises of the cannabis facility which are under the licensee's control, including, without limitation, a parking lot;
 - (C) Failing to keep any required records, including seed-to-sale tracking requirements;
 - (D) Failing to tag marijuana as required;
 - (E) Failing to follow an approved security plan;
 - (F) Allowing disorderly activity within a cannabis facility;
 - (G) Allowing any activity which violates the laws of the Tribe;
 - (H) Failing to immediately notify the Board or Board Agents after discovery of a serious incident or criminal activity on the premises of the cannabis facility;
 - (I) Unintentionally failing to pay or remit any taxes, fines, or levy;
 - (J) Selling unauthorized products or using unauthorized ingredients;
 - (K) Failing to notify the Board or Board Agents of a modification or expansion of the facilities of the cannabis facility or a change in equipment or menu of the cannabis facility;
 - (L) Violating packaging or labeling requirements, including seed-to-sale tracking system requirements;
 - (M) Possessing, storing, or delivering marijuana outside the seed-to-sale tracking system;
 - (N) Failing to meet requirements for the disposal of marijuana waste;
 - (O) Using unauthorized pesticides, soil amendments, fertilizers, plant growth regulators, or other crop production aids;
 - (P) Exceeding the maximum serving requirements for marijuana products;
 - (Q) Exceeding a reasonable time frame for delivery without approval from the Board;
 - (R) Picking up, unloading, or delivering marijuana at an unauthorized location;
 - (S) Failing to comply with requirements for hand washing and employee hygiene;

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- (T) Failing to maintain proper temperature of potentially hazardous food or ingredients;
 - (U) Selling or failing to dispose of marijuana or food items that are spoiled or contaminated;
 - (V) Reserved.
 - (W) Failing to follow seed-to-sale tracking system requirements while transporting or delivering marijuana;
 - (X) Failing to properly update the licensee's point of contact with the Board;
 - (Y) Failure to maintain quality assurance/quality control program in a laboratory;
 - (Z) Failure to maintain updated standard operating procedures; or
 - (AA) Any other conduct of substantially similar or equivalent severity, seriousness, or effect.
- (b) Before consideration of the factors described in subsection (a)(1), the Board will presume that the following are appropriate penalties for violations of Cherokee Code Chapter 17 or Title 17 of the Cherokee Administrative Regulations:
- (1) For a category III violation which is the:
 - (A) First violation in the immediately preceding three years, a civil penalty of not more than \$10,000.
 - (B) Second violation in the immediately preceding three years, a civil penalty of not more than \$20,000 and/or a suspension for not more than 10 days of a license or agent card.
 - (C) Third violation in the immediately preceding three years, a civil penalty of not more than \$35,000 and/or a suspension for not more than 20 days of a license or agent card.
 - (D) Fourth violation in the immediately preceding three years, a civil penalty of not more than \$50,000 and a suspension for not more than 60 days of a license or agent card.
 - (E) Fifth or subsequent violation in the immediately preceding three years, revocation of a license or agent card.

17 CAR 3.07 Category IV violations.

- (a) The Board will determine a category IV violation of Cherokee Code Chapter 17 or Title 17 of the Cherokee Administrative Regulations as follows:
- (1) Category IV violations create a climate which is conducive to abuses associated with the sale or production of marijuana, including, without limitation:
 - (A) Failing to display or have in the immediate possession of each cannabis establishment agent a cannabis establishment agent card or proof of temporary registration;
 - (B) Removing, altering, or covering a notice of suspension of a license or any other required notice or sign;
 - (C) Violating advertising requirements;
 - (D) Displaying products in a manner visible to the general public from a public right of way;
 - (E) Failing to respond to an administrative notice of a violation or failing to pay fines;
 - (F) Violating restrictions on sampling;
 - (G) Failing to maintain a standardized scale as required;
 - (H) Improper storing of marijuana, ingredients, or other foods;
 - (I) Failing to properly wash, rinse, and sanitize product contact surfaces as required;

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- (J) Failing to maintain hand-washing facilities that are stocked, accessible and limited to hand washing only;
 - (K) Infestation by pests that are not multigenerational or on contact surfaces;
 - (L) Failing to properly use sanitizer as required;
 - (M) Violating any transportation or delivery requirements not described in another category of violations;
 - (N) Failing to respond to a Board or Board Agent's request for documentation, information, video, or other records; or
 - (O) Any other conduct of substantially similar or equivalent severity, seriousness, or effect.
- (b) Before consideration of the factors described in subsection (a)(1), the Board will presume that the following are appropriate penalties for violations of Cherokee Code Chapter 17 or Title 17 of the Cherokee Administrative Regulations:
- (1) For a category IV violation which is the:
 - (A) First violation in the immediately preceding three years, a civil penalty of not more than \$5,000.
 - (B) Second violation in the immediately preceding three years, a civil penalty of not more than \$10,000 and/or a suspension for not more than seven days of a license or agent card.
 - (C) Third violation in the immediately preceding three years, a civil penalty of not more than \$15,000 and/or a suspension for not more than 10 days of a license or agent card.
 - (D) Fourth violation in the immediately preceding three years, a civil penalty of not more than \$30,000 and/or a suspension for not more than 20 days of a license or agent card.
 - (E) Fifth violation in the immediately preceding three years, a civil penalty of not more than \$50,000 and a suspension for not more than 30 days of a license or agent card.
 - (F) Sixth or subsequent violation in the immediately preceding three years, revocation of a license or agent card.

17 CAR 3.08 Category V violations.

- (a) The Board will determine a category V violation of Cherokee Code Chapter 17 or Title 17 of the Cherokee Administrative Regulations as follows:
- (1) Category V violations are inconsistent with the orderly regulation of the sale or production of marijuana, including, without limitation:
 - (A) Failing to submit monthly tax or levy or sales reports or payments;
 - (B) Failing to notify the Board or Board Agents of a temporary closure of the cannabis facility within 24 hours of the closure;
 - (C) Failing to post any required signs or failing to provide any required notices;
 - (D) Failing to notify the Board of a change in the name of the cannabis facility;
 - (E) Making a payment with a check returned for insufficient funds;
 - (F) Failing to comply with any other requirements not described in another category of violations;
 - (G) Failing to properly submit quarterly inventory reports, monthly sales reports, or other reports required by the Board;
 - (H) Failure to pay for all costs involved in screening or testing related to quality assurance compliance checks within 30 days; or

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- (l) Any other conduct of substantially similar or equivalent severity, seriousness, or effect.
 - (b) Before consideration of the factors described in subsection (a)(1), the Board will presume that the following are appropriate penalties for violations of Cherokee Code Chapter 17 or Title 17 of the Cherokee Administrative Regulations:
 - (1) For a category V violation which is the:
 - (A) First violation in the immediately preceding three years, a warning.
 - (B) Second violation in the immediately preceding three years, a civil penalty of not more than \$2,500.
 - (C) Third violation in the immediately preceding three years, a civil penalty of not more than \$5,000 and/or a suspension for not more than three days of a license or agent card.
 - (D) Fourth violation in the immediately preceding three years, a civil penalty of not more than \$10,000 and/or a suspension for not more than seven days of a license or agent card.
 - (E) Fifth violation in the immediately preceding three years, a civil penalty of not more than \$20,000 and/or a suspension for not more than 10 days of a license or agent card.
 - (F) Sixth or subsequent violations in the immediately preceding three years, a civil penalty of not more than \$50,000 and/or a suspension for not more than 20 days of a license or agent card.

17 CAR 3.09 Imminent health hazard.

- (a) The Board may order the immediate correction or cessation of a facility's operation for a period not to exceed five days upon the finding of an imminent health hazard at the facility. The Board will determine whether an event is an imminent health hazard that requires immediate correction or cessation of operations to prevent injury or serious illness based on the nature, severity, and duration of any anticipated injury, illness, or disease and the number of injuries or illnesses to members of the public which may occur. Events that are presumed to be imminent health hazards include, without limitation, the following:
 - (1) Interruption of electrical service;
 - (2) Lack of potable water or hot water;
 - (3) Grossly unsanitary occurrences or conditions including, without limitation, pest infestation, or sewage or liquid waste not being disposed of in an approved manner;
 - (4) Lack of adequate refrigeration for materials requiring refrigeration;
 - (5) Lack of adequate toilet and hand-washing facilities for employees;
 - (6) Misuse of poisonous or toxic materials;
 - (7) A suspected outbreak of foodborne illness;
 - (8) A fire or flood;
 - (9) Principal Chief's emergency directives; or
 - (10) Any other condition or circumstance which is an imminent danger to public health.
- (b) If a cannabis facility becomes aware of any such condition listed above independently, it must report the hazard to the Board or Board Agents immediately upon the hazard's discovery.

17 CAR 3.10 Complaint.

- (a) The complaint must be in writing and contain the following information:
 - (1) The date of the violation or, if the date of the violation is unknown, the date that the violation was identified;

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- (2) The address or description of the location where the violation occurred;
 - (3) The section of the Cherokee Code or Cherokee Administrative Regulations that was violated and a description of the violation;
 - (4) The amount of the civil penalty that the Board may impose or a description of the action the Board may take for the violation;
 - (5) A description of the payment process, including a description of the time within which and the place to which any civil penalty must be paid if the respondent does not wish to dispute the complaint;
 - (6) An order prohibiting the continuation or repeated occurrence of the violation described in the complaint;
 - (7) A description of the complaint process, including, without limitation, the time within which respondent must serve an answer to the complaint and the place to which the answer must be served; and
 - (8) The name of the Board Agent who performed the investigation.

17 CAR 3.11 Service of complaint.

The Board may serve the complaint by registered or certified mail, or by personal service by a Board Agent. Proof of service may be provided by a certificate or affidavit of service, which shall be signed by the person effecting service and which shall specify the date and manner of service.

17 CAR 3.12 Prohibition on ex parte communication.

- (a) Unless required for the disposition of ex parte matters authorized by law:
 - (1) A party or the party's representative shall not communicate, directly or indirectly, in connection with any issue of fact or law related to a proceeding under this chapter, with any member of the Board, except upon notice and opportunity to all parties to participate; and
 - (2) A member of the Board shall not communicate, directly or indirectly, in connection with any issue of fact or law related to a proceeding under this chapter, with any party or any party's representative, except upon notice and opportunity to all parties to participate.
- (b) This section shall not preclude:
 - (1) Any member of the Board from consulting with Board counsel concerning any matter before the Board;
 - (2) A party or a party's representative from conferring with the Chair or Board counsel concerning procedural matters that do not involve issues of fact or law related to the proceeding; or
 - (3) Attorney/client communications or communications between counsel to the parties about substantive or procedural issues.

17 CAR 3.13 Delegation to Chair.

- (a) The Chair may issue rulings on discovery matters, scheduling matters, protective orders, the admissibility of evidence, and other procedural or prehearing matters that are not dispositive of the case or any portion thereof. The Chair's rulings are subject to consideration by the Board upon the request of any Board member, or upon motion of a party or person affected by the ruling.
- (b) The Chair may extend any of the time periods provided by this regulation, upon the Chair's own initiative or upon motion by a party or other person affected, for good cause shown.

17 CAR 3.14 Appearance through counsel.

- (a) Parties to proceedings may appear personally or through an attorney, except that the parties must personally attend any hearing on the merits unless such attendance has been waived in writing. Any such attorney must be licensed to practice law before the Cherokee Courts.

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- (b) When a party has appeared through an attorney, service of all notices, motions, orders, decisions, and other papers thereafter may be made upon the attorney.
 - (c) When a party is represented by an attorney on a matter before the Board, the attorney shall sign all motions, oppositions, notices, requests, and other papers on behalf of the party, including requests for subpoenas.
 - (d) An attorney may withdraw from representing a person upon notice to the person and the Board. The notice must include the reason for the requested withdrawal.
 - (e) If the Board finds that an attorney has violated any provision of this section, the Board may bar the attorney from participating in the case or any future case before the Board.

17 CAR 3.15 Reinstatement of license or agent card after revocation.

- (a) If a person applies for reinstatement of a license or agent card that has been revoked pursuant to this chapter, the person shall:
 - (1) Submit an application on a form supplied by the Board;
 - (2) Satisfy all the current requirements for the issuance of an initial license or agent card;
 - (3) Attest that, in this or any other jurisdiction:
 - (A) The person has not, during the period of revocation, violated any law relating to cannabis, and no criminal or civil action involving such a violation is pending against the person; and
 - (B) No other regulatory body has, during the period of revocation, taken disciplinary action against the person, and no such disciplinary action is pending against the person; and
 - (4) Satisfy any additional requirements for reinstatement of the license or agent card prescribed by the Board.
- (b) The Board will consider each application for reinstatement of a license or agent card submitted pursuant to this section. In determining whether to reinstate the license or agent card, the Board shall consider the following criteria:
 - (1) The severity of the act resulting in the revocation of the license or agent card;
 - (2) The conduct of the person after the revocation of the license or agent card;
 - (3) The amount of time elapsed since the revocation of the license or agent card;
 - (4) The veracity of the attestations made by the person pursuant to subsection (a);
 - (5) The degree of compliance by the person with any additional requirements for reinstatement of the license or agent card prescribed by the Board; and
 - (6) The degree of rehabilitation demonstrated by the person.
- (c) If the Board reinstates the license or agent card, the Board may place any conditions, limitations, or restrictions on the license or agent card as it deems necessary.
- (d) The Board may deny reinstatement of the license or agent card if the person fails to comply with any provisions of this section.
- (e) This section shall not be interpreted to give any party or other person a right to reinstatement of the license or agent card.

17 CAR 3.16 Grounds for immediate suspension; request for hearing.

- (a) If there could be an impairment of the health and safety of the public or imminent health hazard at a cannabis facility, the Chair or Executive Director will convene an emergency Board meeting.

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- (b) If the Board finds that the public health, safety, or welfare imperatively requires emergency action, the Board may issue an order of immediate suspension of the license or an agent card pending proceedings for revocation or other action. An order of immediate suspension issued by the Board must contain findings of the exigent circumstances which warrant the issuance of the order, and a suspension under such an order is effective immediately.
 - (c) The Board shall give notice to a licensee or person that is subject to an order of immediate suspension of the facts or conduct that warrant the order and the deficiencies that must be corrected to lift the order. A cannabis facility whose license has been suspended pursuant to subsection (b) shall develop a plan of correction for each deficiency and submit the plan to the Board for approval within 10 days after receipt of the order of immediate suspension. The plan of correction must include specific requirements for corrective action, which must include times within which the deficiencies are to be corrected. A licensee or person that is subject to an order of immediate suspension shall not operate until the Board has confirmed that the deficiencies identified in the order have been corrected.
 - (d) If the plan submitted pursuant to subsection (c) is not acceptable to the Board, the Board may direct the cannabis facility to resubmit a plan of correction or the Board may develop a directed plan of correction with which the cannabis facility must comply. The Board's acceptance of a plan of correction does not preclude the Board from assessing fines and/or pursuing disciplinary action against the licensee for any violations connected with the suspension.
 - (e) A licensee or person that is subject to an order of summary suspension may request a hearing regarding the order within 10 days after the order is issued. A hearing on the summary suspension must be held within 30 days after that request for hearing.

17 CAR 3.17 Discovery; mandatory exchanges.

- (a) Within 20 days after the service of the answer by the first answering respondent, and thereafter as each respondent answers the complaint, the parties shall confer for the purpose of complying with subsection (c) of this section.
- (b) Within five days after a request for hearing regarding an order of summary suspension, the parties shall confer for the purpose of complying with subsection (c) of this section.
- (c) At each conference the parties shall:
 - (1) Exchange copies of all documents and other evidence then reasonably available to a party which are then intended to be offered as evidence in support of the party's case in chief; and
 - (2) Exchange written lists of persons each party then intends to call as a witness in support of that party's case in chief. Each witness shall be identified by name, position, business address, and a brief description of the purpose for which the witness will be called. If no business address is available, the party shall provide a home address for the witness, or shall make the witness available for service of process.
- (d) The investigative file is confidential except as set out in the Cherokee Code and this title. The investigative file for a case is not discoverable unless Board counsel intends to present materials from the investigative file as evidence in support of the case. The investigative file for the case includes all communications, records, affidavits, or reports acquired or created as part of the investigation of the case, whether or not acquired through a subpoena related to the investigation of the person. Discovery of the investigative file is limited to solely to those documents the Board counsel intends to use as evidence in support of its case, as disclosed prior to the hearing.
- (e) A party may serve written discovery on another party, including of interrogatories, requests for production, requests for admissions, and/or depositions by written questions. All responses to written discovery must be verified.
- (f) A party may take the deposition of a material witness.

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- (1) A party who wishes to take a deposition of a material witness must submit a written application at least 30 days before the hearing. The application must:
 - (A) Set forth the reason why the deposition is necessary; and
 - (B) Be accompanied by the appropriate orders for deposition.
 - (2) A material witness is a witness who has percipient knowledge of the alleged misconduct of the licensee. If there is any dispute as to whether a particular witness is material, such dispute shall be submitted to the Chair and they shall rule on whether such witness is material.
 - (3) The Chair shall approve or deny the application within five days after the receipt of the application.
 - (4) If a material witness deposition is allowed, it shall be conducted in accordance with the rules of civil procedure applicable in the Cherokee Courts and not last more than one day/seven hours unless good cause is shown.
 - (5) Depositions of non-material witnesses may be permitted in two limited circumstances:
 - (A) If the potential witnesses resides outside of North Carolina; or
 - (B) If the witness is not available to testify during the hearing.
 - (6) If the parties cannot agree on whether a non-material witness can be deposed, such dispute shall be submitted to the Chair and they shall rule on this issue, taking into account whether the burden and expense of the proposed deposition outweighs its likely benefit.
- (g) It shall be a continuing obligation of the parties to produce documents, witness lists, and other matters governed by this section as such become identified by and available to the parties. A party may amend its responses to the requirements of this section by informing the adverse party that documents previously produced or witnesses previously listed, will not be introduced in that party's case.

17 CAR 3.18 Continuances and recesses.

The Board may, for good cause shown, either before or during a hearing, grant continuances or recesses and may consider a stipulation by the parties to a continuance of the hearing.

17 CAR 3.19 Burden and standard of proof.

The Board has the burden of proof in disciplinary proceedings pursuant to this chapter. The standard of proof is a preponderance of the evidence. If a licensee or agent cardholder fails to create and/or maintain any documents, records, surveillance video, and/or any other items required pursuant to these regulations and Cherokee Code Chapter 17, that failure shall create a rebuttal presumption that such items would be harmful to that licensee's or agent cardholder's case at the disciplinary proceeding.

17 CAR 3.20 Motions.

- (a) All motions shall be in writing, unless made during a hearing.
- (b) A motion shall state with particularity the grounds therefore, shall be supported by a memorandum of points and authorities, and shall set forth the relief or order sought.
- (c) Every written motion shall be filed with the Board and served by the moving party upon all other parties or as the Chair directs.
- (d) An opposing party shall have 10 days after service of the motion within which to file and serve a memorandum in opposition to the motion.
- (e) The moving party shall have five days after service of the opposing memorandum to serve and file a reply memorandum if the moving party so desires.

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- (f) If a motion or opposition is served by mail, three days shall be added to the time periods specified herein for response.

17 CAR 3.21 Subpoenas.

- (a) The Board, or its designees, shall issue subpoenas, including subpoenas duces tecum, upon the request of a party, in accordance with this section.
- (b) Subpoenas may be issued only for the following purposes:
 - (1) To compel a nonparty witness to appear and give oral testimony at a deposition; or
 - (2) To compel any person to appear at the hearing on the merits of the case, to give oral testimony alone, or to produce documents or other tangible things.
- (c) Subpoenas shall be submitted to the Board or its designee for issuance on a form approved by the Chair. Concurrently with the submission of the subpoena, the requesting party shall serve a copy on all other parties to the proceeding and shall file proof of such service with the Board.
- (d) Subpoenas will not be issued in blank. A subpoena submitted for issuance must contain the identifying case information, the name of the person to whom it will be directed, the date, time, and place of the hearing or deposition, and the name and signature of the requesting party or the requesting party's attorney. A subpoena duces tecum must in addition contain a complete description of specific documents or other tangible things that the witness will be required to produce at the hearing.
- (e) Unless the witness agrees otherwise, a subpoena issued for the purpose provided by subsection (b) must be served by the requesting party at least 10 days prior to the hearing or deposition. A subpoena will be issued during the hearing or upon less than 10 days' notice only upon order of the Board for reasonable cause shown by the requesting party.

17 CAR 3.22 Disposition of charges; adjudication by Board.

- (a) The Board shall hold a hearing within 45 days of service of the complaint, unless continued for good cause.
- (b) Hearings shall be open to the public and recorded by a court reporter or by audio means which can be reduced to a transcript subsequently by a court reporter.
- (c) Parties may be represented by counsel at the hearing, present evidence, call and cross-examine witnesses, and present arguments.
- (d) At the conclusion of the hearing, the Board shall deliberate confidentially and may take all the evidence and argument under advisement. The Board may impose discipline by a majority vote based upon the evidence, findings of fact, and conclusions of law and the presentations of the parties. The Board shall issue a written final order within 60 days of the hearing. The order shall contain findings of fact, conclusions of law, and a decretal portion setting out the order of the Board. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

17 CAR 3.23 Advisory opinions.

- (a) Any applicant for licensure, cannabis facility licensee, or agent card holder may obtain an advisory opinion from the Board as to the applicability of any provision of Cherokee Code Chapter 17 or this Title by bringing a petition for an advisory opinion before the Board. No other persons or entities may petition the Board for an advisory opinion.
- (b) An advisory opinion is an extraordinary remedy that will be considered by the Board only when the objective of the petitioner cannot reasonably be achieved by other means and when the ruling would be a significant advancement to the regulation of cannabis.

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- (c) A petitioner may not file a petition for an advisory opinion involving questions or matters that are issues in a disciplinary action before the Board in which the petitioner is a party or has a financial and/or ownership interest in a party.
 - (d) The Board will consider a petition for an advisory opinion at the next scheduled Board meeting.
 - (e) The petitioner may not obtain judicial review of any Board advisory opinion entered pursuant to this regulation. The Board is bound by the advisory opinion in subsequent disciplinary actions against the petitioner related to the same issue and same facts on which the petitioner sought the advisory opinion.

17 CAR 3.24 Notices of noncompliance, corrective action plans.

- (a) The Board may, prior to initiating disciplinary procedures, issue the licensee or agent card holder a notice of noncompliance.
- (b) Any such notice of noncompliance shall:
 - (1) Be in writing;
 - (2) Describe and identify with particularity the noncompliance or violation with Cherokee Code Chapter 17 or this title;
 - (3) Describe the corrective action plan the licensee or agent card holder may complete to remedy the noncompliance or violation;
 - (4) Set a date not to exceed 30 days for completing the corrective action plan during which time period the licensee or agent card holder may not face discipline from the Board for the stated noncompliance or violation; and
 - (5) May include any other information or materials the Board deems useful in assisting the licensee or agent card holder in remedying the noncompliance or violation.
- (c) A noncompliance letter issued to an agent card holder shall also be sent to each licensee associated with the agent card holder.
- (d) Failure to successfully complete a corrective action plan may subject the licensee or agent card holder to disciplinary procedures pursuant to this chapter.

CHAPTER 4 LICENSING, BACKGROUND CHECKS, AND AGENT CARDS

17 CAR 4.01 Application process.

- (a) It is declared policy of Tribe that all cannabis facilities are licensed and controlled so as to better protect the public health, safety, morals, good order, and welfare and to promote the economy and the policies of the Tribe. Any cannabis facility license, agent card, or approval by the Board pursuant to the provisions of Cherokee Code Chapter 17 is a revocable privilege, and no holder acquires any vested right therein or thereunder. No applicant for a license or other affirmative Board approval has any right to a license or the granting of the approval sought.
- (b) An application for a cannabis facility license, agent card, or approval by the Board is seeking the granting of a privilege, and the burden of proving the applicant's qualifications is at all times on the applicant. An applicant must accept any risk of adverse public notice, embarrassment, criticism, or other action or financial loss which may result from action with respect to an application and expressly waive any claim for damages as a result thereof.
- (c) An application for a cannabis facility license, agent card, or other approval by the Board shall constitute a request to the Board for a decision upon the applicant's general suitability, character, integrity, and ability to participate or engage in, or be associated with, the cannabis industry in the manner or position sought by the

application; and, by filing an application with the Board, the applicant specifically consents to the making of such a decision by the Board.

- (d) A request for withdrawal of an application may be made at any time prior to final action upon the application by the Board by filing a written request to withdraw with the Board. Final action by the Board upon an application occurs when the Board adopts its conclusion regarding the application.
- (e) After completion of its investigation and proceedings respecting an application, the Board shall issue the approval or denial of the application. If the Board denies an application, the denial will be accompanied by written reasons upon which the denial is based. Any person whose application has been denied is not eligible to apply again for licensing or approval until after expiration of one year from the date of such denial unless the Board determines in its discretion otherwise.
- (f) The Board may designate a Board agent to process and approve or deny applications in accordance with this title. When it is not clear whether or not the applicant meets the criteria for approval, the designee shall place the application on the agenda of the Board's next meeting for consideration by the Board.

17 CAR 4.02 Designation of persons responsible for providing information, etc.

- (a) When a cannabis facility licensee is required to provide information, sign documents, accept service of complaints or notification of violations, or ensure actions are taken, the persons identified in this subsection shall comply with the requirement on behalf of the cannabis facility:
 - (1) If a natural person is or making application to become a cannabis facility, the natural person;
 - (2) If a corporation is or making application to become a cannabis facility, a natural person who is an officer of the corporation;
 - (3) If a limited partnership is or making application to become a cannabis facility, a natural person who is a partner;
 - (4) If a limited liability company is or making application to become a cannabis facility, a manager or, if the limited liability company does not have a manager, a natural person who is a member of the limited liability company;
 - (5) If an association or cooperative is or making application to become a cannabis facility, a natural person who is a member of the governing Board of the association or cooperative;
 - (6) If a joint venture is or making application to become a cannabis facility, a natural person who signed the joint venture agreement;
 - (7) If a trust is or making application to become a cannabis facility, a natural person who is a trustee of the trust; and
 - (8) If a business organization other than those described in this subsection, is or making application to become a cannabis facility, a natural person who is a member of the business organization.
- (b) For the purposes of these regulations and Cherokee Code Chapter 17, the following persons must comply with the provisions governing owners, officers, and board members of a cannabis facility:
 - (1) If a corporation is applying for a license for a cannabis facility, the shareholders, officers, and Board members of the corporation;
 - (2) If a limited partnership is applying for a license for a cannabis facility, the partners;
 - (3) If a limited liability company is applying for a license for a cannabis facility, the members and managers of the limited liability company;
 - (4) If an association or cooperative is applying for a license for a cannabis facility, the members of the association or cooperative;

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- (5) If a joint venture is applying for a license for a cannabis facility, the natural persons who signed the joint venture agreement;
 - (6) If a trust is applying for a license for a cannabis facility, the trustees of the trust, and
 - (7) If a business organization other than those described in this subsection is applying for a license for a cannabis facility, the members of the business organization.

17 CAR 4.03 Qualifications for licensure.

- (a) In addition to the considerations in Cherokee Code Chapter 17, the Board may consider the following in determining whether any applicant qualifies to receive a license:
 - (1) The adequacy of the person's business competence and experience for the role or position for which application is made;
 - (2) The unsuitable affiliates of the person applying for the license even if the person is found suitable by the Board, but associates with, or controls, is controlled by, or is under common control with, an unsuitable person;
 - (3) The adequacy of the proposed funding for the nature of the proposed operations; and
 - (4) The suitability of the source of funding unless the person satisfies the Board that the source of funding:
 - (A) Is a person of good character, honesty, and integrity;
 - (B) Is a person whose background, reputation, and associations will not result in adverse publicity for the Tribe and its cannabis industry; and
 - (5) The Board may consider any other qualifications or behavior of the person that the Board determines is inconsistent with the declared policy of the Chapter 17, this Title, or the Tribe.

17 CAR 4.04 Applications for cannabis facility licenses.

- (a) The Board determines whether a sufficient number of cannabis facilities exist to serve the Tribe and whether additional facility licenses should be issued.
- (b) The Board may promulgate its own forms and materials to facilitate an efficient and orderly license process.
- (c) Approval or denial of license applications shall be in writing.

17 CAR 4.05 Inspections.

- (a) Board Agents or the Executive Director may, at any time they determine an inspection is needed, inspect, and investigate the premises, facilities, qualifications of personnel, methods of operation, policies, and procedures of any cannabis facility and of any person proposing to engage in the operation of a cannabis facility. An inspection of a facility may include, without limitation, investigation of standards for safety from fire on behalf of the Board by the Cherokee Fire Department and/or Tribal Building Inspector.
- (b) The Board will not issue a license for a cannabis facility until Board Agents complete an inspection of the premises of the proposed facility. Such an inspection may require more than one visit to the premises.
- (c) Board Agents may conduct a preliminary walk-through of a cannabis facility upon request to assist with questions and identify issues for correction.
- (d) A cannabis facility may not operate until it has been issued a license from the Board.
- (e) The Board will not issue a license for a cannabis facility until the Board has received a satisfactory report of full compliance with and completion of all presently applicable public safety inspections, including, without limitation, fire, building, health, and air quality inspections, except as otherwise provided in these regulations.

17 CAR 4.06 Authority of Board relating to inspections.

- (a) Submission of an application for a license constitutes permission for entry to and inspection of the cannabis facility by the Board and Board Agents, with or without notice. An inspector conducting an inspection pursuant to this section does not need to be accompanied during the inspection.
- (b) The Executive Director or Board Chair may upon receipt of a complaint against a cannabis facility initiate an investigation of the cannabis facility, with or without notice, regarding the premises, facilities, qualifications of personnel, methods of operation, policies, procedures, and records of that cannabis facility or any other cannabis facility which may have information pertinent to the complaint.
- (c) Board Agents may enter and inspect any building or premises of a cannabis facility at any time, with or without notice, to:
 - (1) Confirm or secure compliance with any provision of these regulations or Cherokee Code Chapter 17;
 - (2) Prevent a violation of any provision of these regulations or Cherokee Code Chapter 17; or
 - (3) Conduct an unannounced inspection of a cannabis establishment in response to an allegation of noncompliance with these regulations or Cherokee Code Chapter 17.
- (d) The Board may:
 - (1) Summon witnesses to appear and testify on any subject material to its responsibilities under these regulations or Cherokee Code Chapter 17. Such summons may be served by personal service by the Board Chair, Executive Director or his or her agent or by the Cherokee Indian Police Department.
 - (2) Issue subpoenas to compel the attendance of witnesses and the production of books and papers and may seek to enforce the subpoenas by petition to any court of competent jurisdiction in the manner provided by law.
- (e) Any member of the Board, the Executive Director, or any officer of the Board designated by the Board may administer oaths to witnesses.
- (f) The Board and Board Agents may, without further or other legal process:
 - (1) Inspect and examine all premises wherein marijuana is propagated, cultivated, harvested, processed, manufactured, stored, sold, or distributed;
 - (2) Inspect all equipment and supplies in, upon, or about such premises;
 - (3) Summarily seize and remove from such premises any marijuana or marijuana products and impound any equipment, supplies, documents or records for the purpose of examination and inspection;
 - (4) Access and inspect, examine, photocopy, and audit all papers, books, and records of any applicant or licensee, on his or her premises, or elsewhere as practicable, and in the presence of the applicant or licensee, or his or her agent, affecting the enforcement of any of the provisions of these regulations or Cherokee Code Chapter 17; and
 - (5) Access and inspect, examine, photocopy, and audit all papers, books, and records of any affiliate of a licensee whom the Board knows or reasonably suspects is involved in the financing, operation, or management of the licensee. The inspection, examination, photocopying, and audit may take place on the premises of the affiliate or another location, as practicable, and in the presence of the affiliate or its agent.
- (g) Board Agents will enter and inspect at least annually, with or without notice, each building of the premises of a cannabis facility to ensure compliance with the provisions of these regulations and Cherokee Code Chapter 17. Nothing in this subsection shall be construed to prohibit an appropriate Tribal government agent from conducting an inspection of the facilities or operations of a cannabis establishment as otherwise provided by Tribal law.

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- (h) Board Agents will enter and inspect, with or without notice, any building or premises within 72 hours after the Board is notified that the cannabis facility is operating without a license for the cannabis facility.
 - (i) The Board or Board Agents may consult with any person or entity, as needed, in any of the Board's audits, inspections, and/or investigations. This includes, but is not limited to, allowing such persons or staff from said entities to accompany Board Agents during inspections, and/or investigations.
 - (j) The Board will administer the provisions of these regulations and Cherokee Code Chapter 17 for the protection of the public and in the public interest in accordance with the policy of the Tribe.

17 CAR 4.07 Reserved.

17 CAR 4.08 Notification to Board of closing.

If a cannabis facility is closing for 90 days or more, the cannabis facility must notify the Board of the closing at least 30 days before the cannabis establishment is closed. If the intent is to permanently close the cannabis facility, it must surrender the license to the Board immediately upon closing.

17 CAR 4.09 Renewal of license.

- (a) A licensee that wishes to renew a license for a cannabis facility must annually submit to the Board:
 - (1) Payment of the annual licensing fee for the renewal of the license. Payment must include the identification numbers of the facility and the name of the licensee applying to renew the license; and
 - (2) Any such other information relevant to the renewal required by the Board upon request.
- (b) If a licensee fails to renew its license by the expiration date, then the licensee shall cease operations until its license is renewed. If the licensee fails to renew its license within 90 days of the expiration date, then the license shall be deemed voluntarily surrendered.

17 CAR 4.10 Grounds for denial of application or renewal.

- (a) The Board may deny an application for the issuance or renewal of a license for a cannabis facility if:
 - (1) The application or the cannabis facility is not in compliance with any provision of these regulations or Cherokee Code Chapter 17; or
 - (2) An owner, officer, or board member of the cannabis facility:
 - (A) Is an employee or contractor of the Board;
 - (B) Has an ownership or financial investment interest in a cannabis laboratory with a license issued by the Board; or
 - (C) Intentionally provides information that the Board determines is false or misleading.
- (b) If the Board denies an application for issuance or renewal of a license or revokes such a license, the Board will provide notice to the applicant or cannabis facility that includes, without limitation, the specific reasons for the denial or revocation.
- (c) Before denying an application for issuance or renewal of a license or revoking such a license as a result of the actions of an owner, officer, or Board member of the cannabis facility, the Board may provide the cannabis facility with an opportunity to correct the situation.

17 CAR 4.11 Transfer of ownership.

- (a) A transfer of an ownership interest in any amount in a cannabis facility is not effective until the Board has been notified in writing of the intent to transfer an ownership interest in the cannabis facility and the Board has found that each person to whom an ownership interest is proposed to be transferred is individually qualified

to be licensed under Cherokee Code Chapter 17 and this title.. This section applies to any and all ownership interests in licensees and entities which own an interest in a licensee.

- (b) A person shall not sell, purchase, assign, lease, grant, or foreclose a security interest or otherwise transfer, convey, or acquire in any manner whatsoever any interest of any sort whatsoever in or to any cannabis facility or any portion thereof or enter into or create a voting trust agreement or any other agreement of any sort in connection with any cannabis establishment or any portion thereof, except in accordance with these regulations and Cherokee Code Chapter 17.
- (c) A cannabis facility shall notify the Board prior to any:
 - (1) Transfer or conveyance of any interest in or to a cannabis establishment, or any portion thereof; or
 - (2) investment therein; or
 - (3) exercise of a significant level of control over; or
 - (4) participation in the profits thereofby or to any person acting as agent or trustee or in any other representative capacity for or on behalf of another person. Such notification must disclose of all facts pertaining to such action, including, without limitation, a description of the reason for the transfer and any contract or other agreement describing the transaction. Such person must be issued a cannabis establishment agent card for the cannabis establishment at issue, on approval by the Board of the proposed action.
- (d) A cannabis facility, or an owner, officer, or board member thereof, shall not cause or permit any stock certificate or other evidence of beneficial interest in the cannabis establishment to be registered in the books or records of the cannabis establishment in the name of any person other than the true and lawful owner of the beneficial interest without the written permission of the Board.
- (e) Except for persons possessing a valid agent card and associated with a licensed cannabis establishment or licensed business entity, each employee, agent, personal representative, lender, or holder of indebtedness of a cannabis licensee who, in the opinion of the Board, has the power to exercise a significant influence over the licensee's operation of a cannabis establishment may be required to apply for a license or agent card. A person required to be licensed pursuant to this section shall apply for a license or agent card within 30 days after the Board requests that the person do so.

17 CAR 4.12 Contracts or agreements with certain persons prohibited.

- (a) A person who has:
 - (1) Been denied a license or agent card by the Board; or
 - (2) Had a license, agent card, or other approval revoked by the Board,shall not enter or attempt to enter into any contract or agreement with a licensee, either directly or indirectly, individually or through any business organization under such a person's control that involves the operations of a licensee without the prior approval of the Board. This provision does not prohibit any person from purchasing any goods or services for personal use from a licensee at retail prices that are available to the general public.
- (b) Every contract or agreement with a person that is subject to the provisions of subsection (a) shall be deemed to include a provision for its termination without liability on the part of the licensee. Failure to expressly include that condition in the contract or agreement is not a defense in any action brought pursuant to this section to terminate the agreement. Willfully and knowingly entering into such a contract or agreement with a person subject to the provisions in subsection (a) is a violation of this Chapter on the part of the licensee.

17 CAR 4.13 Process to obtain or renew agent card.

- (a) It is necessary for the safety, security, public trust, and general welfare of the Tribe that the Tribal government be aware of all persons who work in and are involved with the marijuana industry. A person shall not own, manage, operate, work at, be employed by, volunteer, or be an independent contractor or sub-contractor, or an employee for an independent contractor or subcontractor, at a cannabis facility unless the person obtains an agent card issued by the Board. The applicant for an agent card shall submit to the Board an application on a form prescribed by the Board. The application must be accompanied by:
- (1) The name, address, and date of birth of the applicant;
 - (2) A statement signed by the applicant pledging not to sell or otherwise divert cannabis to any person who is not authorized to possess cannabis in accordance with the provisions of this title;
 - (3) A statement signed by the applicant asserting that he or she has not previously had an agent card revoked;
 - (4) Reserved;
 - (5) Authorization and information necessary to conduct any and all background checks;
 - (6) The application fee;
 - (7) A list and description of each of the following which has not been previously reported to the Board:
 - (A) A conviction of any criminal offenses;
 - (B) A civil penalty or judgment entered against the applicant; and
 - (C) The initiation by a tribal, federal, state, or local government of an investigation or proceeding against the applicant; and
 - (8) For each owner, officer, and Board member of the cannabis facility, whether the owner, officer, or Board member:
 - (A) Has served as an owner, officer, or Board member for a cannabis facility and whether any such cannabis facility has had its license revoked, suspended, conditioned, or otherwise removed;
 - (D) Is an employee or contractor of a cannabis facility, a hemp store, or the Tribe; or
 - (E) Has an ownership or financial investment interest in any other cannabis facility or hemp store; and
 - (9) Any such other information required by the Board upon request.
- (b) A cannabis facility shall notify the Board within five days after a cannabis establishment agent ceases to hold an ownership interest in the cannabis establishment, be employed by, volunteer at, or provide labor as a cannabis agent to the cannabis facility.
- (c) A person who:
- (1) Has been convicted of an excluded offense;
 - (2) Is less than 21 years of age; or
 - (3) Is not qualified, in the determination of the Board pursuant to these regulations or Cherokee Code Chapter 17,
- shall not serve as a cannabis agent and may not be issued an agent card.
- (d) If an applicant satisfies the requirements of this section, is found to be qualified by the Board pursuant to Cherokee Code Chapter 17, and is not disqualified from serving as such an agent pursuant to this section or any other applicable law, the Board may issue to the applicant a cannabis agent card.

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- (e) A person to whom a cannabis agent card is issued or for whom such an agent card is renewed shall submit to the Board on the date of the first anniversary of the issuance or renewal an affidavit attesting that in the preceding year there has been no change in the information previously provided to the Board which would subject the person to disciplinary action by the Board.
 - (f) A cannabis agent card issued pursuant to this section to a person who wishes to volunteer or work at a cannabis facility authorizes the person to volunteer or work at the cannabis facility in the Tribe's jurisdiction for which their agent card was issued.
 - (g) A cannabis agent card expires one year after the date of issuance.
 - (h) If a cannabis agent wishes to remain a cardholder they must, prior to the expiration date of the card:
 - (1) Resubmit the information set forth in this section; and
 - (2) Pay the renewal fee.

17 CAR 4.14 Reserved.

17 CAR 4.15 Requirements for requesting replacement card.

- (a) To request a replacement agent card that has been lost, stolen, or destroyed, the cannabis agent shall submit to the Board, within three days after the card was lost, stolen, or destroyed, a request for a replacement card which must include:
 - (1) The name and date of birth of the cardholder;
 - (2) If known, the number of the lost, stolen or destroyed cannabis establishment agent card;
 - (3) If the cardholder cannot provide the number of the lost, stolen or destroyed cannabis establishment agent card, a copy of:
 - (A) Any valid government-issued identification card of the cardholder which includes a photograph of the person; or
 - (B) A cannabis establishment agent card previously issued to the person.
 - (4) An application fee of \$75.

17 CAR 4.16 Requirements for changing name or address.

- (a) To make a change to the name or address on a cannabis agent card, the cannabis agent must submit to the Board a request for the change, which must include:
 - (1) The name on and the number of the current cannabis agent card of the cardholder;
 - (2) The new name or address of the cardholder;
 - (3) The effective date of the new name or address of the cardholder;
 - (4) For a change of the address of the cardholder, the address including county and state in which the new address is located; and
 - (5) For a change of the name of the cardholder, a copy of any valid government-issued identification card of the cardholder which includes a photograph of the person and the new name and address of the cardholder.
- (b) Failure to update your name or address within 10 days constitutes a category V violation.

17 CAR 4.17 Categories of agent cards.

- (a) The Board will issue cannabis agent cards for each of the following categories:

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- (1) A cannabis cultivation facility;
 - (2) A cannabis processing facility;
 - (3) A cannabis laboratory; or
 - (4) A cannabis retail facility.
- (b) Each cannabis agent card issued must indicate at least one applicable category. A person who is employed by or volunteers at a cannabis facility and to whom a cannabis facility agent card is issued may only be employed by or volunteer at the type of cannabis establishment for which he or she is registered. Such a person may hold more than one category of cannabis facility agent card and may volunteer or work at any cannabis facility for which the category of the cannabis facility agent card authorizes the person to volunteer or work.

17 CAR 4.18 Notification to the Board of subsequent events.

- (a) All cannabis agents must provide written notification to the Board of the following within five days of occurrence:
- (1) A charge or conviction of any felony offense or controlled substance offense;
 - (2) A civil penalty or judgment entered against the cannabis agent;
 - (3) Employment or contract with the cannabis facility has been terminated; and
 - (4) The initiation by a tribal, federal, state, or local government of an investigation or proceeding against the cannabis agent to which the person is aware.
- (b) A cannabis facility must provide notification to the Board of the following within five days of occurrence pertaining to any cannabis agent associated with the cannabis facility:
- (1) A charge or conviction of any felony offense or controlled substance offense;
 - (2) A civil penalty or judgment entered against the cannabis agent;
 - (3) Employment or contract with the cannabis facility has been terminated; and
 - (4) The initiation by a tribal, federal, state, or local government of an investigation or proceeding against the cannabis agent to which the cannabis facility is aware.
- (c) A cannabis facility must provide written notification to the Board of the following within three days of becoming aware of:
- (1) A civil penalty or judgment entered against a cannabis facility; or
 - (2) The initiation by a tribal, federal, state, or local government of an investigation or proceeding against the cannabis facility.

CHAPTER 5 FACILITIES; CULTIVATION, PROCESSING, AND RETAIL SALE OF CANNABIS

17 CAR 5.01 License required.

A valid license issued by the Board is required to cultivate, process, test for purposes of this title, and sell marijuana and marijuana products. A valid license issued by the Board to sell marijuana and marijuana products also allows the licensee to sell hemp and hemp products pursuant to Cherokee Code Chapter 17A and regulations issued thereunder.

17 CAR 5.02 Reserved.

17 CAR 5.03 Reserved.

17 CAR 5.04 Reserved.

17 CAR 5.05 Confidentiality of information received by Board relating to security of cannabis.

Maintaining security at cannabis facilities is of the utmost importance. Except as otherwise provided in these regulations and Cherokee Code Chapter 17, any information received by the Board related to the security of a cannabis facility is confidential and must not be disclosed by the Board.

17 CAR 5.06 Posting of licenses.

A cannabis facility shall post its license for a cannabis facility and any other authorization to conduct business in a public view within the cannabis facility.

17 CAR 5.07 Operation in accordance with the plans and specifications included in application.

- (a) Except as otherwise provided in this section, a cannabis facility shall operate according to the plans and specifications included within the application for its license.
- (b) A cannabis facility may operate in a manner that deviates from the plans or specifications included within its application for a license if the change would comply with laws, regulations, and ordinances and the cannabis facility provides the Board with a written notification of its intent to make the change which includes, without limitation:
 - (1) The name, physical address, and license number of the cannabis facility; and
 - (2) A description of the proposed change.
- (c) Upon receipt of a written notification pursuant to the above subsection, the Board will add the information to the file that the Board maintains on the cannabis facility and send notification of approval or denial.
- (d) A cannabis facility which has completed a material change to its facilities shall submit documentation of the change to the Board as soon as practicable, but in no event later than 30 days after the material change is completed.
- (e) The Board Agents will inspect any change to the cannabis facility that the Executive Director deems necessary of inspection at the next inspection of the cannabis facility by the Board Agents or at such other time as the Chair or Executive Director determines to be appropriate after the date that the cannabis facility projects for completion of the change or notifies the Board of the completion of the change, whichever is earlier.
- (f) A cannabis facility shall not commence the operation of any material change to the facilities or operations of the cannabis facility until the Board Agents complete an inspection of the change or notifies the cannabis facility in writing that an inspection is not necessary. Material changes include, without limitation, modifications to:
 - (1) The infrastructure of the facilities, including, without limitation, modifications requiring demolition or new construction of walls, plumbing, electrical infrastructure, heating, ventilation, security measures and equipment, or air conditioning; and
 - (2) The operating capability of the cannabis facility, including, without limitation, the implementation of a new extraction device or removal of an existing extraction device, a change to the growing method from the method previously used and inspected or a change to the lighting technology, hydroponic system, pod, or other contained growing system.

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- (g) A cannabis facility must be operational within 30 days of receiving its final inspection and is issued a license to operate. A cannabis facility must maintain all minimum requirements at all times. If a facility plans to be inactive for more than 30 days, a plan must be presented to the Board for approval.

17 CAR 5.08 Written request for move to new location; issuance of new amended license upon approval of request.

- (a) A cannabis facility may move to a new location on Tribal lands with the approval of the Board.
- (b) A cannabis facility that seeks to move to a new location or commence operations at a location other than the location contained in the application of the cannabis facility must submit a written request for relocation to the Board. The written request for relocation must include the following:
 - (1) The name, current physical address, proposed new physical address and license or application number of the cannabis facility;
 - (2) Evidence demonstrating that the proposed location meets the distance requirements set forth in Cherokee Code Chapter 17.
 - (3) A signed, written attestation that the operation of the cannabis facility at the new address will meet or exceed the merits of the location specified in the application submitted by the cannabis facility;
 - (4) If facility is operational, a detailed inventory report and plan to transfer inventory to the new location;
 - (5) Proof of compliance with all applicable building codes, health codes, and other requirements of Tribal law at the new proposed location;
 - (6) Documentation that proves the applicant has secured a lease or other property agreement that allows operation of a cannabis facility on the property, or a letter from the landlord of the property stating the licensee is authorized to operate a cannabis facility on the property; and
 - (7) Any other information about the new location requested by the Board.
- (c) The Board will consider each request received pursuant to subsection (b) and, after reviewing the documentation contained in the request, determine whether the request should be approved. Upon approval, the Board will issue to the cannabis facility an amended license which reflects the new address.

17 CAR 5.09 Persons authorized on premises.

- (a) Except as otherwise provided in this section, the only persons who may be on the premises of a cannabis retail facility are:
 - (1) A cannabis agent for the cannabis retail facility;
 - (2) A person who is at least 21 years of age as proven by government-issued identification;
 - (3) Reserved;
 - (4) A person inspecting the cannabis establishment pursuant to these regulations or Cherokee Code Chapter 17.
 - (5) A person performing government functions pursuant to the Cherokee Code.
 - (6) The Board, Executive Director, and Board Agents.
- (b) Except as otherwise provided in this section, the only persons who may be on the premises of a cannabis facility other than a cannabis retail facility are:
 - (1) A cannabis agent for that facility type; or
 - (2) A person inspecting the cannabis establishment pursuant to these regulations or Cherokee Code Chapter 17.

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- (3) A person performing government functions pursuant to the Cherokee Code.
 - (4) The Board, Executive Director, and Board Agents.
 - (c) Any person other than a person authorized to be on the premises of a cannabis facility pursuant to subsections (a) or (b) must obtain a visitor identification badge from a cannabis agent before or upon entering the premises of the cannabis facility.
 - (d) A person who obtains a visitor identification badge pursuant to subsection (c), including, without limitation, an outside vendor or contractor:
 - (1) Must be at least 21 year old as proven by government-issued identification;
 - (2) Must be escorted or monitored by a cannabis agent at all times he or she is on the premises of the cannabis facility;
 - (3) Must visibly display his or her visitor identification badge at all times he or she is on the premises of the cannabis facility;
 - (4) Must not handle any marijuana or money whatsoever; and
 - (5) Must return the visitor identification badge to a cannabis agent upon leaving the premises of the cannabis facility.
 - (e) Each cannabis facility shall maintain a visitor log which includes the name of the visitor and the date, time of entry, time of exit, and specific purpose of each visit by the visitor. The cannabis facility shall make its visitor log available to the Board and Board Agents upon request.
 - (f) Each regular, seasonal, or temporary employee of, volunteer, or person who provides labor as a cannabis establishment agent at a cannabis establishment must obtain a cannabis establishment agent card pursuant to the provisions of these regulations and Cherokee Code Chapter 17 and may not be authorized to be on the premises of the cannabis establishment by obtaining a visitor identification badge pursuant to the provisions of this section.
 - (g) Live animals shall be allowed on the premises only under the following conditions:
 - (1) Patrol dogs accompanying police or security officers
 - (2) In areas that are not used for cannabis storage or preparation, and that are usually open for customers, including but not limited to public retail areas, service animals that are controlled by the disabled employee or consumer, if a health or safety hazard will not result from the presence or activities of the service animal.

17 CAR 5.10 Training and before agent may begin to provide labor.

- (a) A cannabis facility shall ensure that training is provided to a cannabis agent before that person begins to provide labor at the cannabis facility. Such training must include, without limitation:
 - (1) The proper use of security measures and controls that have been adopted by the cannabis facility for the prevention of diversion, theft or loss of cannabis;
 - (2) Procedures and instructions for responding to an emergency; ~~and~~
 - (3) How to properly check age and identification of customers; and
 - (4) Applicable laws and regulations related to the use of cannabis.
- (b) In addition to the training set forth in subsection (a), a cannabis retail facility shall ensure that training is provided to a cannabis agent (including delivery drivers) before that person begins to provide labor to the cannabis retail facility. Such training must include, without limitation:
 - (1) The different strains of marijuana;

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- (2) The different methods of using marijuana and marijuana products;
 - (3) Learning to recognize signs of marijuana abuse, impairment, and instability in the use of marijuana by a consumer;
 - (4) Clinical effects of marijuana on the human body and how THC affects the consumer;
 - (5) Required warnings and literature which must be supplied to the consumer;
 - (6) Methods of refusing entry or sales to prohibited persons, including, without limitation:
 - (A) Verifying identification and using age verification devices;
 - (B) Education on the effects of marijuana on persons under 21 years of age; and
 - (C) Recognition of false or altered identification.
 - (7) Understanding the role of law enforcement in confirming compliance with laws and regulations relating to marijuana;
 - (8) Applicable laws and regulations regarding marijuana;
 - (9) Preventing unlawful consumption of marijuana, including, without limitation, information regarding laws which prohibit open or public consumption of marijuana;
 - (10) Preventing the use of marijuana by persons under the age of 21 years, including, without limitation, laws which prohibit such use and the penalties for the violation of such laws;
 - (11) How to prevent and address disturbances; and
 - (12) The responsibility of the cannabis agent to put into effect strategies adopted by the cannabis facility to prevent the diversion of marijuana and money.
- (c) In addition to the training set forth in subsection (a), a cannabis laboratory shall ensure that instruction is provided to a cannabis agent before that person begins to provide labor to the cannabis laboratory. Such instruction must include, without limitation:
- (1) The good laboratory practices adopted by the cannabis laboratory; and
 - (2) The standard operating procedures and the quality control and quality assurance programs of the cannabis laboratory.
- (d) In addition to the training set forth in subsection (a), a cannabis cultivation facility shall ensure that instruction is provided to a cannabis agent before that person begins to provide labor to the cannabis cultivation facility. Such instruction must include, without limitation:
- (1) The methods of cultivation used by the cannabis cultivation facility;
 - (2) The methods of fertilization used by the cannabis cultivation facility;
 - (3) Methods for recognizing the signs of insect infestation, pathogens, and disease in cannabis plants, and the procedures for eradication and the safe disposal of plants so affected;
 - (4) The nutritional requirements of cannabis plants at various growth stages, including, without limitation, proper mixing and dispersal of fertilizer, flushing procedures and procedures for postharvest trimming, drying and curing; and
 - (5) The safe handling of equipment, including, without limitation, high-intensity discharge lamps, electrical ballasts, pumps, fans, cutting implements and other equipment for cultivation.
- (e) In addition to the training set forth in subsection (a), a cannabis processing facility shall ensure that instruction is provided to a cannabis agent before that person begins to provide labor to the cannabis processing facility. Such instruction must include, without limitation:

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- (1) Understanding the difference between concentrated marijuana, topical products and marijuana products, as applicable to the operations of the cannabis processing facility;
 - (2) The procedures used by the cannabis processing facility to create concentrated marijuana and marijuana products; and
 - (3) The proper procedures for handling concentrated marijuana and marijuana products, including, without limitation, the procedures used to prepare, produce, package, and store such products as required by the provisions of these regulations and Cherokee Code Chapter 17.

17 CAR 5.11 Development, documentation, and implementation of policies.

A cannabis facility shall:

- (a) Develop, document, and implement policies and procedures regarding:
 - (1) Job descriptions and employment contracts, including, without limitation:
 - (A) The duties, authority, responsibilities, and qualifications of personnel;
 - (B) Supervision of personnel;
 - (C) Training in and adherence to confidentiality requirements;
 - (D) Periodic performance evaluations; and
 - (E) Disciplinary actions.
 - (2) Business records, such as manual or computerized records of assets and liabilities, monetary transactions, journals, ledgers and supporting documents, including, without limitation, agreements, checks, invoices, and vouchers.
 - (3) Inventory control, including, without limitation:
 - (A) Tracking;
 - (B) Packaging;
 - (C) Acquiring cannabis from other cannabis establishments;
 - (D) Disposing of unusable cannabis; and
 - (E) Returning for a refund marijuana or marijuana products to the cannabis facility from which they were acquired.
 - (4) If applicable, consumer education and support, including, without limitation:
 - (A) The availability of different strains of marijuana and the purported effects of the different strains;
 - (B) Information about the purported effectiveness of various methods, forms and routes of administering marijuana;
 - (C) The prohibition on the using marijuana in public places, places open to the public, within a cannabis facility, places exposed to public view, and on government property;
 - (D) Education on how marijuana impairs a person's ability to operate a moving vehicle and that driving, operating or being in actual physical control of a vehicle while under the influence of marijuana or while impaired by marijuana is unlawful; and
 - (E) Reserved..
- (b) Maintain copies of the policies and procedures developed pursuant to subsection (a) at the cannabis facility and provide copies to the Board or Board Agents for review upon request.

17 CAR 5.12 Inventory control system.

- (a) Each cannabis establishment shall designate in writing a cannabis agent who has oversight of the inventory control system of the cannabis facility.
- (b) Except as otherwise provided in subsection (c) or as approved by the Board, a cannabis facility shall only acquire marijuana or marijuana products from another Tribal licensed cannabis facility.
- (c) A cannabis cultivation facility may acquire seeds for the cultivation of marijuana from any person if the acquisition of the seeds does not violate the provisions of Cherokee Code Chapter 17.
- (d) A cannabis cultivation facility may transfer crude collected resins to a cannabis retail facility if the crude collected resins are:
 - (1) From a single batch;
 - (2) Unaltered; and
 - (3) Not combined, except as provided in subsection (e).
- (e) A cannabis cultivation facility may combine lots of crude collected resins which have been collected in accordance with subsection (d) and have passed all testing prior to combining.
- (f) Each cannabis facility, except a cannabis laboratory, shall establish and implement an inventory control system that documents:
 - (1) Each day's beginning inventory, acquisitions, harvests, sales, disbursements, disposal of unusable marijuana, and ending inventory, including, without limitation, the:
 - (A) Number of plants and cuttings;
 - (B) Weight of flowers, measured in grams;
 - (C) Weight of trim, measured in grams;
 - (D) Quantity of THC, measured in milligrams; and
 - (E) Number of seeds, tracked at least daily.
 - (2) When acquiring marijuana from another cannabis facility:
 - (A) A description of the marijuana acquired, including the amount, strain and batch number, lot number and processing run number, or any combination thereof;
 - (B) The name and identification number of the license of the cannabis facility providing the marijuana;
 - (C) The name and card number of the cannabis agent initiating the acquisition;
 - (D) The name and card number of the cannabis agent receiving the acquisition on behalf of the cannabis facility; and
 - (E) The date of acquisition.
 - (3) When acquiring marijuana pursuant to these regulations:
 - (A) A description of the marijuana acquired, including the amount, strain and batch number, lot number and processing run number, or any combination thereof;
 - (B) The name and license number of the cannabis facility providing the marijuana;
 - (C) The name and the number of the agent card of the cannabis agent providing the marijuana;
 - (D) The name and the number of the agent card of the cannabis agent receiving the marijuana on behalf of the cannabis facility; and
 - (E) The date of acquisition.

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- (4) For each batch of marijuana cultivated:
- (A) The batch number, lot number, and processing run number, as applicable.
 - (B) Whether the batch originated from marijuana seeds or marijuana cuttings.
 - (C) The strain of the marijuana seeds or cuttings planted.
 - (D) The number of marijuana seeds or cuttings planted.
 - (E) The date on which the marijuana seeds or cuttings were planted.
 - (F) A list of all chemical additives used in the cultivation, including, without limitation, nonorganic pesticides, herbicides, and fertilizers.
 - (G) The number of marijuana plants grown to maturity and the number of marijuana plants lost to waste.
 - (H) Harvest information, including, without limitation:
 - (i) The date of harvest;
 - (ii) The actual final yield weight, in grams;
 - (iii) Plant disposal details, if any, and
 - (iv) The name and the number of the cannabis agent responsible for the harvest.
 - (I) The disposal of marijuana, including:
 - (i) A description of and reason for the marijuana being disposed of, including, if applicable, the number of failed or other unusable marijuana plants;
 - (ii) The date of disposal;
 - (iii) Confirmation that the marijuana was rendered unusable before disposal;
 - (iv) The method of disposal; and
 - (v) The name and the number of the cannabis agent responsible for the disposal.
- (5) When providing marijuana to another cannabis facility:
- (A) The amount, strain, batch number, lot number and processing run number, as applicable, of marijuana provided to the cannabis facility;
 - (B) The name and license number of the other cannabis facility;
 - (C) The name and the number of the cannabis agent who received the marijuana on behalf of the other cannabis facility; and
 - (D) The date on which the marijuana was provided to the cannabis facility.
- (6) When receiving edible marijuana products from another cannabis facility:
- (A) A description of the edible marijuana products received from the cannabis facility, including the total amount of each type of edible marijuana product and the amount of THC, measured in milligrams, and the processing run number of the marijuana in each edible marijuana product.
 - (B) The total amount and processing run number of marijuana in the edible marijuana products.
 - (C) The name and:
 - (i) License number of the cannabis facility providing the edible marijuana products to the receiving cannabis facility;

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- (ii) The number of the cannabis agent providing the edible marijuana products to the receiving cannabis facility; and
 - (iii) The number of the cannabis agent receiving the edible marijuana products on behalf of the receiving cannabis facility.
 - (D) The date on which the edible marijuana products were provided to the cannabis facility.
 - (7) When receiving marijuana products from another cannabis facility:
 - (A) A description of the marijuana products received from the cannabis facility, including the total weight of each marijuana product and the amount of THC, measured in milligrams, and processing run number of the marijuana in each marijuana product.
 - (B) The total amount and processing run number of marijuana in the marijuana products.
 - (C) The name and:
 - (i) License number of the cannabis facility providing the marijuana products to the receiving cannabis facility;
 - (ii) The number of the cannabis agent providing the marijuana products to the receiving cannabis facility; and
 - (iii) The number of the cannabis agent receiving the marijuana products on behalf of the receiving cannabis facility.
 - (D) The date on which the marijuana products were provided to the cannabis facility.
 - (8) When receiving concentrated marijuana or products containing concentrated marijuana from a cannabis processing facility:
 - (A) A description of the concentrated marijuana or products containing concentrated marijuana received from the cannabis processing facility, including the total weight of each product, the amount of THC (except a cannabis laboratory), measured in milligrams, and the processing run number for each product;
 - (B) The name and:
 - (i) License number of the cannabis facility providing the concentrated marijuana or products containing concentrated marijuana to the receiving cannabis facility;
 - (ii) The number of the cannabis agent providing the concentrated marijuana or products containing concentrated marijuana to the receiving cannabis facility; and
 - (iii) The number of the cannabis agent receiving the concentrated marijuana or products containing concentrated marijuana on behalf of the receiving cannabis facility.
 - (C) The date on which the concentrated marijuana or products containing concentrated marijuana were provided to the cannabis facility.
 - (g) Each cannabis facility shall:
 - (1) Establish and maintain a seed-to-sale inventory system which adequately documents the flow of materials through the facility.
 - (2) Establish procedures which reconcile the raw material used to the finished product on the basis of each job. Significant variances must be documented, investigated by management personnel, and immediately reported to the Board and to the cannabis facility that ordered the concentrated marijuana or marijuana product.

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- (3) Provide for quarterly physical inventory counts to be performed by persons independent of the manufacturing process which are reconciled to the perpetual inventory records. Significant variances must be documented, investigated by management personnel, and immediately reported to the Board.
 - (h) If a cannabis facility identifies a reduction in the amount of marijuana in the inventory of the cannabis facility which is not due to documented causes, the cannabis facility shall determine where the loss has occurred and take and document corrective action. If the reduction in the amount of marijuana in the inventory of the cannabis facility is due to suspected criminal activity by a cannabis agent, the cannabis facility shall report the cannabis agent to the Board and to the appropriate law enforcement agencies within 24 hours. The Board may require the cannabis facility to provide additional information as it determines necessary to conduct an investigation.
 - (i) A cannabis facility shall:
 - (1) Maintain the documentation required by this section at the cannabis facility for at least five years after the date on the document; and
 - (2) Provide the documentation required by this section to the Board or Board Agents for review upon request.

17 CAR 5.13 Use of seed-to-sale tracking system.

A cannabis facility shall:

- (a) Use the seed-to-sale tracking system provided or managed by an independent contractor acceptable to the Board;
- (b) Connect to the seed-to-sale tracking system using the independent contractor's application programming interface;
- (c) Pay any fees assessed by the independent contractor for using the seed-to-sale tracking system, including, without limitation, user fees or application programming interface fees; and
- (d) Ensure marijuana and marijuana products are tagged and tracked as required using the seed-to-sale inventory system.

17 CAR 5.14 Required security measures.

- (a) To prevent unauthorized access to cannabis at a cannabis facility, the cannabis facility must have:
 - (1) Secure entrances and exits of the physical building or premises;
 - (2) No clearly visible cannabis or cannabis products from outside the establishment.
 - (3) Intermittent presence and/or patrol of the cannabis establishment exterior by a security officer.
 - (4) Security equipment to deter and prevent unauthorized entrance into limited access areas that includes, without limitation:
 - (A) Devices or a series of devices to detect unauthorized intrusion, which may include a signal system interconnected with a radio frequency method, such as cellular or private radio signals, or other mechanical or electronic device, and which, for a cannabis cultivation facility which engages in outdoor cultivation, covers the entirety of the cultivation area and the perimeter and exterior area of the cannabis cultivation facility;
 - (B) Exterior lighting to facilitate surveillance which, for a cannabis cultivation facility which engages in outdoor cultivation:
 - (i) When the lighting would not interfere with the growing cycle of a crop, covers the entirety of the cultivation area and the perimeter and exterior area of the cannabis cultivation facility; and

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- (ii) When the lighting would interfere with the growing cycle of a crop, covers the perimeter and exterior area of the cannabis cultivation facility;
- (C) Electronic monitoring, including, without limitation, each of the following:
- (i) At least one call-up monitor that is 19 inches or more;
 - (ii) A printer capable of immediately producing a clear still photo from any video camera image, which photo must be provided to the Board or Board Agents for review upon written request;
 - (iii) Video cameras with a recording resolution of at least 1920 x 1080 pixels, or the equivalent, at a rate of at least 15 frames per second which provide coverage of all entrances and exits of the building, any room or area that holds a vault and any point-of-sale location, which record 24 hours per day, which are capable of being accessed remotely by the Board in real time upon request and which may record motion only. A video camera providing coverage of a point-of-sale location must allow for the identification of any person purchasing marijuana;
 - (iv) Video cameras with a recording resolution of at least 720 x 480 pixels, or the equivalent, at a rate of at least 15 frames per second which provide coverage of all limited access areas not described in sub-subparagraph (iii) and any activity in or adjacent to the establishment, which record 24 hours per day, which are capable of being accessed remotely by the Board in real time upon request, which may record motion only and which, for a cannabis cultivation facility which engages in outdoor cultivation, cover the entirety of the cultivation area and the perimeter and exterior area of the cannabis cultivation facility;
 - (v) A video camera which is capable of identifying any activity occurring within the cannabis facility in low light conditions 24 hours per day;
 - (vi) A method for storing video recordings from the video cameras for at least 30 days in a secure off-site location or through a service or network that provides on-demand access to the recordings and providing copies of the recordings to the Board and Board Agents for review upon request, on portable, external hard drives or other media as directed by the Board or Board Agents, at the expense of the cannabis facility, and within a reasonable time frame as determined by the Board or Board Agents;
 - (vii) A failure notification system that provides an audible and visual notification of any failure in the electronic monitoring system; and
 - (viii) Sufficient battery backup for video cameras and recording equipment to support at least five minutes of recording in the event of a power outage;
- (D) Immediate automatic or electronic notification to alert law enforcement agencies of an unauthorized breach of security at the cannabis facility in the interior of each building of the cannabis facility; and
- (E) For a cannabis cultivation facility which engages in outdoor cultivation:
- (i) An alarm system and video cameras which can be monitored 24 hours per day;
 - (ii) An exterior barrier which is located around the perimeter of the cannabis cultivation facility and which consists of a solid block wall or chain link fence with a height of at least eight feet; and
 - (iii) A secure building suitable to dry and store marijuana and which meets the security and sanitation requirements for a cannabis cultivation facility which engages in indoor cultivation of marijuana.
- (5) Policies and procedures:

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- (A) That restrict access to the areas of the cannabis facility that contain marijuana to persons authorized to be in those areas only;
 - (B) That provide for the identification of persons authorized to be in the areas of the cannabis facility that contain marijuana;
 - (C) That prevent loitering;
 - (D) For conducting electronic monitoring;
 - (E) For the use of the automatic or electronic notification to alert law enforcement agencies of an unauthorized breach of security at the cannabis facility;
 - (F) For limiting the amount of money available in any retail areas of the cannabis facility and for training employees on this practice;
 - (G) For notifying the public of the minimal amount of money available, which may include, without limitation, the posting of a sign;
 - (H) For maintaining communication with law enforcement; and
 - (I) For providing and receiving notifications regarding burglary, attempted burglary, robbery, attempted robbery, and other suspicious activity.
- (b) Each video camera used pursuant to subsection (a) above must:
 - (1) Include a date and time generator which possesses the capability to display the date and time of recorded events on the recording in a manner that does not significantly obstruct the recorded view; and
 - (2) Be installed in a manner that will prevent the video camera from being readily obstructed, tampered with or disabled.
 - (c) A cannabis facility shall make a reasonable effort to repair any malfunction of security equipment within 72 hours after the malfunction is discovered. A cannabis facility shall notify the Board within 24 hours after a malfunction is discovered and provide a plan of correction. Failure to correct a malfunction within 72 hours after the malfunction is discovered is a violation of this section.
 - (d) If a video camera malfunctions, the cannabis facility shall immediately provide alternative video camera coverage or use other security measures, such as assigning additional supervisory or security personnel, to provide for the security of the cannabis facility. If the cannabis facility uses other security measures, the cannabis facility must immediately notify the Executive Director, and the Executive Director will determine whether the other security measures are adequate.
 - (e) Each cannabis facility shall maintain a log that documents each malfunction and repair of the security equipment of the cannabis facility. The log must state the date, time, and nature of each malfunction, the efforts taken to repair the malfunction and the date of each effort, the reason for any delay in repairing the malfunction, the date the malfunction is repaired and, if applicable, any alternative security measures that were taken. The log must also list, by date and time, all communications with the Board, Board Agents, or Executive Director concerning each malfunction and corrective action. The cannabis facility shall maintain the log for at least one year after the date of last entry in the log.
 - (f) Each cannabis facility must employ an individual whose responsibilities include serving as a security manager or director who must be responsible for:
 - (1) Conducting a semiannual review and audit of security measures to ensure compliance with the state procedures of the cannabis establishment and identify potential security issues;
 - (2) Training employees on security measures, emergency response, and robbery and loss prevention before starting work and on an annual basis; and

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- (3) Evaluating the credentials of any third party who intends to provide security to the cannabis facility before the third party is hired by or enters into a contract with the facility establishment.
- (g) Each cannabis facility shall ensure that the security manager or director of the cannabis facility and the supervisory employees of any third party who provides security to the cannabis facility has completed or will complete within three months of being hired, to be proven by written attestation from the employee and the training officer, the following training:
- (1) Training in theft prevention or a related subject;
 - (2) Training in emergency response or a related subject;
 - (3) Training in the appropriate use of force or a related subject that covers when the use of force is and is not necessary;
 - (4) Training in the use and administration of first aid, including cardiopulmonary resuscitation;
 - (5) Training in the protection of a crime scene or a related subject;
 - (6) Training in the control of access to protected areas of a cannabis establishment or a related subject;
 - (7) Not less than eight hours of on-site training in providing security services; and
 - (8) Not less than eight hours of classroom training in providing security services.
- (h) A cannabis cultivation facility which engages in the outdoor cultivation of cannabis must be located in such a manner as to allow law enforcement to respond to the cannabis cultivation facility within 15 minutes after being contacted unless the law enforcement agency determines some other response time is acceptable.
- (i) Each cannabis facility shall have key controls as follows:
- (1) At no time shall any of the controlled keys leave the cannabis facility without the express written consent of the Board. Controlled keys are categorized as follows:
 - (A) Main door;
 - (B) Warehouse/loading dock.
 - (2) Access to controlled keys are documented with key logs. Key logs and key inventory are maintained by the manager or responsible person for the cannabis facility. Key logs are required to have the following minimum information:
 - (A) Date and time of issuance;
 - (B) Key(s) issued with its unique inventory number;
 - (C) Name and agent card number of issuing employee;
 - (D) Name, signature, and agent card number of recipient;
 - (E) Date and time of key return;
 - (F) Name and agent card number of employee returning key(s);
 - (G) Name and agent card number of employee receiving returned key(s).
 - (3) Cannabis facilities are responsible for a monthly inventory of all controlled keys and two-way radio equipment and a monthly inventory of all visitor badges. Inventory results shall be forwarded to the Board upon completion.
 - (4) Automated key dispensers are permitted. Any such dispenser shall be considered the issuer and receiver of keys and shall produce keys logs with at least the required minimum information.
 - (5) Automated key dispenser systems shall have alarms to detect the lack of a key return. Alarm shall issue no longer than 13 hours after a key has been issued by the system.

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- (6) The manager or responsible person for the cannabis facility shall audit the key logs produced by an automated key dispenser system on a daily basis. Any discrepancies revealed during the course of the Key Log Audit shall be reported to the manager or responsible person and within 24 hours to the Board.
 - (7) The cannabis facility shall develop procedures subject to approval by the Board for the following processes for automated key dispenser systems:
 - (A) Additions of keys to the system;
 - (B) Replacement of broken keys in the system;
 - (C) Removal of keys from the system;
 - (D) Addition and removal of administrative users to the system;
 - (E) Addition and removal of key recipients to the system, inclusive of key access details;
 - (F) Manual Key Issuance and Return Procedures in the event the system fails to recognize a key recipient;
 - (G) Emergency transition procedures in the event the system fails and is rendered inoperable.

17 CAR 5.15 Duties relating to cannabis agents.

A cannabis facility shall:

- (a) Ensure that each cannabis agent has his or her valid cannabis agent card in his or her immediate possession when the cannabis agent:
 - (1) Is employed by or volunteering at or providing labor at the cannabis facility;
 - (2) Is transporting marijuana or marijuana products for the cannabis facility, regardless of the type of license held by the cannabis facility; or
 - (3) Is delivering marijuana or marijuana products for a cannabis retail facility.
- (b) Not allow a person who does not possess a cannabis agent card which is valid at the cannabis facility to:
 - (1) Serve as an officer, manager, or board member for the cannabis facility or hold an ownership interest in the cannabis facility;
 - (2) Be employed by or have a contract to provide services to the cannabis facility;
 - (3) Volunteer at or on behalf of the cannabis facility; or
 - (4) Contract to provide labor at or be employed by an independent contractor to provide labor at the cannabis facility.
- (c) Provide written notice to the Board, including the date of the event, within 10 days after the date on which a cannabis agent begins:
 - (1) Service as an officer, manager, or board member for the cannabis facility;
 - (2) Employment by the cannabis facility or providing services for the cannabis facility pursuant to a contract;
 - (3) Volunteering at or on behalf of the cannabis facility; or
 - (4) Providing labor at or beginning employment by an independent contractor to provide labor at a cannabis facility pursuant to a contract.
- (d) Provide written notice to the Board, including the date of and reason for the event, within 10 days after the date on which a cannabis agent no longer:
 - (1) Serves as an officer, manager, or board member for the cannabis facility;

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- (2) Is employed by or has a contract to provide services for the cannabis facility;
 - (3) Volunteers at or on behalf of the cannabis facility; or
 - (4) Contracts to provide labor at or is employed by an independent contractor to provide labor at a cannabis facility.
- (e) Provide written notice to the Board, including the date of the event, within 10 days after the date on which the person designated by the cannabis facility to provide written notice to the Board relating to cannabis agents ceases to serve in that capacity at the cannabis facility.
 - (f) Ensure that all cannabis agents abide by all applicable laws while on the premises of the cannabis facility, including but not limited to Tribal health and safety laws.

17 CAR 5.16 Cleanliness and health of cannabis agents.

- (a) Each cannabis facility must ensure that each cannabis agent who is employed by volunteers at or provides labor at the cannabis facility:
 - (1) Cleans his or her hands and exposed portions of his or her arms in a hand-washing sink:
 - (A) Immediately upon entrance to the cannabis facility;
 - (B) Immediately before working with marijuana plants;
 - (C) Immediately before preparing concentrated marijuana or marijuana products, including, without limitation, working with exposed cannabis products, clean equipment and utensils or unwrapped single-service and single-use articles;
 - (D) After touching any bare human body parts other than his or her clean hands and exposed portions of arms, including, without limitation, surrogate prosthetic devices for hands and arms;
 - (E) After using the toilet facilities;
 - (F) After coughing, sneezing, using a handkerchief or disposable tissue, using tobacco, eating, or drinking;
 - (G) After handling soiled equipment or utensils;
 - (H) During preparation or extraction of concentrated marijuana or marijuana products, as often as necessary to remove soil and contamination and to prevent cross contamination when changing tasks;
 - (I) When switching between working with unprocessed marijuana products or uncooked food products and working with finished concentrated marijuana or marijuana products;
 - (J) Before donning gloves for working with marijuana products; and
 - (K) After engaging in other activities that contaminate the hands.
 - (2) If working directly in the preparation of concentrated marijuana or marijuana products:
 - (A) Keeps his or her fingernails trimmed, filed, and maintained so that the edges and surfaces are cleanable;
 - (B) Unless wearing intact gloves in good repair, does not have fingernail polish or artificial fingernails on his or her fingernails; and
 - (C) Unless wearing intact gloves in good repair, does not have fingernail polish or artificial fingernails on his or her fingernails; and
 - (3) Wears clean clothing appropriate to the tasks assigned to him or her.

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- (b) If the person designated by a cannabis facility to address health conditions at the cannabis facility determines that a cannabis agent who is employed by or volunteers at or provides labor at the cannabis facility has a health condition that may adversely affect the safety or quality of the marijuana, concentrated marijuana, or marijuana products at the cannabis facility, that cannabis agent is prohibited from having direct contact with any marijuana or equipment or materials for processing concentrated marijuana or marijuana products until the designated person determines that the health condition of the cannabis agent will not adversely affect the marijuana, concentrated marijuana, or marijuana products.
 - (c) A cannabis agent shall not work directly with concentrated cannabis or cannabis products if the cannabis agent has:
 - (1) A symptom of gastrointestinal infection, including, without limitation, diarrhea or vomiting;
 - (2) A sore throat with fever;
 - (3) Jaundice;
 - (4) Any contagious or communicable disease; or
 - (5) A lesion that appears inflamed or contains pus, including, without limitation, a boil or infected wound that is not covered with:
 - (A) An impermeable cover and a single-use glove if the lesion is on a hand or wrist, both of which must be changed at any time that hand washing is required;
 - (B) An impermeable cover if the lesion is on an arm; or
 - (C) A dry, durable, tight-fitting bandage if the lesion is on another part of the body.

17 CAR 5.17 Hand washing procedure.

- (a) Each cannabis agent shall, when required pursuant to these regulations, clean his or her hands and the exposed portions of his or her arms for at least 20 seconds, using a cleaning compound in a hand-washing sink that is appropriately equipped.
- (b) Each cannabis agent shall use the following cleaning procedure in the order stated to clean his or her hands and the exposed portions of his or her arms, including, without limitation, surrogate prosthetic devices for hands and arms:
 - (1) Rinse under clean, running, warm water;
 - (2) Apply an amount of cleaning compound recommended by the manufacturer of the cleaning compound.
 - (3) Rub together vigorously for at least 15 seconds while:
 - (A) Paying particular attention to removing soil from underneath the fingernails during the cleaning procedure; and
 - (B) Creating friction on the surfaces of the hands and arms, fingertips, and areas between the fingers.
 - (4) Thoroughly rinse under clean, running, warm water at a minimum temperature of 100°F (37.8°C).
 - (5) Immediately follow the cleaning procedure with thorough drying using a clean paper towel.

17 CAR 5.18 Requirements for building used as cannabis facility.

A building used as a cannabis facility must have:

- (a) At least one toilet facility which must contain:
 - (1) A flushable toilet;
 - (2) Mounted toilet tissue;

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- (3) A hand sink with running water which is capable of delivering hot water at a minimum temperature of 100°F (37.8°C);
 - (4) Soap contained in a dispenser;
 - (5) Disposable, single-use paper towels in a mounted dispenser; and
 - (6) A conveniently located trash can.
- (b) At least one fully stocked hand-washing sink, which is designated for hand washing only, not located in a toilet facility and located away from any area in which edible marijuana products are cooked or otherwise prepared to prevent splash contamination. Additional hand-washing sinks may be required to facilitate hand washing as required.
 - (c) Designated storage areas for concentrated marijuana and marijuana products or materials used in direct contact with such items separate from storage areas for toxic or flammable materials.
 - (d) At least one mop sink or dump sink to dispose of liquid waste.
 - (e) If preparation or packaging of concentrated marijuana or marijuana products is done in the building, a designated area for the preparation or packaging that:
 - (1) Includes workspace that can be sanitized;
 - (2) Is only used for the preparation or packaging of concentrated marijuana or marijuana products; and
 - (3) Has a fully stocked hand-washing sink conveniently located and designated for hand washing only.

17 CAR 5.19 Quality assurance testing required before sale or transfer.

A cannabis facility shall not sell or transfer a lot of usable marijuana, concentrated marijuana, or marijuana products until all required quality assurance testing has been completed. A licensee which has multiple cannabis facility licenses may transfer marijuana, concentrated marijuana, and marijuana products from one cannabis facility to another, but all required quality assurance testing shall be completed before such licensee transfer usable marijuana, concentrated marijuana, or marijuana products to a cannabis retail facility and sold to the public. Usable marijuana, concentrate marijuana, and marijuana products must be tested in their retail condition before being sold to the public.

17 CAR 5.20 Requirements for preparation or sale of edible marijuana products.

- (a) A cannabis facility that prepares or sells edible marijuana products must:
 - (1) Reserved;
 - (2) If the cannabis facility prepares edible marijuana products, ensure that the edible marijuana products are prepared according to the applicable requirements set forth in Cherokee Code Chapter 17 and these regulations and the operating procedures included in its application pursuant to these regulations;
 - (3) Reserved;
 - (4) If the cannabis establishment is a cannabis processing facility, package all edible marijuana products produced by the cannabis facility on the premises of the cannabis facility; and
 - (5) If the cannabis facility sells edible marijuana products, ensure that the edible marijuana products are sold according to the applicable requirements set forth in these regulations and Cherokee Code Chapter 17.
- (b) A cannabis establishment is responsible for the content and quality of any edible cannabis product sold by the cannabis establishment.

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- (c) A cannabis processing facility is not subject to the provisions of food sanitation laws of and enforced by the State of North Carolina or its political subdivisions.

17 CAR 5.21 Prohibition on dispensing via vending machine.

A cannabis facility shall not dispense or otherwise sell marijuana or marijuana products from a vending machine or allow such a vending machine to be installed at the interior or exterior of the premises of the cannabis facility. This section does not prohibit vending machines which sell non-marijuana items.

17 CAR 5.22 Prohibition on treating or adulterating usable marijuana with chemical or other compound.

A cannabis facility may not treat or otherwise adulterate usable marijuana with any organic or nonorganic chemical or other compound whatsoever to alter the color, appearance, weight, or smell of the usable marijuana.

17 CAR 5.23 Prohibition on Synthetic Cannabinoids.

- (a) A cannabis facility may not sell marijuana or marijuana products which contain, include, or have been treated with synthetic cannabinoids or any other substance that causes intoxication or impairs an individual's ability to operate machinery or drive are prohibited, regardless of their chemical classification.
- (b) Synthetic cannabinoids specifically prohibited in hemp and hemp products include, but are not limited to, JWH-018; HU-210; CP 47,497; AM-2201; XLR-11; AKB-48; SF-ADB; FUB-AMB; SDB-006, and any analogues or derivatives of these compounds.

17 CAR 5.24 Restrictions on advertising; required postings.

- (a) A cannabis facility:
- (1) Shall not engage in advertising which contains any statement or illustration that:
 - (A) Is false or misleading;
 - (B) Promotes overconsumption of marijuana or marijuana products;
 - (C) Depicts the actual consumption of what appears to be marijuana or marijuana products; or
 - (D) Depicts a child or other person who appears to be less than 21 years of age consuming marijuana or marijuana products or objects suggesting the presence of a child, including, without limitation, toys, characters or cartoons, or contains any other depiction which is designed in any manner to be appealing to or encourage consumption of marijuana or marijuana products by a person who is less than 21 years of age.
 - (2) Shall not advertise in any publication or on radio, television or any other medium if 30 percent or more of the audience of that medium is reasonably expected to be persons who are less than 21 years of age.
 - (3) Shall not place an advertisement:
 - (A) Within 1,000 feet of a school, playground, public park or library, but may maintain such an advertisement if it was initially placed before the school, playground, public park or library was located within 1,000 feet of the location of the advertisement;
 - (B) On or inside of a motor vehicle used for public transportation or any shelter for public transportation;
 - (C) At a sports or entertainment event to which persons who are less than 21 years of age are allowed entry;
 - (D) On or inside of a motor vehicle used by a cannabis facility for private transportation;

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- (E) On signs carried by a natural person, including, without limitation, handbills, pamphlets, cards, or other types of advertisements that are distributed to the general public, but excluding an advertisement placed in a newspaper of general circulation, trade publication, or other form of print media; and
 - (F) Where prohibited by the Cherokee Code.
 - (4) Shall not advertise or offer any marijuana or marijuana product as "free" or "donated" without a purchase.
 - (5) Shall ensure that all advertising by the cannabis facility contains such warnings as may be prescribed by the Board, which must be visible, legible, and include, without limitation, the following words:
 - (A) "Keep out of reach of children"; and
 - (B) "For use only by adults 21 years of age and older."
 - (b) A cannabis retail facility shall post signs in prominent locations inside the facility which state activities that are strictly prohibited and punishable by law, including, without limitation, the following statements:
 - (1) "No minors permitted on the premises";
 - (2) "No on-site or public consumption of any cannabis or cannabis products";
 - (3) "Distribution to persons under the age of 21 is prohibited";
 - (4) "Cannabis possession is prohibited except for medical cannabis patients and as allowed under the Cherokee Code,"; and
 - (5) "Transportation of cannabis or cannabis products off of Tribal lands is prohibited."
 - (c) This section does not prohibit a cannabis facility from making public statements or communication promoting and encouraging the safe, responsible, and legal use of marijuana and marijuana products which does not contain advertisement for the purchase or sale of any items.

17 CAR 5.25 Review of packaging.

A cannabis facility may submit to the Board examples or samples of packing for review prior to using the packaging. A cannabis facility may rely on the Board's approval of such packing for compliance with the title.

17 CAR 5.26 Responsibility of costs relating to clean-up, mitigation of environmental damage.

A cannabis facility is responsible to the Tribe for all reasonable costs incurred by the Tribe in cleaning up, mitigating, or remedying any environmental damage caused by the cannabis facility.

17 CAR 5.27 Documenting and reporting loss or theft.

A cannabis facility shall:

- (a) Document and report any loss or theft of marijuana from the cannabis facility to the appropriate law enforcement agency and to the Board within 24 hours after discovery of the loss or theft; and
- (b) Maintain copies of any documentation for at least five years after the date on the documentation and provide copies of the documentation to the Board or Board Agents for review upon request.

17 CAR 5.28 Quarterly reporting concerning production, purchases.

Each cannabis cultivation facility, cannabis processing facility, and cannabis retail facility shall submit the reports required pursuant to Cherokee Code Chapter 17 to the Board on or before the 30th day of each January, April, July, and October containing information concerning the three months immediately preceding the date of the

report. Each cannabis cultivation facility, cannabis processing facility, and cannabis dispensary facility shall submit such a report regardless of whether any purchases or sales have occurred.

17 CAR 5.29 Cash Drawer Integrity.

- (a) A cashier window/drawer at a cannabis facility shall never remain unlocked without the presence of a cannabis agent who is responsible for the funds. Should a cashier leave the work area, the window/drawer must be locked, thereby maintaining the responsibility of the window/drawer and its contents with the operating cashier only. Other personnel are strictly prohibited from utilizing funds which have been designated the responsibility of another cannabis agent.
- (b) Agents involved with the transportation of currency shall follow pre-defined money routes as set forth by the cannabis facility's manager. These routes shall be on file with the Board.

17 CAR 5.30 Cash Variance Reporting.

- (a) Variances of \$99.00 or more shall reported to the Board within 10 days of the date variance is discovered.
- (b) A written report shall be filed by the appropriate management personnel and shall contain the following information:
 - (1) Date of variance;
 - (2) Approximate time and shift of occurrence;
 - (3) Cannabis agent(s) to which the variance is attributed;
 - (4) Amount of variance;
 - (5) Type of Variance (Compensating or Non-Compensating);
 - (6) Findings of the investigation conducted by the appropriate management personnel (including supporting documentation);
 - (7) Current employment status of cannabis agent(s); and
 - (8) Corrective action taken on the part of the cannabis facility.
- (c) The Board requires a minimum suspension of one or more days for variances of \$99.00 or more which are non-compensating. The suspension shall be executed within the 10-day reporting requirement. Compensating variances shall be deemed a matter of work-performance and a management function. A cannabis agent who exhibits a propensity for compensating variances shall be treated as though the variance was non-compensating in nature. A propensity is considered six or more compensating variances within a 60-day period. Probationary, temporary, seasonal cannabis agents, and volunteers are fully subject to the non-compensating and compensating requirements.
- (d) On a monthly basis, licensee shall send to the Board the "Total Variance Report."
 - (1) The "Total Variance Report" shall consist of all variances which have occurred in the prior calendar month. The "Total Variance Report" must be categorized and shall include the cannabis facility's action taken because of the variance. The "Total Variance Report" shall be tracked on a rolling year scale. This is inclusive of any and all disciplinary actions or development planning.

17 CAR 5.31 Counterfeit currency procedure.

- (a) Currency which has been determined to be counterfeit shall not be returned to public circulation. The security officer or responsible cannabis agent on-duty shall be notified immediately upon discovery. The Board shall be notified in writing within 48 hours from the time of the occurrence.
- (b) This report of the counterfeit currency shall be issued and must contain at least the following information:

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- (1) Date of occurrence;
 - (2) Approximate time of occurrence;
 - (3) Cannabis agent(s) involved in the transaction; and
 - (4) Customer involved, if applicable and known.
- (c) A copy of the report shall be sent to the appropriate law enforcement agency, and a copy of this report shall also be simultaneously provided to the Board.
 - (d) A variance slip generated through implementation of the above procedures shall be signed by the responsible employee processing the counterfeit funds, denoting the counterfeit currency occurrence.

17 CAR 5.32 Continuous duty to report.

- (a) All cannabis facilities, licensees, and agents have a continuous duty to report all violations of Cherokee Code Chapter 17, these regulations, and all criminal activity to the Board. This is inclusive of any action or inaction that could result in a loss of Tribal assets. Tribal assets include all personal property including cash, cash equivalents, equipment, and supplies and any other items that belong to the Tribe or a licensee wholly owned by the Tribe, including all competitive and intellectual property.
- (b) Criminal activity shall include but not be limited to:
 - (1) Collusion/bribery, including any event where any person is suspected of or to have been involved in arrangements with guests, employees, agents, consumers, or vendors that would manipulate or avoid any safeguards contained in the Cherokee Code or this title;
 - (2) Theft, fraud, or embezzlement;
 - (3) Safety Control Negligence;
 - (4) Non-marijuana drug trafficking.
- (c) Cannabis facilities where criminal activity has taken place shall gather pertinent information including customer details, cannabis agent details/schedule (if any), and a timeline of events.

17 CAR 5.33 Surveillance Room; Security Room.

- (a) A notice to the public of security camera operation is required at all entry points into the cannabis facility. All points of entry or egress to the facility shall be monitored with continuous camera coverage unless otherwise allowed by the Board.
- (b) Cannabis facilities shall maintain a secure surveillance room and/or security room. Any and all actions which impair or preclude the successful operation of the surveillance system are prohibited. The entrance to the surveillance/security room shall be located so that it is not accessible by cannabis agents that work with the general public. This area is highly restricted, only those individuals with sufficient security clearance may be permitted entry to this area. Cannabis agents not specifically allowed access by title shall sign an access log upon entering and exiting the area and shall be accompanied by personnel who are specifically allowed access to this area. The area may not be used for the distribution of payroll.
- (c) Surveillance recording media, inclusive of any copies, shall be accessible only to the cannabis facility's manager and responsible person(s), the Board, Board Agents, law enforcement, and other persons as allowed by the Board. All media transactions of recording media shall be logged. The log shall contain at least the following information:
 - (1) Time;
 - (2) Date;
 - (3) Cannabis agent(s) involved in transaction;

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- (4) Camera number;
 - (5) Recording number;
 - (6) Recording media detail, including if being taken out of service.
- (d) All video cameras required by the regulations shall possess the capability of being displayed on a video monitor and recorded. The surveillance system shall include a sufficient number of video monitors and recorders to simultaneously display and record multiple facility activities and record the views of all dedicated cameras and motion activated dedicated cameras within the cannabis facility.
- (e) The surveillance system shall record all areas in which currency, marijuana, or marijuana products may be stored or counted. The surveillance system shall monitor and record a general overview of activities occurring in all cash-handling areas with sufficient clarity to identify cannabis agents within the cage area as well as customers at the counter areas. Each cashier station shall be equipped with a minimum of one stationary dedicated overhead camera covering the transaction area. The surveillance system shall be utilized as an overview of cash transactions. This overview shall include the customer, the cannabis agent, and the immediate surrounding area.

17 CAR 5.34 Exclusion.

- (a) Each cannabis facility shall maintain a policy for the temporary and permanent exclusion of persons from the facility premises, including cannabis agents, former employees, and the public.
- (b) The exclusion policy, and any changes thereto, shall be forwarded to the Board before implementation.
- (c) The cannabis facility may not deviate from its pre-defined policy.

17 CAR 5.35 Abide by all applicable Tribal laws.

All cannabis facilities, including the cannabis agents and any contractors, subcontractors, or volunteers, shall abide by all applicable Tribal laws while at the premises of the cannabis facility or acting within the course and scope of their duties to the cannabis facility.

CHAPTER 6 CANNABIS RETAIL FACILITIES.

17 CAR 6.01 Requirements for operation; hours.

Each cannabis retail facility shall:

- (a) Ensure that the facility is operating and available to sell marijuana or marijuana products to consumers during, and only during, the designated hours of operation of the facility as provided to the Board in the application for a license and the hours authorized by the locality in which the cannabis retail facility is located; and
- (b) Post, in a place that can be viewed by persons entering the cannabis retail facility, the hours of operation during which the cannabis retail facility will sell marijuana or marijuana products to consumers.
- (c) Continuously place a security officer to ensure that unauthorized persons do not gain entry. Only customers of legal age, agent card holders, and the Board and its agents are authorized persons.
 - (1) Security officers are prohibited from handling unsecured currency or marijuana.

17 CAR 6.02 Duties of cannabis agent before sale to consumer.

Before a cannabis agent sells marijuana or marijuana products to a consumer, the cannabis agent shall:

- (a) Verify that the consumer is at least 21 years old;

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- (b) Verify the identity and age of the consumer by checking a government-issued identification card containing a photograph of the consumer using an identification scanner to determine the validity of any government-issued identification card;
 - (c) Offer any appropriate consumer education or support materials; and
 - (d) Enter the following information into the inventory control system:
 - (1) The amount of marijuana or marijuana product sold;
 - (2) The date and time at which the marijuana or marijuana product was sold;
 - (3) The number of the cannabis agent card of the cannabis agent; and
 - (4) The number of the license for the cannabis retail facility.

17 CAR 6.03 Valid proof of identification required.

- (a) Reserved.
- (b) Except as otherwise provided in this subsection, a cannabis retail facility shall not provide marijuana or marijuana products to any person unless the person produces a form of valid identification showing that the person is 21 years of age or older.
- (c) Identification presented to satisfy subsection (b) must contain a photograph and the date of birth of the person.
- (d) Identification presented to satisfy subsection (b) must be a valid and unexpired:
 - (1) Driver's license issued by the state of North Carolina or any other state or territory of the United States;
 - (2) Identification card issued by the state of North Carolina or any other state or territory of the United States for the purpose of proof of age of the holder of the card;
 - (3) United States military identification card;
 - (4) A Merchant Mariner Credential or other similar document issued by the United States Coast Guard;
 - (5) A passport issued by, or recognized by, the United States Government or a permanent resident card issued by the United States Citizenship and Immigration Services of the Board of Homeland Security;
 - (6) A tribal identification card issued by a tribal government; or
 - (7) A medical cannabis patient card issued by the Board.

17 CAR 6.04 Prohibition on sale that exceeds maximum amount.

- (a) A cannabis retail facility shall not sell to any consumer an amount of marijuana or marijuana products which exceeds:
 - (1) One and one-half ounces (42.52 grams) of usable marijuana other than concentrated marijuana per day;
 - (2) 2,500 milligrams of THC per day, not to exceed 10,000 milligrams of THC per month; or
 - (3) A combination of usable and concentrated marijuana not to exceed the legal limit.
- (b) A cannabis retail facility shall not sell to any consumer an amount of marijuana or marijuana products which exceed the limits in Cherokee Code Section 17-65.

17 CAR 6.05 Products required to be offered for sale; restrictions; advertisements.

- (a) Each cannabis retail facility shall offer for sale containers for the storage of marijuana and marijuana products which lock and are designed to prohibit children from unlocking and opening the container.

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- (b) A cannabis retail facility shall not sell any food, beverage, or other item which requires a state or county health permit, license, or other such document which requires inspection of the cannabis retail facility.
 - (c) Any product sold by a cannabis retail facility which contains tobacco or nicotine shall include labeling which is compliant with Federal requirements for such products, including but not limited to U.S. Surgeon General warnings.
 - (d) A cannabis dispensary facility shall not sell any product that contains alcohol.
 - (e) A cannabis retail facility shall not sell marijuana or marijuana products to a consumer through the use of, or accept a sale of marijuana or marijuana products from, a third party, intermediary business, broker, or any other business that does not hold a license issued by the Board.
 - (f) A cannabis retail facility shall not recommend products to women that are pregnant or breastfeeding.

17 CAR 6.06 Storage and location of products.

- (a) A cannabis retail facility must store all usable marijuana, concentrated marijuana, and marijuana products behind a counter or other barrier to ensure a consumer does not have direct access to such items.
- (b) Upon the request of a consumer, a cannabis retail facility must disclose the name of the cannabis laboratory which performed the required quality assurance tests for the marijuana item and the corresponding certificate of analysis.
- (c) Except as allowed by the Board or as provided in subsection (f), a cannabis retail facility may only sell usable marijuana obtained from a cannabis cultivation facility on Tribal lands.
- (d) Except as allowed by the Board or as provided in subsection (f), a cannabis retail facility may only sell concentrated marijuana and marijuana products obtained from a marijuana processed facility on Tribal lands.
- (e) Except as allowed by the Board or as provided in subsection (f), a cannabis retail facility may not sell a product other than usable marijuana, concentrated marijuana, or marijuana products which contain any level of THC or CBD without the approval of the Board. Each cannabis retail facility shall maintain a file which contains a certificate of analysis for any such approved product at the cannabis retail facility and shall make the file available for review upon request.
- (f) The provisions of this section do not apply to industrial hemp which is cultivated, certified, and registered as allowed by the EBCI Division of Agriculture and Natural Resources.

17 CAR 6.08 Restriction on sale.

- (a) Pursuant to this title, only a cannabis retail facility may sell marijuana, concentrated marijuana, or marijuana products to consumers.
- (b) A cannabis retail may not sell marijuana items to a consumer unless the marijuana items comply with the testing standards of this title.
- (c) A cannabis retail facility may refuse sale to any person should the cannabis retail facility reasonably believe such sale would be in violation of Cherokee Code Chapter 17 or this title.

CHAPTER 7 CANNABIS CULTIVATION FACILITIES.

17 CAR 7.01 Required disclosure with each lot.

- (a) A cannabis cultivation facility must disclose in writing with each lot of usable cannabis provided to any other cannabis facility:
 - (1) All soil amendments, fertilizers, pesticides, and other crop production aids applied to the growing medium or marijuana plant included in the lot; and

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- (2) The name of the cannabis laboratory which performed the required quality assurance tests and the certificate of analysis for the lot.
 - (b) A cannabis cultivation facility may provide a cannabis retail facility free display samples of usable marijuana packaged in a sample jar protected by a plastic or metal mesh screen to allow consumers to smell the product before purchase. A sample jar may not contain more than 3.5 grams of usable marijuana. The sample jar must not be left unattended and must be sealed shut. The sample jar and the usable cannabis within may not be sold to a consumer and must be either returned to the cannabis cultivation facility which provided the usable cannabis and sample jar or destroyed by the cannabis retail facility after use and documented by the cannabis retail facility using its inventory control system. A cannabis processing facility may provide uninfused edibles as display samples.

17 CAR 7.02 Restrictions on access to facility.

- (a) Except as otherwise provided in subsection (b), a cannabis cultivation facility must ensure that access to the enclosed, locked facility where marijuana is cultivated is limited to the officers, board members, and authorized cannabis agents of the cannabis cultivation facility.
- (b) Each cannabis cultivation facility shall ensure that an authorized cannabis agent accompanies any person other than another cannabis agent associated with that cannabis facility when the person is present in the enclosed, locked facility where marijuana is cultivated or produced by the cannabis cultivation facility.
- (c) Each cannabis cultivation facility shall ensure that any marijuana growing at the cannabis cultivation facility:
 - (1) Cannot be clearly observed from outside the cannabis cultivation facility and is not visible from a public place by normal, unaided vision; and
 - (2) Unless the cannabis cultivation facility cultivates cannabis outdoors, does not emit a strong odor that is clearly detectable from outside the cannabis cultivation facility.

17 CAR 7.03 Requirements for outdoor cultivation.

- (a) If a cannabis cultivation facility wishes to engage in the cultivation of marijuana outdoors, the cannabis cultivation facility must, before engaging in any outdoor cultivation, submit a verification to the Board that the outdoor cultivation will be adequately isolated from all other outdoor marijuana and industrial hemp cultivation locations to prevent the cross-pollination of crops.
- (b) A request for verification of adequate isolation described in subsection (a) must be submitted to the Board and:
 - (1) Be on a form if prescribed by the Board;
 - (2) Include documentation that verifies that the cannabis cultivation facility has obtained:
 - (A) Appropriate licensing;
 - (B) Any other approvals required by the Cherokee Code;
 - (C) Include a map or GPS coordinates that define the proposed location of outdoor cultivation by the cannabis cultivation facility; and
 - (D) Include any other information that the Board determines to be necessary.
 - (3) The cannabis cultivation facility shall not begin outdoor cultivation until the Board provides verification of adequate isolation described in subsection (a) and the Board issues a license for a cannabis cultivation facility to the applicant or approves the modification of operations of the cannabis cultivation facility to begin outdoor cultivation.

CHAPTER 8 CANNABIS PROCESSING FACILITIES

17 CAR 8.01 Hand and arm contact while engaged in extraction.

- (a) Each cannabis agent engaged in the extraction of concentrated marijuana or production of marijuana products shall keep his or her hands and the exposed portions of his or her arms clean.
- (b) A cannabis agent engaged in the extraction of concentrated marijuana or production of marijuana products shall not have contact with exposed, finished marijuana products with his or her bare hands and shall use suitable barriers, including, without limitation, deli tissue, spatulas, tongs, single-use gloves, or dispensing equipment when handling exposed, finished concentrated marijuana or marijuana products.
- (c) A cannabis agent engaged in the extraction of concentrated marijuana or production of marijuana products shall minimize bare hand and arm contact with exposed marijuana products that are not in a finished form.

17 CAR 8.02 Qualifications and duties of persons responsible for facility.

Based on the risks inherent to the operation of a cannabis processing facility, the persons responsible for managing each such facility shall demonstrate to the Board knowledge of disease prevention, and the requirements of these regulations and Cherokee Code Chapter 17 by:

- (a) Complying with the provisions of these regulations and Cherokee Code Chapter 17 and having no category I, II, II, or III violations during inspections.
- (b) Ensuring that at least one cannabis agent of the cannabis processing facility is available during all operating hours which is a certified food protection manager who has shown proficiency in the required information through passing a test that is part of a program which certifies a person to be a food protection manager and which:
 - (1) Has been evaluated and listed by an accrediting agency as conforming to national standards for organizations that certify persons as food protection managers; or
 - (2) Provides to such persons other training acceptable to the Board.
- (c) Responding correctly to the questions of an inspector of cannabis facilities regarding:
 - (1) The relationship between the prevention of disease and the personal hygiene of a cannabis agent engaged in the extraction of concentrated marijuana or production of marijuana products.
 - (2) The prevention of the transmission of disease by a cannabis agent engaged in the extraction of concentrated marijuana or production of marijuana products who has a disease or medical condition that may transmit disease.
 - (3) The symptoms associated with the diseases that are transmissible through marijuana products and ingredients.
 - (4) The significance of the relationship between maintaining the temperature for a certain amount of time for potentially hazardous marijuana products and ingredients and the prevention of illness transmission.
 - (5) The hazards involved in the consumption of raw or undercooked meat, poultry, and eggs.
 - (6) The required temperatures and times for safe cooking of potentially hazardous cannabis products and ingredients, including, without limitation, meat, poultry, and eggs.
 - (7) The required temperatures and times for the safe refrigerated storage, hot holding, cooling, and reheating of potentially hazardous marijuana products and ingredients.
 - (8) The relationship between the prevention of illness transmission and the management and control of:
 - (A) Cross contamination;
 - (B) Hand contact with finished cannabis products and ingredients;
 - (C) Hand washing; and

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- (D) Maintaining the establishment in a clean condition and in good repair.
 - (9) The correct procedures for cleaning and sanitizing utensils and the surfaces of equipment that have direct contact with marijuana products and ingredients.
 - (10) The identification of poisonous or toxic materials in the facility and the procedures necessary to ensure that those materials are safely stored, dispensed, used, and disposed of according to applicable state and federal laws and regulations.

17 CAR 8.03 Creation of marijuana extracts, good manufacturing procedures.

- (a) A cannabis processing facility may only use the methods, equipment, solvents, gases, and mediums set forth in this section when creating marijuana extracts.
- (b) A cannabis processing facility may use the hydrocarbons N-butane, isobutane, propane, heptane, or other solvents or gases exhibiting low to minimal potential human health related toxicity approved by the Board. These solvents must be of at least 99 percent purity and a marijuana product manufacturing facility must, when using such solvents:
 - (1) Use the solvents in a professional grade, closed-loop extraction system designed to recover the solvents;
 - (2) Work in a spark-free environment with proper ventilation; and
 - (3) Follow all applicable local fire, safety and building codes in the processing and storage of the solvents.
- (c) A cannabis processing facility may use a professional grade, closed-loop CO2 gas extraction system where every vessel is rated to a minimum of 900 pounds per square inch and it follows all applicable fire, safety, and building codes in the processing and the storage of the solvents. The CO2 must be of at least 99 percent purity.
- (d) A cannabis processing facility may use heat, screens, presses, steam distillation, ice water, and other methods without employing solvents or gases to create kief, hashish, bubble hash, infused dairy butter, or oils or fats derived from natural sources, and other extracts.
- (e) A cannabis processing facility may use food grade glycerin, ethanol, and propylene glycol solvents to create marijuana extracts.
- (f) A cannabis processing facility which creates marijuana extracts must develop standard operating procedures, standard manufacturing practices and a training plan before producing marijuana extracts for retail sale. Any person using solvents or gases in a closed-looped system to create marijuana extracts must be fully trained on how to use the system, have direct access to applicable material safety data sheets and safely handle and store the solvents and gases.

17 CAR 8.04 Requirements on use of non-marijuana ingredients.

- (a) Each cannabis processing facility shall ensure that it obtains non-marijuana ingredients, including hemp and CBD, for marijuana products from sources that comply with the requirements of federal and state law and regulations and are approved by the Board, including, without limitation, commercial, and retail businesses.
- (b) A cannabis processing facility shall not use or prepare non-marijuana ingredients prepared or stored in a private home.
- (c) A cannabis processing facility must submit all new menu items and their ingredients to the Board. A cannabis processing facility may not produce nasal spray, inhalers, eye drops, or medical devices.
- (d) A cannabis processing facility preparing menu items that require a HACCP plan must be approved by the Board. Special processes requiring a HACCP plan include, but are not limited to, canning, reduced oxygen packaging, and other processes as determined by the Board.

17 CAR 8.05 Protection of products and ingredients from cross-contamination.

- (a) Except as otherwise provided in subsection (b), each cannabis processing facility shall ensure that marijuana products and ingredients are protected from cross-contamination by:
 - (1) Separating raw animal ingredients during storage, preparation, holding, and display from raw marijuana products, or other raw finished ingredients such as fruits and vegetables, and from concentrated marijuana and cooked or baked and finished marijuana products which are ready to eat or otherwise use.
 - (2) Except when combined as ingredients, separating types of raw animal ingredients from each, including, without limitation, meat, poultry, and eggs, during storage, preparation, holding, and display by preparing each type of raw animal ingredient at a different time or in a different area and:
 - (A) Using separate equipment for each type of raw animal ingredient; or
 - (B) Arranging each type of raw animal ingredient in equipment so that cross contamination of one type of raw animal ingredient with another is prevented.
 - (3) Preparing each type of raw animal ingredient at different times or in separate areas.
- (b) The provisions of subsection (a) do not apply to items stored frozen in a freezer.
- (c) Marijuana products must be protected from contamination by storing the product in a clean, dry location:
 - (1) Where the products are not exposed to splashes, chemicals, dust, or other contamination; and
 - (2) Fifteen centimeters or more above the floor.
- (d) Marijuana products and direct contact surfaces of equipment and utensils must be stored and handled in a manner that prevents any biological, chemical, or physical contamination at all times.
- (e) Chemical sanitizer must be available for immediate use at the proper concentration during all hours of operation in a location other than a three-compartment sink.

17 CAR 8.06 Use of pasteurized eggs.

Each cannabis processing facility shall ensure that:

- (a) Pasteurized eggs or egg products are substituted for raw eggs in the preparation of marijuana products.
- (b) Marijuana products and ingredients only have contact with the surfaces of:
 - (1) Equipment and utensils that are cleaned and sanitized; or
 - (2) Single-service and single-use articles that have not previously been used.
- (c) Ingredients such as eggs, meat, poultry, and marijuana containing these raw animal ingredients are cooked to heat all parts of the cannabis product to a temperature and for a time that complies with one of the following methods based on the product that is being cooked:
 - (1) At 145°F (63°C) or above for 15 seconds for meat, including, without limitation, commercially raised game animals.
 - (2) At 155°F (68°C) or above for 15 seconds for:
 - (A) Mechanically tenderized and injected meats; and
 - (B) Meat and commercially raised game animals if it is comminuted.
 - (3) At 165°F (74°C) or above for 15 seconds for poultry, stuffed meat, stuffed pasta, stuffed poultry, or stuffing containing meat or poultry.

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- (d) Except during preparation, cooking or cooling, potentially hazardous marijuana products and ingredients are maintained:
 - (1) At 135°F (57°C) or above; or
 - (2) At 41°F (5°C) or less.
 - (e) During the thawing process, potentially hazardous marijuana products and ingredients are:
 - (1) Maintained at 41°F (5°C) or less; and
 - (2) Thawed:
 - (A) Under refrigeration;
 - (B) Under cool running water;
 - (C) As part of the cooking process; or
 - (D) In a microwave only if the potentially hazardous cannabis products and ingredients will be cooked immediately thereafter.

17 CAR 8.07 Clear marking of potentially hazardous marijuana products; expiration date.

- (a) Each cannabis processing facility shall ensure that:
 - (1) Potentially hazardous cannabis products and ingredients prepared and held by the facility for more than 24 hours are clearly marked to indicate the date or day by which the item must be consumed, sold or discarded when held at a temperature of 41°F (5°C) or less for a maximum of seven days or, if the item is frozen, when the item is subsequently thawed and held at a temperature of 41°F (5°C) or less for a maximum of seven days; and
 - (2) Potentially hazardous marijuana products and ingredients that are prepared and packaged by a commercial processing plant are clearly marked at the time that the original container is opened and, if the item is held for more than 24 hours, indicate the date or day by which the item must be consumed, sold or discarded, based on the temperature and time combination set forth in paragraph (1). The day on which the original container is opened in the cannabis facility must be counted as "day 1." The day or date marked by the cannabis processing facility may not exceed a use-by date of the manufacturer if the manufacturer determined the use-by date.
 - (3) Products are not held past the expiration, sell by or use-by date.
- (b) If a cannabis processing facility produces a marijuana product which is perishable, the expiration date for the marijuana product must:
 - (1) Be determined as a result of shelf-life testing pursuant to subsection (c); or
 - (2) Not exceed seven days, including the date of preparation of the cannabis product if the marijuana product is refrigerated.
- (c) A cannabis processing facility shall perform testing, as specified by the Board, to determine the shelf life of each marijuana product which is perishable for the first processing run of each such marijuana product. The appropriate Board Agent will determine which marijuana products require testing to determine shelf life during the review and approval of each marijuana product. New testing pursuant to this subsection must be performed for any change in the recipe, processing run size or equipment used to produce a marijuana product.

17 CAR 8.08 Edible marijuana products; testing; requirements for sale.

- (a) Each cannabis processing facility shall contract with a cannabis laboratory to perform testing to ensure the homogeneity of the potency of the product on each edible marijuana product produced by the facility. A

cannabis processing facility shall not sell an edible marijuana product unless a cannabis laboratory has verified the homogeneity of the potency of the product.

- (b) A cannabis processing facility shall not sell an edible marijuana product other than a multiple-serving edible marijuana product or a single-serving edible marijuana product. An edible marijuana product sold as a multiple-serving edible marijuana product must not contain more than 100 milligrams of THC. An edible marijuana product sold as a single-serving edible marijuana product must not contain more than 10 milligrams of THC.
- (c) A cannabis processing facility shall not sell an edible marijuana product unless:
 - (1) The recipe and production procedures for the edible marijuana product will ensure consistent concentration of THC for the edible marijuana product; and
 - (2) The recipe and production procedures for the edible marijuana product will ensure consistent concentration of THC for the edible marijuana product.
- (d) Any change in the processing run size or equipment used to produce an edible marijuana product must be approved by the appropriate Board Agent. The Board Agent may require new approval or testing pursuant to this section for such a change.

17 CAR 8.09 Requirements for sinks and running water.

- (a) Each cannabis processing facility shall ensure that it provides:
 - (1) A sink with at least three compartments for manually washing, rinsing and sanitizing equipment and utensils;
 - (2) Sink compartments that are large enough to accommodate immersion of the largest equipment and utensils; and
 - (3) Running water that reaches a minimum temperature of 120°F (49°C).
- (b) If equipment or utensils are too large for the warewashing sink, a cannabis processing facility must use a warewashing machine or alternative equipment.

17 CAR 8.10 Requirements for sanitizers.

Each cannabis processing facility shall ensure that:

- (a) In a mechanical operation, the temperature of the fresh hot water sanitizing rinse as it enters the manifold is not more than 194°F (90°C) or less than 180°F (82°C).
- (b) A chemical sanitizer used in a sanitizing solution for a manual or mechanical operation at contact times is used in accordance with the manufacturer's label use instructions that are approved by the Environmental Protection Agency, as follows:
 - (1) A chlorine solution must have a concentration between 50 parts per million and 100 parts per million or be otherwise prepared in accordance with the manufacturer's label.
 - (2) An iodine solution must have a concentration between 12.5 parts per million and 25 parts per million or be otherwise prepared in accordance with the manufacturer's label.
 - (3) A quaternary ammonium compound solution must have a concentration between 150 parts per million and 400 parts per million or be otherwise prepared in accordance with the manufacturer's label.
- (c) If a chemical sanitizer other than chlorine, iodine, or a quaternary ammonium compound is used, it is applied in accordance with the manufacturer's label use instructions that are approved by the Environmental Protection Agency.

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- (d) A sanitizer bucket or spray bottle is readily available during all hours of operation and kept at the proper concentration.
 - (e) Test strips which are appropriate for the type of chemical sanitizer in use are available and used properly.

17 CAR 8.11 Requirements for materials used in utensils and contact surfaces.

Each cannabis processing facility shall ensure that the materials that are used in the construction of utensils and the contact surfaces of equipment:

- (a) Do not allow the migration of deleterious substances or impart colors, odors, or tastes to marijuana products; and
- (b) Under normal use conditions are:
 - (1) Safe;
 - (2) Durable, corrosion-resistant and nonabsorbent;
 - (3) Sufficient in weight and thickness to withstand repeated warewashing;
 - (4) Finished to have a smooth, easily cleanable surface; and
 - (5) Resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition.

17 CAR 8.12 Requirements for lighting.

Each cannabis processing facility shall ensure that the light intensity in the facility is:

- (a) At least 20-foot candles (215 lux):
 - (1) At a distance of 30 inches (75 cm) above the floor in walk-in refrigeration units and areas for storage of dry marijuana products and in other areas and rooms during periods of cleaning;
 - (2) Inside equipment such as reach-in and under-counter refrigerators; and
 - (3) At a distance of 30 inches (75 cm) above the floor in areas used for hand washing, warewashing, and equipment and utensil storage and in toilet rooms.
- (b) At least 50-foot candles (540 lux) at a surface where a cannabis agent engaged in the extraction of concentrated marijuana or production of marijuana products is working with marijuana products or working with utensils or equipment, including, without limitation, knives, slicers, grinders, or saws where employee safety is a factor.

17 CAR 8.13 Requirements for filters for liquid filtration.

- (a) Each cannabis processing facility shall ensure that filters for liquid filtration used in the extraction of concentrated marijuana or manufacture, processing, or packaging of cannabis marijuana intended for human use do not release fibers into such products.
- (b) A cannabis processing facility shall not use an asbestos-containing filter.

17 CAR 8.14 Sufficiency of ventilation systems.

Each cannabis processing facility shall ensure that its ventilation hood systems and devices are sufficient in number and capacity to prevent grease or condensation from collecting on walls and ceilings.

17 CAR 8.15 Sufficiency of mechanical ventilation.

Each cannabis processing facility shall ensure that it provides mechanical ventilation of sufficient capacity as necessary to keep rooms free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke, and fumes.

17 CAR 8.16 Cleanliness of surfaces of equipment and utensils.

Each cannabis product manufacturing facility shall ensure that:

- (a) The surfaces of equipment and utensils that have direct contact with marijuana products are clean to sight and touch;
- (b) The surfaces of cooking equipment and pans that have direct contact with marijuana products are kept free of encrusted grease deposits and other soil accumulations; and
- (c) The surfaces of equipment that do not have direct contact with marijuana products are kept free of an accumulation of dust, dirt, residue, and other debris.

17 CAR 8.17 Frequency of and activities requiring cleaning.

Each cannabis processing facility shall ensure that:

- (a) The surfaces of equipment and utensils that have direct contact with marijuana products are cleaned:
 - (1) Before each use with a different type of raw animal ingredient, including, without limitation, beef, pork, or poultry;
 - (2) Each time there is a change from working with raw cannabis products to working with finished marijuana products;
 - (3) Between uses with raw fruits and vegetables and with potentially hazardous marijuana products and ingredients, using the appropriate time and temperature controls to ensure the safety of the marijuana products; and
 - (4) At any time during operation when contamination may have occurred.
- (b) If the surfaces of equipment or utensils come into contact with potentially hazardous marijuana products and ingredients, the surfaces and utensils are cleaned throughout the day at least once every four hours.
- (c) The surfaces of utensils and equipment that have direct contact with marijuana products and ingredients that are not potentially hazardous are cleaned:
 - (1) At any time when contamination may have occurred; and
 - (2) In equipment, including, without limitation, ice bins and beverage dispensing nozzles, and enclosed components of equipment, such as ice makers, cooking oil storage tanks and distribution lines, beverage and syrup dispensing lines or tubes, coffee bean grinders, and water vending equipment:
 - (A) At a frequency specified by the manufacturer; or
 - (B) If the manufacturer does not specify a frequency, at a frequency necessary to prevent the accumulation of soil or mold.

17 CAR 8.18 Sanitation of surfaces and utensils.

Each cannabis processing facility shall ensure that:

- (a) The surfaces and utensils that have direct contact with marijuana products are adequately washed, rinsed, and sanitized.
- (b) After being cleaned, surfaces of equipment and utensils that have direct contact with marijuana products are sanitized in:
 - (1) Hot water manual operations by immersion for at least 30 seconds with a temperature of 170°F (77°C) or above;

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- (2) Hot water mechanical operations by being cycled through equipment that is set up and achieving a utensil surface temperature of 160°F (71°C) as measured by an irreversible registering temperature indicator; or
 - (3) Chemical manual or mechanical operations, including, without limitation, the application of sanitizing chemicals by immersion, manual swabbing, brushing, or pressure spraying methods using a solution as specified on the manufacturer's label use instructions that are approved by the Environmental Protection Agency, by providing an exposure time of at least 30 seconds unless the manufacturer's label use instructions provide otherwise.

17 CAR 8.19 Surfaces of cooking and baking equipment.

Each cannabis processing facility shall ensure that:

- (a) The surfaces of cooking and baking equipment that have direct contact with marijuana products are cleaned at least once every 24 hours; and
- (b) The cavities and door seals of microwave ovens are cleaned at least once every 24 hours by using the recommended cleaning procedure of the manufacturer.

***CHAPTER 9 MINIMUM GOOD PRACTICES OF CULTIVATION AND PREPARATION
OF MARIJUANA***

17 CAR 9.01 Requirement for a quality control unit.

- (a) Each cannabis cultivation facility, cannabis processing facility, and cannabis retail facility shall have a quality control unit that:
 - (1) Has the responsibility and authority to approve or reject all components, product containers, closures, in-process materials, packaging materials, labeling, and marijuana or marijuana products;
 - (2) Has the authority to review production records to assure that no errors have occurred or, if errors have occurred, that the errors have been fully investigated and resolved;
 - (3) Is responsible for approving or rejecting marijuana or marijuana products manufactured, processed, packaged, or held under contract by another cannabis facility; and
 - (4) Is responsible for approving or rejecting all procedures or specifications which may impact the identity, strength, quality, and purity of the marijuana or marijuana products.
- (b) Each cannabis cultivation facility, cannabis processing facility, and cannabis retail facility shall:
 - (1) Set forth the responsibilities and procedures applicable to the quality control unit in writing, a copy of which shall be provided promptly to the Board or Board Agents upon request; and
 - (2) Follow the written responsibilities and procedures set forth pursuant to paragraph (1).

17 CAR 9.02 Establishment of and adherence to written procedures for labeling and packaging materials.

- (a) Each cannabis cultivation facility, cannabis processing facility, and cannabis retail facility shall establish and follow written procedures describing in sufficient detail the receipt, identification, storage, handling, sampling, and examination of labeling and packaging materials. A copy of these procedures shall be provided promptly to the Board or Board Agents upon request.
- (b) Any labeling or packaging materials that meet the appropriate written specifications established pursuant to subsection (a) may be approved and released for use. Any labeling or packaging materials that do not meet

the specifications established pursuant to subsection (a) must be rejected to prevent their use in operations for which they are unsuitable.

- (c) Each cannabis cultivation facility, cannabis processing facility, and cannabis retail facility shall:
 - (1) Store separately with suitable identification the labels and other labeling materials for each type of marijuana or marijuana product, and the different strength, dosage form or quantity of contents;
 - (2) Limit access to the storage area described in paragraph (a) to authorized personnel of the cannabis facility; and
 - (3) Destroy obsolete and outdated labels, labeling, and other packaging materials.

17 CAR 9.03 Establishment of and adherence to written procedures for production and process control to assure quality of marijuana and marijuana products.

- (a) Each cannabis cultivation facility, cannabis processing facility, and cannabis retail facility shall have written procedures for production and process control that are designed to assure that the marijuana or marijuana products have the identity, strength, quality, and purity they purport or are represented to possess. A copy of these procedures shall be provided to the Board or Board Agents upon request.
- (b) The written procedures required pursuant to subsection (a) and any changes to those procedures must be drafted, reviewed, and approved by the appropriate management personnel of the cannabis facility and reviewed and approved by the quality control unit of the cannabis facility.
- (c) Each cannabis cultivation facility, cannabis processing facility, and cannabis retail facility shall follow written production and process control procedures in executing various production and process control functions and shall document these procedures at the time of performance. Any deviation from the written procedures must be recorded and justified by the cannabis facility. A copy of these procedures shall be provided to the Board or Board Agents upon request.

17 CAR 9.04 Establishment of and adherence to written procedures for components, product containers and closures.

Each cannabis cultivation facility, cannabis processing facility, and cannabis retail facility shall ensure that:

- (a) It has written procedures describing in sufficient detail the receipt, identification, storage, handling, sampling, testing, and approval or rejection of components, product containers, and enclosures and that it follows those procedures. A copy of these procedures shall be provided to the Board or Board Agents upon request;
- (b) Components, product containers, and enclosures are at all times handled and stored in a manner so as to prevent contamination; and
- (c) Bagged or boxed components, product containers, or enclosures are stored at least six inches (15 centimeters) off the floor and are suitably spaced to permit cleaning and inspection.

17 CAR 9.05 Appropriateness, cleanliness and maintenance of equipment, utensils, and substances; maintenance of records.

- (a) Each cannabis cultivation facility, cannabis processing facility, and cannabis retail facility shall ensure that any equipment used to manufacture, process, package, or hold marijuana or marijuana products:
 - (1) Is of appropriate design and adequate size and is suitably located to facilitate operations for its intended use and for its cleaning and maintenance; and
 - (2) Is constructed so that surfaces which have direct contact with components, in-process materials, marijuana, or marijuana products are not reactive, additive, or absorptive so as to alter the safety,

identity, strength, quality or purity of the marijuana or marijuana products beyond the official or other established requirements.

- (3) Reserved.
- (b) Each cannabis cultivation facility, cannabis processing facility, and cannabis retail facility shall ensure that:
 - (1) Any substances required for its operation, such as lubricants or coolants, do not come into contact with components, product containers, in-process materials, marijuana or marijuana products so as to alter the safety, identity, strength, quality, or purity of the marijuana or marijuana products beyond the official or other established requirements;
 - (2) Equipment and utensils are cleaned, maintained and, as appropriate for the nature of the marijuana or marijuana products, sanitized and sterilized at appropriate intervals to prevent malfunctions or contamination that would alter the safety, identity, strength, quality, or purity of the marijuana or marijuana products beyond the official or other established requirements; and
 - (3) Written procedures are established and followed for the cleaning and maintenance of equipment and utensils used to manufacture, process, package, or hold marijuana or marijuana products. A copy of these procedures shall be provided to the Board or Board Agents upon request. These procedures must include, without limitation:
 - (A) Assignment of responsibility for cleaning and maintaining equipment;
 - (B) Maintenance and cleaning schedules, including, sanitizing schedules;
 - (C) A description in sufficient detail of the methods, equipment and materials used in cleaning and maintenance operations and the methods of disassembling and reassembling equipment as necessary to assure proper cleaning and maintenance;
 - (D) Protection of clean equipment from contamination before use; and
 - (E) Inspection of equipment for cleanliness immediately before use.
- (c) Each cannabis cultivation facility, cannabis processing facility, and cannabis retail facility must maintain records of any maintenance, cleaning, sanitizing, and inspection carried out pursuant to this section.

17 CAR 9.06 Requirement to ensure cleanliness of employees and volunteers.

Each cannabis cultivation facility, cannabis processing facility, and cannabis retail facility shall ensure that:

- (a) Each cannabis agent who is employed by or volunteers at the cannabis facility and who is engaged in cultivating, manufacturing, processing, packaging, or holding marijuana or marijuana products wears clean clothing appropriate for the duties he or she performs;
- (b) Protective apparel, such as head, face, hand, and arm coverings, are worn as necessary to protect marijuana or marijuana products from contamination; and
- (c) Each cannabis agent who is employed by or volunteers at the cannabis facility practices good sanitation and health habits.

17 CAR 9.07 Restrictions on salvaging marijuana and marijuana products; maintenance of records.

- (a) Each cannabis cultivation facility, cannabis processing facility, and cannabis retail facility shall ensure that marijuana or marijuana products that have been subjected to improper storage conditions, including, without limitation, extremes in temperature, humidity, smoke, fumes, pressure, age, or radiation due to natural disasters, fires, accidents, or equipment failures, are not salvaged and returned to the marketplace.

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- (b) Whenever it is unclear whether marijuana or marijuana products have been subjected to the conditions described in subsection (a), a cannabis cultivation facility, cannabis processing facility or cannabis retail facility may conduct salvaging operations only if:
 - (1) The marijuana or marijuana products are salvaged for use only for the purpose of extraction;
 - (2) Evidence from tests and assays performed by a cannabis laboratory indicates that the marijuana or marijuana products meet all applicable standards of quality and purity; and
 - (3) Evidence from inspection of the premises indicates that the marijuana or marijuana products and their associated packaging were not subjected to improper storage conditions as a result of the disaster or accident, if any.
 - (c) A cannabis cultivation facility, cannabis processing facility, and cannabis retail facility must maintain records, including, without limitation, the name, lot number, processing run number, and disposition for marijuana or marijuana products salvaged pursuant to subsection (b).

17 CAR 9.08 Requirements for building used to manufacture, process, package, or hold marijuana.

- (a) Each cannabis facility shall ensure that any building used to manufacture, process, package, or hold marijuana or marijuana products:
 - (1) Is of suitable size, construction, and location to facilitate cleaning, maintenance, and proper operations;
 - (2) Has adequate space for the orderly placement of equipment and materials to prevent miscalculation or misuse of any component in any step of the manufacture, control, packaging, labeling, or distribution of marijuana or marijuana products between different components, product containers, closures, labels, in-process materials, and marijuana or marijuana products and to prevent contamination; and
 - (3) Contains interior surfaces which are not constructed of bare, painted, or coated wood or wood product unless:
 - (A) The bare, painted, or coated wood is within a building used only as a cannabis sales facility and all marijuana or marijuana products are packaged or protected at all times; or
 - (B) The wood is sealed and coated with an epoxy paint which renders the surface:
 - (i) Safe;
 - (ii) Durable, corrosion-resistant, nonporous and nonabsorbent;
 - (iii) Finished to have a smooth, easily cleanable surface; and
 - (iv) Resistant to pitting, chipping, crazing, scratching, scoring, distortion, and decomposition.
- (b) Each cannabis facility shall ensure that:
 - (1) The flow of components, product containers, closures, labels, in-process materials and cannabis and cannabis products through any building used to manufacture, process, package or hold marijuana or marijuana products is designed to prevent contamination;
 - (2) The operations of the cannabis facility are performed within specifically defined areas of adequate size;
 - (3) All items are stored at least six inches (15 cm) off the floor;
 - (4) All access points to outside areas are sealed, including, without limitation, by use of door sweeps; and
 - (5) There are separate or defined areas or such other control systems for the operations of the cannabis facility as are necessary to prevent contamination or miscalculation or misuse of any component in any step of the manufacture, control, packaging, labeling, or distribution of marijuana or marijuana products during the course of the following procedures:

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- (A) Receipt, identification, storage and withholding from use of components, product containers, closures and labels, pending the appropriate sampling, testing, or examination by the quality control unit before release for manufacturing, processing, or packaging;
 - (B) Holding rejected components, product containers, closures and labels before disposition;
 - (C) Storage of released components, product containers, closures and labels;
 - (D) Storage of in-process materials;
 - (E) Processing operations;
 - (F) Packaging and labeling operations;
 - (G) Quarantine storage before the release of marijuana or marijuana products;
 - (H) Storage of marijuana or marijuana products after release;
 - (I) Cannabis laboratory operations; and
 - (J) Sanitary processing, which includes as appropriate:
 - (i) Floors, walls, and ceilings made of smooth, hard surfaces that are easily cleanable;
 - (ii) Temperature and humidity controls;
 - (iii) An air supply filtered through high-efficiency particulate air filters under positive pressure;
 - (iv) A system for monitoring environmental conditions;
 - (v) A system for cleaning and sanitizing rooms and equipment; and (VI) A system for maintaining any equipment used to control sanitary conditions.

17 CAR 9.09 Requirement to maintain building used to manufacture, process, package or hold marijuana in good state of repair.

Each cannabis facility shall ensure that any building used to manufacture, process, package, or hold marijuana or marijuana products is maintained in a good state of repair.

17 CAR 9.10 Requirements for water, plumbing, and drains in building used to manufacture, process, package, or hold cannabis.

Each cannabis facility shall ensure that

- (a) Any building used to manufacture, process, package, or hold marijuana or marijuana products supplies potable water under continuous positive pressure in a plumbing system free of defects that could contribute to the contamination of any marijuana or marijuana products. Potable water must meet the standards prescribed in the Primary Drinking Water Regulations, 40 C.F.R. Part 141. Water not meeting such standards is not permitted in the potable water system.
- (b) Drains are of adequate size and, where connected directly to a sewer, are provided with an air break or other mechanical device to prevent back-siphonage.

17 CAR 9.11 Adequate lighting.

- (a) Each cannabis facility shall ensure that adequate lighting is provided in all areas of the cannabis facility.
- (b) If it is necessary for a cannabis facility to have dim or no lighting in a certain area of the cannabis facility for a specific reason, the cannabis facility must have a written policy which specifies:
 - (1) The area needing dim or no lighting; and

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- (2) The reason the area needs dim or no lighting.

17 CAR 9.12 Establishment of and adherence to written procedures for sanitation; requirement to retain person who is certified applicator of pesticides.

- (a) Each cannabis facility shall ensure that it has written procedures:
 - (1) Assigning responsibility for sanitation and describing in sufficient detail the cleaning schedules, methods, equipment, and materials to be used in cleaning the buildings and facilities of the cannabis facility; and
 - (2) For the use of appropriate rodenticides, insecticides, fungicides, fumigating agents and cleaning and sanitizing agents by the cannabis facility.
- (b) Each cannabis facility shall ensure that the written procedures described in subsection (a) are followed. A copy of these procedures shall be provided promptly to the Board or Board Agents upon request.
- (c) All sanitation procedures of a cannabis facility apply to work performed by contractors or temporary cannabis agents for the cannabis facility as well as work performed by full-time cannabis agents during the ordinary course of operations.
- (d) Each cannabis cultivation facility shall retain at least one person who is a certified applicator who is authorized to use pesticides for:
 - (1) If the cannabis cultivation facility engages in the cultivation of cannabis indoors, greenhouse and nursery pest control pursuant to applicable environmental standards; and
 - (2) If the cannabis cultivation facility engages in the cultivation of cannabis outdoors, agricultural pest control of animals or plants pursuant to applicable environmental standards.

17 CAR 9.13 Storage, management, and disposal of waste.

- (a) Except as otherwise provided in subsection (b), a cannabis facility shall:
 - (1) Store, manage, and dispose of all solid and liquid waste and wastewater generated during the processing of marijuana or production of marijuana products in accordance with all applicable laws and regulations; and
 - (2) Render waste containing marijuana unusable before the waste leaves the cannabis facility. Such waste includes, without limitation:
 - (A) Waste from marijuana plants, including, without limitation, roots, stalks, leaves, stems, flower, trim, or solid plant material and any plant material used to create an extract;
 - (B) Solvents used in the processing of marijuana or extraction of concentrated marijuana;
 - (C) Any plant material or solvents discarded as a result of quality assurance testing or any other testing performed by a cannabis laboratory; and
 - (D) Any other waste as determined by the Board.
- (b) A cannabis retail facility may return a marijuana product to a cannabis cultivation facility or cannabis processing facility to be rendered unusable.
- (c) Unless another method approved by the Board is used, waste containing marijuana must be rendered unusable by grinding and incorporating the waste with:
 - (1) For disposal using an organic method other than composting, the following kinds of compostable mixed waste:
 - (A) Food waste;
 - (B) Yard waste;

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- (C) Soil; or
 - (D) Other waste as approved by the Board; or
- (2) For disposal in a landfill or other method not described above, the following kinds of non-compostable mixed waste:
- (A) Paper waste;
 - (B) Cardboard waste;
 - (C) Plastic waste;
 - (D) Other waste as approved by the Board.

The amount of waste containing marijuana in the resulting mixture must be less than 50 percent by volume. Such waste must not be disposed of by composting.

- (d) A cannabis facility shall provide notice to the Board using the seed-to-sale tracking system before rendering unusable and disposing of marijuana or marijuana products.

CHAPTER 10 CANNABIS LABORATORIES

17 CAR 10.01 Employment, qualifications, and duties of scientific director.

- (a) Each cannabis laboratory must employ a scientific director who must be responsible for:
 - (1) Establishing and maintaining a quality control and quality assurance program that ensures the quality of the cannabis laboratory's services, and that is capable of identifying any failure of quality when it occurs;
 - (2) Supervising all staff of the cannabis laboratory; and
 - (3) Actively participating in the operation of the laboratory to the extent necessary to assure compliance with the provisions of these regulations and Cherokee Code Chapter 17.
- (b) The scientific director of a cannabis laboratory must have earned:
 - (1) A doctorate degree in science from an accredited college or university and have at least two years of post-degree laboratory experience;
 - (2) A master's degree in science from an accredited college or university and have at least four years of post-degree laboratory experience; or
 - (3) A bachelor's degree in science from an accredited college or university and have at least six years of post-degree laboratory experience.
- (c) If a scientific director is no longer employed by a cannabis laboratory, the cannabis laboratory shall not be permitted to conduct any testing. An interim director that meets the minimum qualifications may be appointed for no more than 90 days.
- (d) A cannabis laboratory shall immediately inform the Board upon the appointment of a new scientific director.
- (e) A scientific director shall be available to the personnel of a laboratory, in person or by telephonic or other electronic means, for any necessary consultation.
- (f) The scientific director must be on the premises of the laboratory at least five workdays each month.

17 CAR 10.02 Requirements for testing laboratory to handle, test, or analyze marijuana.

- (a) A cannabis laboratory shall not handle, test, or analyze marijuana unless:
 - (1) The cannabis laboratory has been issued a license;

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- (2) The cannabis laboratory is independent from all other persons involved in the marijuana industry on Tribal lands; and
 - (3) No person with a direct or indirect interest in the cannabis laboratory has a direct or indirect financial interest in:
 - (A) A cannabis retail facility;
 - (B) A cannabis processing facility;
 - (C) A cannabis cultivation facility;
 - (D) Reserved.;
 - (E) A provider of health care who provides or has provided written documentation for the issuance of patient cards; or
 - (F) Any other entity that may benefit from the cultivation, manufacture, dispensing, sale, purchase, or use of marijuana or marijuana products on Tribal lands.
 - (b) A cannabis laboratory shall implement business practices which are structured and managed so as to safeguard impartiality in testing including:
 - (1) A laboratory may not offer a different fee schedule or waive payment in the event of failing or otherwise undesirable test results; and
 - (2) Refunds, rebates, or any other return of payment in the form of alternate compensation is not permitted for the reason of failing or otherwise undesirable test results.

17 CAR 10.03 Obligation to become accredited within one year after licensure, etc.

- (a) Each cannabis laboratory must agree to become accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization within one year after licensure. The scope of accreditation must cover all analytes pursuant to these regulations.
- (b) Each cannabis laboratory that claims to be accredited must provide the Board with copies of each annual inspection report from the accrediting organization, including, without limitation, any deficiencies identified in and any corrections made in response to the report.
- (c) Inspection by an accrediting organization is not a substitute for inspection by the Board or Board Agents.

17 CAR 10.04 Adherence to general laboratory standards, practices, procedures, and programs.

- (a) Each cannabis laboratory must:
 - (1) Follow the most current version of the Cannabis Inflorescence for Medical Purposes—USP Considerations for Quality Attributes published by United States Pharmacopeia.
 - (2) Follow the Recommendations for Regulators — Cannabis Operations published by the American Herbal Products Association.
 - (3) Be accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by an impartial organization that operates in conformance with standard ISO/IEC 17011 of the International Organization for Standardization and is a signatory to the Mutual Recognition Arrangement of the International Laboratory Accreditation Cooperation.
 - (4) Follow the Guidelines for Laboratories Performing Microbiological and Chemical Analyses of Food, Dietary Supplements, and Pharmaceuticals — An Aid to the Interpretation of ISO/IEC 17025:2005 (2015) published by AOAC International.

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- (b) Each cannabis laboratory shall demonstrate proficiency in testing samples using the analytical methods approved by the Board by participating in the approved proficiency testing program for all required analytes within six months after the date upon which the cannabis laboratory is issued a license.
- (c) The Board may require an independent third party to inspect and/or monitor the analytical testing methodologies and technical competence of the cannabis laboratory on an ongoing basis.
- (d) Each cannabis laboratory shall:
- (1) Adopt and follow minimum good laboratory practices which must, at a minimum, satisfy the OECD Series on Principles of Good Laboratory Practice (GLP) and Compliance Monitoring published by the Organisation for Economic Co-operation and Development.
 - (2) Become certified by the International Organization for Standardization and agree to have the inspections and reports of the International Organization for Standardization made available to the Board or Board Agents.
 - (3) Maintain internal standard operating procedures. A copy of these procedures shall be provided promptly to the Board or Board Agents upon request.
 - (4) Maintain a quality control and quality assurance program.
- (e) The Board Agents or an independent third party authorized by the Board may conduct an inspection of the practices, procedures and programs adopted, followed, and maintained pursuant to subsection (d) and inspect all records of the cannabis laboratory.
- (f) A cannabis laboratory must use, when available, testing methods that have undergone validation by the Official Methods of Analysis of AOAC International, the Performance Tested Methods Program of the Research Institute of AOAC International, the Bacteriological Analytical Manual of the Food and Drug Administration, the International Organization for Standardization, the United States Pharmacopeia, the Microbiology Laboratory Guidebook of the Food Safety and Inspection Service of the United States Department of Agriculture or an equivalent third-party validation study approved by the Board. If no such testing method is available, a cannabis laboratory may use an alternative testing method or a testing method developed by the cannabis laboratory upon demonstrating the validity of the testing method to and receiving the approval of the Board.
- (g) All quality assurance tests shall be validated or verified by the cannabis laboratory observing the guidelines of the most recent version of standard ASTM D8282: "Standard Practice for Laboratory Test Method Validation and Method Development", published by the American Society for Testing and Materials (ASTM) and available at www.astm.org, or any subsequent standard as approved by the appropriate Board Agent.
- (h) The Board hereby adopts by reference:
- (1) Cannabis Inflorescence for Medical Purposes—USP Considerations for Quality Attributes published by United States Pharmacopeia. A copy of that publication may be obtained from U.S. Pharmacopeia at the Internet address <https://www.usp.org>.
 - (2) The OECD Series on Principles of Good Laboratory Practice (GLP) and Compliance Monitoring published by the Organisation for Economic Co-operation and Development. A copy of that publication may be obtained free of charge from the Organisation for Economic Co-operation and Development at the Internet address <http://www.oecd.org/env/ehs/testing/oecdseriesonprinciplesofgoodlaboratorypracticeglpandcompliancemonitoring.htm>
 - (3) Standard ISO/IEC 17025 published by the International Organization for Standardization. A copy of that publication may be obtained from the American National Standards Institute at the Internet address <https://webstore.ansi.org/RecordDetail.aspx?sku=ISO%2fIEC+17025%3a2005>
 - (4) The Guidelines for Laboratories Performing Microbiological and Chemical Analyses of Food, Dietary Supplements, and Pharmaceuticals — An Aid to the Interpretation of ISO/IEC 17025:2005 (2015)

published by AOAC International. A copy of that publication may be obtained from AOAC International at the Internet address <https://www.aoac.org/aoac-accreditation-guidelines-for-laboratories-alacc/>

17 CAR 10.05 Establishment of policies for adequate chain of custody and requirements for samples of products provided to laboratory.

Each cannabis laboratory must establish policies for an adequate chain of custody and sample identification requirements for samples of products provided to the cannabis laboratory for testing or research purposes, including, without limitation, policies, and requirements for:

- (a) Issuing instructions for the minimum sample and storage requirements;
- (b) Documenting the condition of the external package and integrity seals utilized to prevent contamination of, or tampering with, the sample;
- (c) Documenting the condition and amount of the sample provided at the time of receipt;
- (d) Documentation of any pertinent sample identifiers, including but not limited to product type, product name, strain name, seed-to-sale tracking number, batch/lot number, and processing run number as appropriate;
- (e) Documenting all persons handling the original samples, aliquots, and extracts;
- (f) Providing adequate identification on sample containers throughout all phases of testing, including, but not limited to aliquots, dilutions, tubes, slides, culture plates, extracts, data files, images, and other secondary samples created during the processing or testing of a sample. The sample identifier(s) on any sample container must be indelible, legible, and able to withstand all stages of processing and conditions of storage;
- (g) Documenting all transfers of samples, aliquots, and extracts referred to another cannabis laboratory for additional testing or whenever requested by a client;
- (h) Maintaining a current list of authorized cannabis agents and restricting entry to the laboratory to only those authorized;
- (i) Securing the cannabis laboratory during nonworking hours;
- (j) Securing short- and long-term storage areas when not in use;
- (k) Utilizing a secured area to log-in and aliquot samples;
- (l) Ensuring samples are stored appropriately; and
- (m) Documenting the disposal of samples, aliquots, and extracts.

17 CAR 10.06 No limitation on amount of usable cannabis and cannabis products on premises of testing laboratory.

A cannabis laboratory is not limited in the amount of usable marijuana and marijuana products it may have on the premises of the cannabis laboratory at any given time, but the cannabis laboratory must maintain records to prove that all usable marijuana and marijuana products on the premises are there for testing purposes only.

17 CAR 10.07 Proficiency testing program.

- (a) The Board will establish a proficiency testing program for cannabis laboratories. A proficiency testing program must include, without limitation, providing rigorously controlled and standardized proficiency testing samples to cannabis laboratories for analysis, reporting the results of such analysis and performing a statistical evaluation of the collective demographics and results of all cannabis laboratories.

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- (b) Each cannabis laboratory must participate in the proficiency testing program established pursuant to this section.
 - (c) A cannabis laboratory must successfully participate in one of the approved proficiency testing programs that covers all required analytes a minimum of every 12 months in order to maintain continued licensure.
 - (d) To maintain continued licensure as a cannabis laboratory, a cannabis laboratory must participate in the designated proficiency testing program with continued satisfactory performance as determined by the Board.
 - (e) A cannabis laboratory must analyze proficiency testing samples using the same procedures with the same number of replicate analyses, standards, testing analysts, and equipment as used for product testing. All proficiency testing samples must be integrated within the routine laboratory workload whenever possible.
 - (f) The scientific director of the cannabis laboratory and all testing analysts that participated in proficiency testing must sign corresponding attestation statements.
 - (g) All proficiency testing results received must be reviewed by the scientific director and appropriate staff members. Upon receipt of results from the proficiency testing provider, the laboratory shall do the following:
 - (1) Evaluate the laboratory's performance and perform corrective action for any unsatisfactory results received. Failure to provide a result for a required analyte shall be considered an unacceptable result.
 - (2) Investigate any unsatisfactory results, to include a retrospective review of potentially affected marijuana samples whenever applicable.
 - (3) Document investigation findings and any resultant corrective actions, if applicable, and maintain the documentation for a period of at least five years.
 - (h) Successful participation includes an acceptable score for each and every target analyte that the cannabis laboratory reports to include quantitative results when applicable. Issues related to samples provided by the proficiency testing company will be reviewed on a case-by-case basis.
 - (i) A laboratory who fails to achieve an acceptable score for a required quality assurance test shall:
 - (1) Notify the appropriate Board Agent in writing within 24 hours.
 - (2) Repeat the proficiency testing of any failed tests within 30 days or as otherwise approved by the appropriate Board Agent. If the testing laboratory fails to perform satisfactorily for the same required quality assurance test in two consecutive proficiency testing events, or two out of three proficiency testing events, the laboratory may be required to cease the performance of testing for those analytes until it demonstrates to the satisfaction of the appropriate Board Agent that the nonconformances have been corrected in such a manner as to ensure that they will not recur.
 - (j) Unsuccessful participation in proficiency testing may result in limitation, suspension, denial of renewal of license, or revocation of the license of the cannabis laboratory.
 - (k) The Board will select a proficiency testing provider(s) to conduct the proficiency testing program and determine the schedule that the proficiency testing provider will follow when sending proficiency testing samples to cannabis laboratories for analysis.
 - (l) In addition to achieving the standard required pursuant to subsection (h), a cannabis laboratory successfully participates in the proficiency testing program only if the cannabis laboratory:
 - (1) Obtains single-blind proficiency testing samples from the proficiency testing provider;
 - (2) Analyzes the proficiency testing sample for all analytes listed in this chapter.
 - (3) Reports the results of its analysis to the proficiency testing provider;
 - (4) Successfully performs proficiency testing for all required analytes pursuant to this chapter not less frequently than once each 12 months;
 - (5) Pays the costs of subscribing to the proficiency testing program; and

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- (6) Ensures the proficiency testing provider submits to the appropriate Board Agent the results of any test performed pursuant to this chapter.
 - (m) A cannabis laboratory shall not communicate with another cannabis laboratory about proficiency testing samples for a proficiency testing event until after the deadline for submission of results to the proficiency testing provider.
 - (n) Proficiency testing samples shall not be referred to another laboratory for analysis and shall not be accepted from other laboratory for analysis.

17 CAR 10.08 Limited testing for research and development purposes.

- (a) A cannabis cultivation facility or a cannabis processing facility may conduct operations and request limited laboratory testing by a cannabis laboratory for research and development purposes.
- (b) A cannabis cultivation facility or cannabis processing facility described in subsection (a) shall:
 - (1) Notify the appropriate Board Agent of its intent to conduct research and development on a form prescribed by the Board by electronic mail before sending a sample to a cannabis laboratory;
 - (2) Receive approval from the appropriate Board Agent for the requested research and development studies.
 - (3) Quarantine each batch, lot, or processing run in a separate quarantine area and label each batch, lot, or processing run with a distinctive label containing "R&D QUARANTINE" as a header and footer in 20-point white font and a red background;
 - (4) Account for all marijuana subject to quarantine pursuant to paragraph (b) in the seed-to-sale tracking system;
 - (5) Limit all research and development operations to clearly segregated and designated areas or rooms marked "R&D CULTIVATION AREA" or "R&D PRODUCTION AREA" on 8 1/2 by 11-inch signs with a red background and white lettering, posted at the entrance to the area or room and along the walls of the area or room, with a minimum of one sign for every 300 square feet of the area or room; and
 - (6) Perform research and development operations in a grow room only if the plants used for such operations are designated and separated from other plants.
- (c) A cannabis cultivation facility or cannabis processing facility operating as described in subsection (a) may request limited testing protocols from a cannabis laboratory for research and development purposes. A cannabis laboratory shall not perform any laboratory tests on research and development samples which were not specifically indicated as part of the approved study.
- (d) A cannabis laboratory that performs testing for a cannabis cultivation facility or cannabis processing facility described in subsection (a) shall report the results of the testing to the cannabis facility and to the Board by electronic mail. The cannabis laboratory shall clearly mark the test results with "R&D TESTING ONLY — NOT FOR RESALE" on the top of each page of the report in 20-point white font and a red background.
- (e) A batch, lot, or processing run produced for research and development purposes pursuant to this section which fails quality assurance testing need not be destroyed.
- (f) A batch, lot, or processing run originally produced for research and development purposes pursuant to this section may not be sold to a cannabis retail facility until the batch, lot, or processing run has undergone and passed all testing required by these regulations.

17 CAR 10.09 Required quality assurance tests.

- (a) Before marijuana, marijuana products, or concentrated marijuana may be transferred from one cannabis cultivation facility or cannabis processing facility to a separate cannabis cultivation facility, cannabis processing facility, or cannabis retail facility, the marijuana, marijuana products, or concentrated marijuana must pass

quality assurance batch testing by a cannabis laboratory. No marijuana or marijuana product of any kind or type may be sold to a consumer without complying with the quality assurance batch testing of this chapter.

(b) Each cannabis laboratory must use the sampling protocols and the general body of required quality assurance tests for usable marijuana, as received, concentrated marijuana and marijuana products set forth in this section. Such tests may include moisture content, potency analysis, foreign matter inspection, microbial screening, pesticide, and other chemical residue and metals screening and residual solvents levels. A cannabis laboratory may request permission from the appropriate Board Agent to obtain additional sample material for the purposes of completing required quality assurance tests but may not use such material for the purposes of resampling or repeating quality assurance tests. A cannabis laboratory may retrieve samples from the premises of another cannabis facility and transport the samples directly to the cannabis laboratory. A cannabis laboratory transporting samples may make multiple stops if:

- (1) Each stop is for the sole purpose of retrieving a sample from a cannabis facility; and
- (2) All samples remain secured at all times.

(c) The tests required pursuant to section by a cannabis laboratory are as follows:

Product	Tests Required	Action Levels
Usable marijuana, infused pre-rolls and crude collected resins, as received, excluding wet marijuana	<ol style="list-style-type: none"> 1. Moisture content 2. Potency analysis 3. Terpene analysis 4. Foreign matter inspection 5. Mycotoxin screening 6. Heavy metal screening 7. Pesticide residue analysis 8. Herbicide screening 9. Growth regulator screening 10. Total yeast and mold 11. Total Enterobacteriaceae 12. Salmonella 13. Pathogenic E. coli 14. Aspergillus fumigatus 15. Aspergillus flavus 16. Aspergillus terreus 17. Aspergillus niger 18. Total coliform 	<ol style="list-style-type: none"> 1. < 15% 2. N/A 3. N/A 4. None detected 5. < 20 µg/kg for the total of Aflatoxins B1, B2, G1 and G2 combined and < 20 µg/kg for Ochratoxin A 6. Arsenic: < 2 ppm; Cadmium: < 0.82 ppm; Lead: < 1.2 ppm; Mercury: < 0.4 ppm 7. See 17 CAR 10.12 8. See 17 CAR 10.12 9. See 17 CAR 10.12 10. < 100,000 colony forming units per gram 11. < 1,000 colony forming units per gram 12. None detected per gram 13. None detected per gram 14. None detected per gram 15. None detected per gram 16. None detected per gram 17. None detected per gram 18. < 1,000 colony forming units per gram
Wet marijuana, as received, which is destined for extraction	<ol style="list-style-type: none"> 1. Potency analysis 2. Terpene analysis 3. Foreign matter inspection 4. Mycotoxin screening 5. Heavy metal screening 6. Pesticide residue analysis 7. Herbicide screening 8. Growth regulator screening 9. Total yeast and mold 	<ol style="list-style-type: none"> 1. N/A 2. N/A 3. None detected 4. < 20 µg/kg for the total of Aflatoxins B1, B2, G1 and G2 combined and < 20 µg/kg for Ochratoxin A 5. Arsenic: < 2 ppm; Cadmium: < 0.82 ppm; Lead: < 1.2 ppm;

	<ul style="list-style-type: none"> 10. Total Enterobacteriaceae 11. Salmonella 12. Pathogenic E. coli 13. Aspergillus fumigatus 14. Aspergillus flavus 15. Aspergillus terreus 16. Aspergillus niger 17. Total coliform 	<ul style="list-style-type: none"> Mercury: < 0.4 ppm 6. See 17 CAR 10.12 7. See 17 CAR 10.12 8. See 17 CAR 10.12 9. < 100,000 colony forming units per gram 10. < 1,000 colony forming units per gram 11. None detected per gram 12. None detected per gram 13. None detected per gram 14. None detected per gram 15. None detected per gram 16. None detected per gram 17. < 1,000 colony forming units per gram
<p>Extract of marijuana (nonsolvent) like hashish, bubble hash, infused dairy butter, mixtures of extracted products or oils or fats derived from natural sources, including concentrated marijuana extracted with ethanol or CO2</p>	<ul style="list-style-type: none"> 1. Potency analysis 2. Foreign matter inspection 3. Mycotoxin screening 4. Heavy metal screening 5. Pesticide residue analysis 6. Total yeast and mold 7. Total Enterobacteriaceae 8. Salmonella 9. Pathogenic E. coli 10. Aspergillus fumigatus 11. Aspergillus flavus 12. Aspergillus terreus 13. Aspergillus niger 	<ul style="list-style-type: none"> 1. N/A 2. None detected 3. < 20 µg/kg for the total of Aflatoxins B1, B2, G1 and G2 combined and < 20 µg/kg for Ochratoxin A 4. Arsenic: < 2 ppm; Cadmium: < 0.82 ppm; Lead: < 1.2 ppm; Mercury: < 0.4 ppm 5. See 17 CAR 11.12 6. < 1,000 colony forming units per gram 7. < 100 colony forming units per gram 8. None detected per gram 9. None detected per gram 10. None detected per gram 11. None detected per gram 12. None detected per gram 13. None detected per gram
<p>Extract of marijuana (solvent-based) made with any approved solvent, including concentrated marijuana extracted by means other than with ethanol or CO2</p>	<ul style="list-style-type: none"> 1. Potency analysis 2. Foreign matter inspection 3. Residual solvent test 4. Mycotoxin screening 5. Heavy metal screening 6. Pesticide residue analysis 7. Total yeast and mold 8. Total Enterobacteriaceae 9. Salmonella 10. Pathogenic E. coli 11. Aspergillus fumigatus 12. Aspergillus flavus 13. Aspergillus terreus 14. Aspergillus niger 	<ul style="list-style-type: none"> 1. N/A 2. None detected 3. < 500 ppm 4. < 20 µg/kg for the total of Aflatoxins B1, B2, G1 and G2 combined and < 20 µg/kg for Ochratoxin A 5. Arsenic: < 2 ppm Cadmium: < 0.82 ppm Lead: < 1.2 ppm Mercury: < 0.4 ppm 6. See 17 CAR 10.12 7. < 1,000 colony forming units per gram 8. < 100 colony forming units per gram 9. None detected per gram

		10. None detected per gram 11. None detected per gram 12. None detected per gram 13. None detected per gram 14. None detected per gram
Edible marijuana product, including a product which contains concentrated marijuana	1. Potency analysis 2. Foreign matter inspection 3. Total Enterobacteriaceae 4. Salmonella 5. Pathogenic E. coli 6. Total aerobic count 7. Water activity or pH	1. N/A 2. None detected 3. < 1,000 colony forming units per gram 4. None detected per gram 5. None detected per gram 6. < 100,000 colony forming units per gram 7. Water activity < 0.86 or pH < 4.6
Liquid marijuana product, including, without limitation, soda, or tonic, including a product which contains concentrated marijuana	1. Potency analysis 2. Foreign matter inspection 3. Total Enterobacteriaceae 4. Salmonella 5. Pathogenic E. coli 6. Total aerobic count 7. Water activity or pH	1. N/A 2. None detected 3. < 1,000 colony forming units per gram 4. None detected per gram 5. None detected per gram 6. < 100,000 colony forming units per gram 7. Water activity < 0.86 or pH < 4.6
Topical marijuana product, including a product which contains concentrated marijuana	1. Potency analysis	1. N/A

- (d) A sample of usable marijuana must be at least 10 grams. A sample of a processing run must be the lesser of one percent of the total product weight of the processing run or 25 units of product, but not less than five grams of the processing run. Before testing, all samples must be homogenized by the laboratory using a homogenization process which has been approved by the appropriate Board Agent and in a manner that prevents contamination of test samples or analytical portions.
- (e) The analytical portion that is used for the purposes of any microbial test must be a minimum of one gram, unless otherwise approved by the Board.
- (f) A cannabis facility shall not submit wet marijuana to a cannabis laboratory for testing unless the wet marijuana is destined for extraction and weighed within two hours after harvest. The plant must not undergo any further processing, including, without limitation, drying the plant and subsequently selling separately the marijuana bud and marijuana trim from the plant, before being weighed.
- (g) As used in this section, "as received" means the unaltered state in which a sample was collected, without any processing or conditioning, which accounts for all mass, including moisture content. A cannabis laboratory shall not report the results of usable marijuana on a dry weight basis.
- (h) A cannabis laboratory shall provide the final certificate of analysis to the Board and to the cannabis facility from which the sample was collected within two days after obtaining the results.
- (i) The certificate of analysis shall include a photo of the product, as received.
- (j) All quality assurance testing records shall be made available to the Board or Board Agents for inspection.

17 CAR 10.10 Performance of potency analysis or terpene analysis.

- (a) When performing potency analysis or terpene analysis, a cannabis laboratory shall test for and accurately quantify the presence of the following:
 - (1) Cannabinoids:
 - (A) THC;
 - (B) Tetrahydrocannabinolic acid;
 - (C) CBD;
 - (D) Cannabidiolic acid; and
 - (E) Cannabinol; and
 - (2) Terpenoids:
 - (A) Alpha-bisabolol;
 - (B) Alpha-humulene;
 - (C) Alpha-pinene;
 - (D) Terpinolene;
 - (E) Beta-caryophyllene;
 - (F) Beta-myrcene;
 - (G) Beta-pinene;
 - (H) Caryophyllene oxide;
 - (I) Limonene; and
 - (J) Linalool.
 - (3) Potency testing and reporting of THC shall be conducted a post-decarboxylation method.

17 CAR 10.11 Performance of testing to verify homogeneity of potency of edible marijuana products.

- (a) Except as otherwise provided in subsection (b), a cannabis laboratory shall perform testing to verify the homogeneity of the potency of an edible marijuana product by testing multiple samples from a single processing run.
- (b) A cannabis laboratory that tests an edible marijuana product which has previously had the homogeneity of the potency of the edible marijuana product verified by a cannabis laboratory and which has not undergone a change in recipe may verify the homogeneity of the edible marijuana product by testing one or more single units or servings from a processing run of the edible marijuana product.
- (c) The cannabis laboratory will verify the homogeneity of the potency of the edible marijuana product only if:
 - (1) The concentration of THC and weight of each sample is within 15 percent above or below the intended concentration of THC and weight; and
 - (2) No combination of samples which comprise 10 percent or less of the cannabis product contain 20 percent or more of the total THC in the marijuana product.

17 CAR 10.12 Use of approved pesticides and plant growth regulators; performance of pesticide residue analysis by laboratory.

- (a) A cannabis facility shall only use a pesticide in the cultivation or processing of marijuana or marijuana products if the pesticide appears on the list of permissible pesticides published by the Board.
- (b) When performing pesticide residue analysis, a cannabis laboratory shall analyze for the pesticides which occur on the list of pesticides published by the Board at the detection levels specified and for any other substances required by the Board. If:
 - (1) A pesticide which occurs on the list of controlled pesticides is detected at a level which exceeds the level specified by Board; or
 - (2) A pesticide which does not occur on the lists of permissible or controlled pesticides is detected in any amount which is positively verified, the pesticide residue analysis is failed.
- (c) List of permissible pesticides:
 - (1) Azadirachtin, Bacillus amyloquefaciens, Bacillus lichemformis, Bacillus megaterium, Bacillus pumilius strain QST 2808, Bacillus subtilis, Bacillus thuringiensis, Beauveria bassiana strain ANT-03, Beauveria bassiana strain GHA, Beauveria bassiana Candia, Burkholderia spp. strain A396, Capsicum oleoresin, Castor oil (U.S.P. or equivalent), Cinnamon and cinnamon oil, Citric acid, Chomobacterium substugae, Cloves and clove oil, Copper octanoate, Copper oxychloride, Copper hydroxide, Corn gluten meal, Corn oil, Cottonseed oil, Eugenol, Garlic and garlic oil, Geraniol, Geranium oil, Gliocladium Catenulatum strain J1446, Hydrogen dioxide, Hydrogen peroxide, Indole-3-butyric acid, Kaolin, Lauryl sulfate, Lemongrass oil, Linseed oil, Malic acid, Metarhizium anisopliae strain F52, Mineral oil, Mint and mint oil, Mono- and Di-Potassium salts of phosphorus acid, Neem oil, Paecilomyces fumosoroseus (Isaria fumosorosea), Paraffinic oil (mineral oil), Peppermint and peppermint oil, Peroxyacetic acid, 2-Phenethyl propionate (2-phenylethyl propionate), Potassium bicarbonate, Potassium salts of fatty acid, Potassium silicate, Potassium sorbate, Reynoutria sachalinensis, Rosemary and rosemary oil, Sesame (includes ground sesame plant) and sesame oil, Sodium Carbonate Peroxyhydrate (Percarbonate), Sodium chloride (common salt), Sodium lauryl sulfate, Soybean oil, Streptomyces griseoviridis strain K61, Streptomyces lydicus VVYEC 108, Sucrose octanoate, Sulfur, Swinglea glutinosa, Thyme and thyme oil, Trichoderma harzianum, Trichoderma reesei, Trichoderma virens, Trichoderma asperellum, Trichoderma gamsii, Ulocladium oudemansii, White pepper, and Zinc metal strips (consisting solely of zinc metal and impurities).
- (d) List of controlled pesticides and maximum detection level in parts per million:
 - (1) Abamectin (none detected), Acequinocyl (4), Bifenazate (0.4), Bifenthrin (none detected), Cyfluthrin and beta-cyfluthrin (2), Cypermethrin (none detected), Daminozide (none detected), Dimethomorph (2), Etoxazole (0.4), Fenhexamid (1), Flonicamid (1), Fludioxonil (0.5), Imidacloprid (0.5), Myclobutanil (0.4), Paclobutrazol (none detected), Pentachloronitrobenzene (quintozene or PCNB) (0.8), Piperonyl butoxide (3), Pyrethrin (2), Spinetoram (1), Spinosad (1), Spirotetramat (1), Thiamethoxam (0.4), and Trifloxystrobin (1).

17 CAR 10.13 Testing details.

- (a) Immediately before packaging:
 - (1) Usable marijuana for sale to a cannabis retail facility, cannabis processing facility or another cannabis cultivation facility, a cannabis cultivation facility shall segregate all harvested cannabis into homogenized lots of flower and trim, respectively, and allow a cannabis laboratory to select a homogenous representative sample for testing from each lot the cannabis cultivation facility has segregated. The cannabis which performs the test must collect the samples. If the cannabis cultivation facility has segregated the lot of harvested marijuana into packages or container sizes smaller than the entire lot, the cannabis cultivation facility must present all packages comprising the lot to the cannabis laboratory,

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- and the testing laboratory must sample and test each package containing harvested marijuana from the lot.
- (2) Concentrated marijuana or marijuana products, a cannabis processing facility shall allow a cannabis laboratory to select a random sample from each lot or processing run for testing by the cannabis laboratory. The cannabis laboratory performing the testing must collect the samples.
 - (3) The cannabis laboratory selecting a sample shall seal the sample within the package to ensure sample integrity. The sample shall be collected in a tamper resistant package or in a package that is sealed with tamper resistant tape immediately after the sample is placed in the package.
 - (4) The cannabis laboratory shall ensure the seed-to-sale identification tag is affixed to the sample package. The batch, lot or processing run number and the weight or quantity of the sample shall be documented on the sample package and on the chain of custody.
- (b) A cannabis laboratory that collects a sample pursuant to this section shall test the sample as provided in this chapter.
 - (c) From the time that a lot or processing run has been homogenized for sample testing and eventual packaging and sale to a cannabis retail facility, cannabis processing facility or, if applicable, another cannabis cultivation facility, the cannabis facility which provided the sample shall segregate and withhold from use the entire lot or processing run, except the samples that have been removed by the cannabis laboratory for testing, until the cannabis laboratory provides the certificate of analysis from its tests and analysis. During this period of segregation, the cannabis facility which provided the sample shall maintain the lot or processing run in a secure, clearly designated, cool and dry location so as to prevent the marijuana from becoming contaminated or losing its efficacy. Under no circumstances shall the cannabis facility which provided the sample sell the marijuana or marijuana products, as applicable, to a cannabis retail facility, cannabis processing facility or, if applicable, another cannabis cultivation facility before the time that the cannabis laboratory has completed its testing and analysis and provided the certificate of analysis to the cannabis facility which provided the sample.
 - (d) Except as otherwise provided in subsection (e), a cannabis laboratory shall immediately return or dispose of any sample received pursuant to this section upon the completion of any testing, use or research. If a cannabis laboratory disposes of a sample received pursuant to this section, the cannabis laboratory shall document the disposal of the sample using its seed-to-sale tracking system.
 - (e) A cannabis laboratory shall keep any sample which fails testing, or which is collected by the Board for confirmation testing for 30 days after failure or collection. A sample which is kept pursuant to this subsection must be stored in a manner approved by the appropriate Board Agent. A cannabis laboratory shall dispose of a sample kept pursuant to this subsection after 30 days have elapsed after failure or collection.
 - (f) Except as otherwise provided in 17 CAR 10.14, if a sample provided to a cannabis laboratory pursuant to this section does not pass the testing required by 17 CAR 10.09, the cannabis facility which provided the sample shall dispose of the entire lot or processing run from which the sample was taken and document the disposal of the sample using its inventory control system.
 - (g) If a sample provided to a cannabis laboratory pursuant to this section passes the testing required by 17 CAR 10.09, the cannabis laboratory shall release the entire lot or processing run for immediate manufacturing, packaging, and labeling for sale to a cannabis retail facility, a cannabis processing facility or, if applicable, another cannabis cultivation facility.
 - (h) A cannabis facility shall not use more than one cannabis laboratory to test the same lot or processing run of marijuana without the approval of the appropriate Board Agent.
 - (i) A cannabis laboratory shall file with the Board, in a manner prescribed by the Board, an electronic copy of the certificate of analysis for all tests performed by the cannabis laboratory, regardless of the outcome of the test, including all testing required by this chapter, at the same time that it transmits those results to the facility which provided the sample. The cannabis laboratory shall transmit an electronic copy of the certificate of

analysis for each test to the Board by electronic mail at info@ebci-ccb.org or other email address provided by the Board.

- (j) An electronic mail message transmitted pursuant to subsection (i) must be formatted as follows:
- (1) The subject line of the electronic mail message must be the name of the cannabis facility from which the sample was collected.
 - (2) The name of the electronic file containing the certificate of analysis must be:
 - (A) Except as otherwise provided in subparagraph (B) or (C), the Facility ID assigned by the Board to the cannabis laboratory, followed by an underscore, followed by the four-digit identifier assigned by the Board to the cannabis facility from which the sample was collected, followed by an underscore, followed by:
 - (i) If the sample was from a processing run, the processing run number; or
 - (ii) If the sample was not from a processing run, the batch number, followed by an underscore, followed by the lot number.
 - (B) If the certificate of analysis is from a retesting of a previously failed sample, an underscore followed by the word "Retest" must be appended to the end of the name of the electronic file.
 - (C) If the certificate of analysis has been amended, an underscore followed by the word "Amended" must be appended to the end of the name of the electronic file.
 - (3) If the certificate of analysis has been amended, the electronic copy of the certificate of analysis must state "Amended" in 20-point bold red font at the center of the top of the first page of the report and must contain a statement of the reason for the amendment that clearly and completely describes the change in 10-point font.
- (k) The Board will take immediate disciplinary action against any cannabis facility which fails to comply with the provisions of this section or falsifies records related to this section, including, without limitation, revoking the license of the cannabis facility.
- (l) A cannabis laboratory may subcontract its testing of marijuana or marijuana products only to another cannabis laboratory.
- (m) The Board may publish on their website all Certificates of Analysis issued to them in the preceding time.

17 CAR 10.14 Authorized use of marijuana upon failure of microbial screening, retesting, etc.

- (a) Upon approval of the appropriate Board Agent, a lot or processing run of marijuana that fails a residual solvent, pH, water activity (aw), homogeneity, or microbial screening test may be remediated or used to make an extract. After processing, the remediated lot or extract must pass all required quality assurance tests.
- (b) If a sample from a cannabis processing facility fails a quality assurance test, the entire processing run from which the sample was taken automatically fails the quality assurance test.
- (c) At the request of a cannabis cultivation facility or a cannabis processing facility, the appropriate Board Agent may, on a case-by-case basis, authorize a retest to validate the results of a failed test. The cannabis cultivation facility or cannabis processing facility is responsible for all costs involved in a retest performed pursuant to this section.
- (d) A cannabis cultivation facility or a cannabis processing facility may not request a retest pursuant to this section if the lot or processing run has undergone any type of remediation since the time samples were initially taken for testing.
- (e) A cannabis cultivation facility or a cannabis processing facility shall submit a request for retesting to the appropriate Board Agent in writing and on a form designated by the Board.

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- (f) If the appropriate Board Agent grants a request for retesting, the Board Agent will select the cannabis laboratory that will perform the retest.
 - (g) Except as otherwise provided in this subsection, a cannabis cultivation facility or a cannabis processing facility may submit a request for retesting of not more than 50 lots or processing runs each calendar year. For any subsequent failure of a quality assurance test in a calendar year, the facility shall request permission from the Board for an additional 50 tests, destroy the lot or the entire processing run, or request to send the lot or processing run to extraction or remediation. The Board may extend authority to the Executive Director of the Board to approve such requests. If the additional 50 retests are approved, a cannabis cultivation facility or a cannabis processing facility must obtain the results of two retests in the category which failed, from two different cannabis laboratories. For the retested lot or processing run to be approved for sale, both retests must provide passing results. If both retests provide passing results, the certificate of analysis with the higher quantifiable results will be recorded. If it is not clear which certificate has higher results, the appropriate Board agent will select the one to be recorded. No more than one such request for additional tests is permitted within a calendar year. A lot which only fails a quality assurance test for moisture content must not be counted for the purpose of this subsection.
 - (1) To request permission from the Board for an additional 50 tests, a cannabis cultivation facility or a cannabis processing facility must file a petition with the Board which must include the following:
 - (A) Request for the additional 50 tests;
 - (B) List the prior 50 lots or processing runs that failed, what they failed for, and which cannabis laboratory performed the test; and
 - (C) List whether the prior 50 lots or processing runs passed pursuant to a retest, and which cannabis laboratories performed the retests.
 - (h) A failed quality assurance test for pesticide residue must be retested unless otherwise approved by the Board or appropriate Board Agent.
 - (i) If a sample passes the same quality assurance test upon retesting, the cannabis cultivation facility or cannabis processing facility need not destroy the lot or processing run and may sell the lot or processing run to a cannabis cultivation facility, cannabis sales facility or cannabis processing facility, as applicable.
 - (j) If a sample fails the same quality assurance test upon retesting, the Board Agent denies a request for retesting or a cannabis cultivation facility or a cannabis processing facility does not request retesting after a sample fails a quality assurance test, the facility shall destroy the entire lot or processing run from which the sample was taken.

17 CAR 10.15 Collection and testing of random samples from cannabis establishments for comparison with results reported by testing facilities.

At the request of the Board, a laboratory chosen by the Board may collect and test random samples from cannabis facilities and compare the results of its testing to the results reported by cannabis laboratories.

17 CAR 10.16 Random quality assurance compliance checks; costs for screening or testing.

- (a) Upon the request of the Board, a cannabis facility must provide a cannabis laboratory designated by the Board with a sample of marijuana or a marijuana product in an amount determined by the cannabis laboratory to be sufficient for random quality assurance compliance checks in a secure manner such that the cannabis laboratory can confirm that it has received and is testing the correct sample.
- (b) The cannabis laboratory that receives a sample pursuant to subsection (a) shall, as directed by the Board:
 - (1) Screen the sample for pesticides, chemical residues, herbicides, growth regulators, and unsafe levels of metals;
 - (2) Perform any other quality assurance test deemed necessary by the Board; and

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- (3) Report its results to the Board.
 - (c) The cannabis cultivation facility or cannabis processing facility is responsible for all costs involved in screening or testing performed pursuant to this section.

CHAPTER 11 PACKAGING AND LABELING

17 CAR 11.01 Requirements for single packages.

- (a) Unless preparing bulk packages only for delivery to another cannabis facility and not for sale to a consumer, a cannabis facility that packages marijuana or marijuana products must individually package, label, and seal the marijuana or marijuana products in a single package for sale. A cannabis retail facility shall only sell marijuana or marijuana products in a single package which must not contain:
 - (1) More than one and one half ounces (42.52 grams) of usable marijuana.
 - (2) For a marijuana product sold as a capsule, more than 100 milligrams of THC per capsule or more than 800 milligrams of THC per package.
 - (3) For a marijuana product sold as a tincture, more than 800 milligrams of THC.
 - (4) For a marijuana product sold as an edible cannabis product, more than 100 milligrams of THC.
 - (5) For a marijuana product sold as a topical product, a concentration of more than six percent THC or more than 800 milligrams of THC per package.
 - (6) For a marijuana product sold as a suppository or transdermal patch, more than 100 milligrams of THC per suppository or transdermal patch or more than 800 milligrams of THC per package.
 - (7) For any other marijuana product, more than 800 milligrams of THC.
- (b) An edible marijuana product must be packaged in a manner which indicates the number of servings of THC in the product, measured in servings of a maximum of 10 milligrams of THC per serving, and include a statement that the edible marijuana product contains marijuana and its potency was tested with an allowable variance of plus or minus 15 percent of the allowable limit.
- (c) For marijuana or marijuana products that are intended to be sold to a consumer, the text used on all labeling must be printed in at least 8-point font and may not be in italics.

17 CAR 11.02 Requirements for edible marijuana products, products in solid or liquid form, usable marijuana and concentrated marijuana or marijuana products.

- (a) Any edible product containing marijuana must:
 - (1) Be clearly and unambiguously packaged as cannabis with the words "THIS PRODUCT CONTAINS CANNABIS" or "THIS PRODUCT CONTAINS MARIJUANA" and includes the warning "KEEP OUT OF REACH OF CHILDREN" in bold type that clearly identifies that the product contains marijuana;
 - (2) Be packaged in a manner which is not modeled after a brand of products primarily consumed by or marketed to children;
 - (3) Be presented in packaging which does not contain an image of a cartoon character, mascot, action figure, balloon, or toy;
 - (4) Not be packaged or marketed as candy;
 - (5) Include a universal cannabis symbol approved by the Board to indicate that the product contains marijuana; and
 - (6) The net weight of the product;

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- (7) A list of all ingredients and all major food allergens as identified in 21 U.S.C. § 343; and
 - (8) A notice that the actual amount of THC may be within 15 percent of the stated amount for the edible marijuana product;
- (b) When sold at a cannabis sales facility, any marijuana or marijuana product must be placed into a package or directly packaged in opaque, child-resistant packaging in accordance with 16 C.F.R. Part 1700 and the standards specified in subsection (c) or (d). The child-resistant packaging must maintain its effectiveness for multiple openings before leaving the cannabis sales facility with the consumer.
 - (c) Except as otherwise provided in subsection (d), marijuana products in solid or liquid form must be packaged in a food-grade material or container.
 - (d) Edible marijuana products in liquid form containing more than 10 milligrams THC must be packaged using a resealable cap in a container that:
 - (1) Clearly demarks each serving of cannabis in a way that enables a reasonable person to intuitively determine how much of the product constitutes a single serving of THC; or
 - (2) Includes a device that allows a reasonable person to intuitively measure and serve a single serving of THC.

The portion of such a container that demarks each serving of marijuana need not be opaque.

- (e) Any container or packaging containing usable marijuana, concentrated marijuana, or marijuana products must protect the contents from contamination and must be of a food grade material.
- (f) An edible marijuana product must be sealed in a container which is not transparent and sold in packaging which is opaque.
- (g) Each single serving in a multiple-serving edible marijuana product must be physically demarked in a way that enables a reasonable person to intuitively determine how much of the edible marijuana product constitutes a single serving. Each demarked serving must be easily separable in a manner that allows an average person who is 21 years of age or over to physically separate, with minimal effort, an individual serving of the edible marijuana product.
- (h) If an edible marijuana product is of a kind that is impracticable to clearly demark each serving of cannabis with the dose in milligrams of THC, the edible marijuana product must:
 - (1) Contain not more than 10 milligrams of THC per unit of sale; or
 - (2) Be sold in a package that contains more than one individually wrapped single-serving edible marijuana product.

17 CAR 11.03 Stamp or mold required for edible marijuana products; exception.

- (a) Except as otherwise provided in subsection (c), each single-serving edible marijuana product and each individual serving containing not more than 10 milligrams of THC of a multiple-serving edible marijuana product must be stamped or molded with a universal cannabis symbol approved by the Board to indicate that the product contains marijuana.
- (b) An edible marijuana product that is impractical to stamp or mold with a universal cannabis symbol, including, without limitation, bulk goods or powders, each individual serving must be individually wrapped with the universal cannabis symbol on the wrapper exemption from stamping or molding product must be requested on a form prescribed by the Board.
- (c) An edible marijuana product in liquid form which is packaged as otherwise required by these regulations need not be stamped or molded as described in this section.

17 CAR 11.04 Requirements for labeling products "organic."

A cannabis cultivation facility or cannabis processing facility shall not label usable marijuana, concentrated marijuana, or marijuana products as "organic" unless the marijuana plants and all ingredients used are produced, processed, and certified in a manner that is consistent with the national organic standards established by the United States Department of Agriculture in accordance with the Organic Foods Production Act of 1990, 7 U.S.C. §§ 6501 et seq.

17 CAR 11.05 Required labeling before sale or transfer of cannabis to another cannabis facility.

- (a) A cannabis cultivation facility shall label all cannabis before it sells or transfers the cannabis to another cannabis facility and shall securely affix to or include with the package a label that includes, without limitation, in legible English:
 - (1) A cannabis cultivation facility shall label all marijuana before it sells or transfers the cannabis to another cannabis establishment and shall securely affix to or include with the package a label that includes, without limitation, in legible English:
 - (2) If the cannabis facility is operated by a dual licensee, the number of the cannabis facility license of the cannabis cultivation facility operated by the dual licensee;
 - (3) The batch number;
 - (4) The lot number;
 - (5) The date of final harvest;
 - (6) The date of final testing;
 - (7) The date on which the product was packaged;
 - (8) The cannabinoid profile and potency levels and terpenoid profile of the top three terpenes as determined by the cannabis laboratory, which may include the potential total THC but must not include any other calculated level of THC;
 - (9) The quantity of marijuana being sold;
 - (10) A warning that states: "THIS PRODUCT CONTAINS CANNABIS" or "THIS PRODUCT CONTAINS MARIJUAN"; and
 - (11) A warning that states: "Keep out of Reach of Children."
- (b) The label required by subsection (a) for a container or package containing usable marijuana sold by a cannabis cultivation facility must be in substantially the following form:

A&B NURSERY License Number: 123 456 789 001 0001 THIS PRODUCT CONTAINS CANNABIS Keep out of reach of children. Batch Number: 1234 Lot Number: 1234 Final Harvest Date: 3/1/2022 Final Testing Date: 3/15/2022 Packaged on: 3/17/2022 16.7% THC 1.5% CBD 0.3% CBN

Myrcene 5.6 mg/g Limonene 5.1 mg/g Valencene 3.5 mg/g

Net Weight: 2 lbs.

17 CAR 11.06 Required labeling of marijuana products before sale or transfer to retail store.

- (a) A cannabis processing facility shall label all marijuana products before it sells or transfers the marijuana products to a cannabis retail facility or another cannabis processing facility and shall securely affix to or include with the package a label that includes, without limitation, in legible English and in a manner which must not mislead consumers:
- (1) The name of the cannabis facility and its license number;
 - (2) The processing run number;
 - (3) A warning that states: "Keep out of reach of children."
 - (4) The date of production;
 - (5) The cannabinoid profile and potency levels as determined by the cannabis laboratory;
 - (6) If the product is an edible marijuana product, the expiration date;
 - (7) The total amount of THC in the marijuana product, measured in milligrams;
 - (8) The total amount of THC in each serving of the edible marijuana product;
 - (9) A list of all ingredients and all major food allergens as identified in 21 U.S.C. § 343;
 - (10) The net weight of the product;
 - (11) If concentrated marijuana or a marijuana extract was added to the product, a disclosure of the type of extraction process used and any solvent, gas, or other chemical used in the extraction process or any other compound added to the concentrated marijuana;
 - (12) If the product is an edible cannabis product other than extracts and tinctures, the serving size; and
 - (13) A warning that states: "THIS PRODUCT CONTAINS CANNABIS" or "THIS PRODUCT CONTAINS MARIJUANA."
- (b) The label required by subsection (a) for a container or package containing edible marijuana products sold by a cannabis processing facility must be in substantially the following form:

AB's Cannabis Products
License Number: 123 456 789 001 0001

Processing run Number: 1234

THIS PRODUCT CONTAINS CANNABIS
Keep out of Reach of Children

Produced on: 01/01/2022
Best if used by: 03/17/2022 (for edibles only)

Cannabinoid profile:
Total THC content (mg): 5
THC content per serving +/- 15%: (for edibles only)
Serving size - 1 piece
This product contains concentrated cannabis produced with butane.

Ingredients: Wheat, Sugar, Milk Chocolate Allergy Warning: Peanuts, Tree Nuts, Eggs, Wheat, Soy
Net Weight: 100mg

17 CAR 11.07 Required labeling of usable marijuana.

- (a) A cannabis retail facility must affix to or include with each container or package containing usable marijuana sold at retail, if not already included on the container or package, a label which must include, without limitation:
- (1) The business or trade name and the license number of the cannabis cultivation facility that cultivated the marijuana;
 - (2) The batch number;
 - (3) The lot number;
 - (4) The quantity sold, including the net weight measured in ounces and grams or by volume, as appropriate;
 - (5) The name and address of the cannabis retail facility;
 - (6) The cannabinoid profile and potency levels and terpenoid profile as determined by the cannabis independent testing laboratory, which may include the potential total THC but must not include any other calculated level of THC;
 - (7) A warning that states: "This product may have intoxicating effects and may be habit forming;"
 - (8) The statement: "This product may be unlawful outside of the lands of the Eastern Band of Cherokee Indians";
 - (9) The date on which the marijuana was harvested;
 - (10) A warning that states: "THIS PRODUCT CONTAINS CANNABIS" or "THIS PRODUCT CONTAINS MARIJUANA";
 - (11) A warning that states: "Keep out of Reach of Children"; and
- (b) The label required by subsection (a) for a container or package containing usable marijuana sold at retail must be in substantially the following form:

AB's Medical Cannabis Dispensary
123 Main Street, Cherokee NC 28719
THIS PRODUCT CONTAINS CANNABIS

16.7% THC 1.5% CBD 0.3% CBN
Myrcene 5.6 mg/g Limonene 5.1 mg/g Valencene 3.5 mg/g

License Number: 123 456 789 001 0001

Keep out of Reach of Children
Batch #: 1234
Lot #: 1234
Final harvest: 01/01/2022

WARNING: This product may have intoxicating effects and may be habit forming.

Net Weight: .25 ounces (7 grams)

This product may be unlawful outside the lands of the Eastern Band of Cherokee Indians.

17 CAR 11.08 Required labeling of marijuana products.

- (a) A cannabis retail facility must affix to or include with each container or package containing marijuana products sold, if not already on the container package, a label which must not mislead consumers and must include, without limitation:
- (1) The business or trade name and the license number of the cannabis cultivation facility and the cannabis processing facility that manufactured the product;
 - (2) The processing run number that accounts for all lot numbers of all marijuana used in the extraction of the concentrated marijuana or contained in the product, as recorded in the inventory control system of the marijuana processing facility that sold the concentrated marijuana or product;
 - (3) The name and address of the cannabis retail facility;
 - (4) The date on which the marijuana product was manufactured;
 - (5) If the product is an edible, a suggested use-by date;
 - (6) The cannabinoid profile and potency levels of the product, as determined by the cannabis laboratory that tested the product;
 - (7) For edible marijuana products, the total amount of THC in each serving of the product and a notice that the actual amount of THC in each serving may be within 15 percent of the stated amount;
 - (8) A list of all ingredients and all major food allergens as identified in 21 U.S.C. § 343.
 - (9) The concentration of THC in the product, measured in milligrams;
 - (10) The net weight of the marijuana product;
 - (11) For edible marijuana products, a warning that states: "Caution: When eaten or swallowed, the intoxicating effects of this product may be delayed by 2 or more hours";
 - (12) If concentrated marijuana or a marijuana extract was added to the product, a disclosure of the type of extraction process and any solvent, gas, or other chemical used in the extraction process, or any other compound added to the concentrated marijuana or the marijuana extract;
 - (13) A warning that states: "This product may have intoxicating effects and may be habit forming";
 - (14) A warning that states: "Keep out of Reach of Children"
 - (15) A statement that: "This product may be unlawful outside of the lands of the Eastern Band of Cherokee Indians"; and
 - (16) A warning that states: "THIS PRODUCT CONTAINS CANNABIS." or "THIS PRODUCT CONTAINS MARIJUANA."
- (b) The label required by subsection (a) must be in substantially the following form:

AB's Medical Cannabis Dispensary
123 Main Street, Cherokee NC 28719
THIS PRODUCT CONTAINS CANNABIS

Cookie
Net Weight: 2 ounces (56 grams)
Produced on: 1/1/2022
Best if used by: 6/3/2022

Cannabinoid profile:

THC content per serving +/- 15%:

CAUTION: When eaten or swallowed the intoxicating effects of this product can be delayed by 2 or more hours.

Keep out of Reach of Children

This product may be unlawful outside the lands of the Eastern Band of Cherokee Indians.

Manufactured at: KC's Kitchen

License Number: 321654987101 0401

Processing run #5463

INGREDIENTS: Flour, Butter, Canola Oil, Sugar, Chocolate, Cannabis, Strawberries CONTAINS ALLERGENS: Milk, Wheat

Contains cannabis extract processed with butane.

WARNING: This product may have intoxicating effects and may be habit forming.

17 CAR 11.09 Required disclosures and warnings.

- (a) A cannabis retail facility must, upon request, provide with all usable marijuana and marijuana products sold at retail accompanying material that discloses any pesticides applied to the marijuana plants and growing medium during production and processing.
- (b) A cannabis retail facility must provide with all usable marijuana and marijuana products sold at retail a written notification which contains the following warnings and information:
 - (1) That marijuana and marijuana products must be kept out of the reach of children;
 - (2) That marijuana and marijuana products can cause severe illness in children;
 - (3) That allowing children to ingest marijuana or marijuana products or storing marijuana or marijuana products in a location which is accessible to children may result in an investigation by an agency which provides child welfare services or criminal prosecution for child abuse or neglect;
 - (4) "THE INTOXICATING EFFECTS OF CANNABIS MAY BE DELAYED BY TWO HOURS OR MORE AND USERS OF CANNABIS PRODUCTS SHOULD INITIALLY INGEST A SMALL AMOUNT OF THE PRODUCT CONTAINING NO MORE THAN 10 MILLIGRAMS OF THC, THEN WAIT AT LEAST TWO HOURS BEFORE INGESTING ANY ADDITIONAL AMOUNT OF THE PRODUCT";
 - (5) "This product may have intoxicating effects and may be habit forming. Smoking is hazardous to your health";
 - (6) "Ingesting cannabis or cannabis products with alcohol or other drugs, including prescription medication, may result in unpredictable levels of impairment and a person should consult with a physician before doing so";
 - (7) "There may be health risks associated with consumption of this product";
 - (8) "Pregnant or breastfeeding women should consult with a physician before ingesting cannabis or cannabis products";
 - (9) "Cannabis or cannabis products can impair concentration, coordination and judgment. Do not operate a vehicle or machinery under the influence of cannabis or cannabis products"; and
 - (10) "Ingestion of any amount of cannabis or cannabis products before driving may result in criminal prosecution for driving under the influence."
 - (11) Contact information for the Board office.

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- (c) The text used on all accompanying material and warnings must be printed in at least 12-point font and may not be in italics.

17 CAR 11.10 Required labeling, cont.

Each cannabis cultivation facility, cannabis processing facility, and cannabis retail facility shall:

- (a) Use for labeling all marijuana and marijuana products the standard label described in these regulations;
- (b) Exercise strict control over labeling materials issued for use in labeling operations for marijuana and marijuana products;
- (c) Carefully examine labeling materials issued for a batch for identity and conformity to the labeling specified in the applicable production or control records; and
- (d) Have and follow written procedures describing in sufficient detail the control procedures employed for the issuance of labeling.

17 CAR 11.11 Examination of products during finishing operations; collection of representative sample of units; recording of results.

Each cannabis cultivation facility, cannabis processing facility, and cannabis retail facility shall:

- (a) Examine packaged and labeled products during finishing operations to provide assurance that the containers and packages have the correct labels;
- (b) Collect a representative sample of units at the completion of finishing operations and ensure that the samples are visually examined for correct labeling; and
- (c) Record the results of the examinations performed pursuant to subsections (a) and (b) in the applicable production or control records.

17 CAR 11.12 Marijuana treated with radiation.

If any marijuana or marijuana product has been treated with radiation at any time, any and all packaging of the irradiated marijuana or marijuana product must include the Radura symbol as used by the U.S. Food and Drug Administration. Cannabis retail facilities which sell marijuana or marijuana products which have been treated with radiation at any time shall conspicuously place within view of customers an explanation of the Radura symbol and the method of radiation used on the items and provide such explanation in writing upon request. If the explanation is not within view of a customer, the written explanation shall be provided to such customer.

17 CAR 11.13 Advertising of marijuana.

A cannabis facility shall ensure that all advertising by the cannabis facility contains such warnings as may be prescribed by the Board, which must include, without limitation, the following words:

- (a) "Keep out of reach of children";
- (b) "For use only by adults 21 years of age and older"; and
- (c) Shall ensure that all advertising by the cannabis facility contains:
 - (1) The name of the cannabis facility; and
 - (2) Reserved.
- (d) A cannabis facility shall not engage in advertising that in any way makes marijuana or marijuana products appeal to children, including without limitation, advertising which uses an image of a cartoon character, mascot, action figure, balloon, fruit, or toy. The cannabis facility shall ensure that the advertisement is not modeled after a brand of products primarily consumed by or marketed to children.

CHAPTER 12 FEES

17 CAR 12.01 Fees, generally.

- (a) Maximum and required fees are set out in Cherokee Code Section 17-59.
- (b) Fees for cannabis facilities are as follows:
 - (1) For the initial issuance of a license for a cannabis retail facility: \$1,000.00.
 - (2) For the renewal of a license for a cannabis retail facility: \$1,000.00.
 - (3) For the initial issuance of a license for a cannabis cultivation facility: \$1,000.00.
 - (4) For the renewal of a license for a cannabis cultivation facility: \$1,000.00.
 - (5) For the initial issuance of a license for a cannabis processing facility: \$1,000.00.
 - (6) For the renewal of a license for a cannabis processing facility: \$1,000.00.
 - (7) For the initial issuance of a license for a cannabis laboratory: \$1,000.00.
 - (8) For the renewal of a license for a cannabis laboratory: \$1,000.00.
- (c) Fees for cannabis agent cards are as follows:
 - (1) For each person identified in an application for the initial issuance of a cannabis agent card: \$150.00.
 - (2) For each person identified in an application for the renewal of a cannabis agent card: \$150.00.
- (d) Fees for medical cannabis patient cards are as follows:
 - (1) For the initial issuance of a medical cannabis patient card to an enrolled member of the Tribe: \$50.00.
 - (2) For the renewal of a medical cannabis patient card for an enrolled member of the Tribe: \$25.00.
 - (3) For the initial issuance of a medical cannabis patient card to a person who is not an enrolled member of the Tribe: \$100.00.
 - (4) For the renewal of a medical cannabis patient card to a person who is not an enrolled member of the Tribe: \$100.00.

CHAPTER 13 MEDICAL CANNABIS PATIENT CARDS

17 CAR 13.01 Patient cards, generally.

- (a) Article VIII of Cherokee Code Chapter 17 governs the medical use of marijuana and medical cannabis patient cards.

17 CAR 13.02 Patient card issuance, renewal.

- (a) Applicants for the initial issuance or renewal of a patient card must complete an application as prescribed by the Board, including all required documentation, and pay the required fee.
- (b) The Board may issue a medical affidavit or other such document to aid an applicant in fulfilling the necessary documentation of a chronic or debilitating medical condition.
- (c) Medical cannabis patient cards may not be issued to any person who does not reside within the exterior boundaries of the state of North Carolina.

17 CAR 13.03 Patient card suspension, revocation.

- (a) If, at any time after the Board has issued a patient card, the Board determines, on the basis of official documents or records or other credible evidence, that the person committed any of the following grounds, the Board shall immediately revoke the patient card issued to that person.
- (b) Grounds for patient card suspension or revocation are:
 - (1) Providing falsified or materially inaccurate information on his or her application to the Board;
 - (2) Transferring, delivering, giving, or otherwise conveying marijuana or marijuana products to anyone who is under the age of 21 years old; or
 - (3) Using a patient card in furtherance of a crime, a violation of Cherokee Code Chapter 17, or a violation this title.
- (c) A person whose patient identification card has been revoked pursuant to this section may not reapply for a patient identification card for 12 months after the date of the revocation.

17 CAR 13.04 Chronic or debilitating medical conditions.

- (a) A person may submit to the Board a petition that a particular disease or condition be including among the list of chronic or debilitating medical conditions for which a medical cannabis patient card may be issued.
- (b) The petition must be in writing. The Board must approve or deny the petition within 180 days of receiving the petition. The decision of the Board is a final decision. If approved, the Board shall include the new chronic or debilitating health condition in its next amendment of this title.
- (c) This is the current list of chronic or debilitating medical conditions:
 - (1) Acquired immune deficiency syndrome;
 - (2) An anxiety disorder;
 - (3) An autism spectrum disorder;
 - (4) An autoimmune disorder;
 - (5) Anorexia nervosa;
 - (6) Cancer;
 - (7) Dependence upon or addiction to opioids;
 - (8) Glaucoma;
 - (9) A medical condition or treatment for a medical condition that produces, for a specific patient, one or more of the following:
 - (i) Cachexia;
 - (ii) Muscle spasms, including, without limitation, spasms caused by multiple sclerosis;
 - (iii) Seizures, including, without limitation, seizures caused by epilepsy;
 - (iv) Nausea; or
 - (v) Severe or chronic pain;
 - (10) A medical condition related to the human immunodeficiency virus;
 - (11) A neuropathic condition, without or not such condition causes seizures;
 - (12) Post-traumatic stress disorder;
 - (13) Crohn's disease;

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- (14) Sickle cell anemia;
 - (15) Amyotrophic lateral syndrome;
 - (16) Parkinson's disease;
 - (17) A condition resulting in the patient receiving Hospice care;
 - (18) A terminal illness when the patient's remaining life expectancy is less than six months.