

## **TITLE 17A HEMP RETAIL REGULATIONS**

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

#### **17A CAR 1.01 Short Title.**

This title may be referred to as the "EBCI Hemp Retail Regulations" or the "EBCI Hemp Store Regulations."

#### **17A CAR 1.02 Issuance.**

This title is issued by the EBCI Cannabis Control Board pursuant to Cherokee Code Section 17A-3 and Cherokee Code Chapter 150, Article 2.

#### **17A CAR 1.03 Construction.**

Nothing contained in these regulations shall be so construed as to conflict with any provision of Cherokee Code Chapter 17A 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.

#### **17A 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.

#### **17A CAR 1.05 Definitions.**

- (a) As used in this title, unless the context otherwise requires, the words and terms defined in Cherokee Code Sections 17-2 and 17A-2 have the meanings ascribed to them in those sections.
- (b) As used in this title, unless the context clearly otherwise requires, the following words and terms have the following meanings:
  - (1) "Analytical Portion" means the portion of a test sample that is being processed for a particular laboratory test.
  - (2) "Applicant" means any person who has applied for the licensing of a cannabis facility or for issuance of an agent card.
  - (3) "Application" means a written request for the issuance of a license for a hemp retail store or for approval of any act or transaction for which Board approval is required or permitted under Cherokee Code Chapter 17A.
  - (4) "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

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- 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.
- (5) "Batch Number" means a unique numeric or alphanumeric identifier assigned to a batch by a cannabis facility when the batch is planted.
  - (6) "Board" means the EBCI Cannabis Control Board, also known as the CCB or EBCI CCB.
  - (7) "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.
  - (8) "Cannabis" means all parts of the plants in the genus Cannabis, whether growing or not, the seeds thereof, the resin extracted from any part of such plant, and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin. A cannabis plant, depending on its concentration of total THC, is either marijuana or hemp.
  - (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. If a deadline in this title falls on a Saturday, Sunday, or Tribal government holiday, the deadline is automatically extended to the next such day which is not a Saturday, Sunday, or Tribal government holiday.
  - (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) "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.
  - (14) "Hemp" means the definition given to it in C.C. 17A-2.
  - (15) "Hemp product" means the definition given to it in C.C. 17A-2.
  - (16) "Immediately" means within 24 hours.
  - (17) "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.
  - (18) "Label" means written or printed material affixed to or included with hemp or a hemp product to provide identification or other information.
  - (19) "Law enforcement" means the Cherokee Indian Police Department.
  - (20) "License" means a license issued by the Board allowing a person to conduct retail sales of hemp and hemp products.
  - (21) "Licensee" or "hemp store" or "hemp retail store" means a person holding a valid hemp retail license issued by the Board allowing the person to offer and engage in retail sales of hemp and hemp products.
  - (22) "Lot" means:
    - (A) The flowers from one or more cannabis 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 cannabis plants of the same batch, other than full female flowers, in a quantity that weighs 15 pounds (6,804 grams) or less; or

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- (C) The wet flower, leaves, or other plant matter from one or more cannabis 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.
- (23) "Marijuana" means all parts of the plants in the genus Cannabis, whether growing or not, which is not hemp.
- (24) "Packaging" means the materials used to wrap or protect goods, including hemp and hemp 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 (THCA) multiplied by 0.877 plus the percentage by weight of tetrahydrocannabinol.
- (28) "Potentially hazardous food or 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) "Processing facility" or "cannabis processing facility" means a facility that processes, packages, and/or prepares cannabis or cannabis products, including hemp and hemp products, to be sold to consumers.
- (31) "Processing run" means:
- (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

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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.
- (32) "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.
- (33) "Regulations" or "Rules" mean Title 17A of the Cherokee Administrative Code.
- (34) "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.
- (35) "Surveillance" means the capability to observe and record activities being conducted outside and inside a medical cannabis establishment.
- (36) "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.
- (36) "THC" means tetrahydrocannabinol, including Delta-9, Delta-8, Delta-10, and any optical isomers of such substances.
- (37) "Tribe" or "Tribal" means the Eastern Band of Cherokee Indians.
- (38) "Variance" means a modification, exception, or deviation from a requirement of this title.
- (39) "Vending Machine" is an automated machine that provides items to consumers without assistance of a person.
- (40) "Writing" or "written" means traditional written documents and electronic writings, including email.

### **17A CAR 1.06 Effective Date.**

- (a) This title shall be effective January 30, 2025.
- (b) As of the effective date of this title, there are pre-existing businesses within the jurisdiction which are operating as a hemp retail store. The Board shall begin accepting applications for licenses immediately. The Board will not initiate discipline of preexisting hemp retail stores for lack of required licensing until April 1, 2025.

## ***CHAPTER 2 EBCI CANNABIS CONTROL BOARD.***

### **17A CAR 2.01 EBCI Cannabis Control Board in general.**

- (a) The Board is responsible for regulating the retail sale of hemp on Tribal lands as set out in Cherokee Code Chapter 17A.
- (b) The Board procedures contained within Chapter 2 of Title 17 of the Cherokee Administrative Regulations ("EBCI Cannabis Control Board; Organization and Administration") also apply to the Board's regulation of the retail sale of hemp.
- (c) References to licensees and applicants in Chapter 2 of Title 17 shall refer to licensees and applicants of hemp retail licenses pursuant to this Title.

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### **17A CAR 2.02 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 17A 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, including hemp and hemp products.
- (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 regularly 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.

### **17A CAR 2.03 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 17A 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

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- (3) Re-evaluation of the criteria in subsection (d) above.

**17A CAR 2.04 Confidentiality.**

- (a) The Board shall cause to be made and kept minutes of all proceedings at regular and special meetings of the Board. These minutes are open to public inspection.
- (b) Except as set out in subsection (a) above, any and all other information, data, document, or such similar item shall be confidential and may be disclosed only as required by the Cherokee Code, an order from a court of competent jurisdiction, or by order of the Board.

**CHAPTER 3 LICENSING.**

**17A CAR 3.01 Application process.**

- (a) It is declared policy of Tribe that all hemp retail shops 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 hemp shop license or approval by the Board pursuant to the provisions of Cherokee Code Chapter 17A and this title is a revocable privilege, and no licensee 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 hemp retail license 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 hemp retail license 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.

**17A CAR 3.02 Designation of persons responsible for providing information, etc.**

- (a) When a 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 licensee:
- (1) If a natural person is or making application to become a licensee, the natural person;

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- (2) If a corporation is or making application to become a licensee, a natural person who is an officer of the corporation;
  - (3) If a limited partnership is or making application to become a licensee, a natural person who is a partner;
  - (4) If a limited liability company is or making application to become a licensee, 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 licensee, 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 licensee, a natural person who signed the joint venture agreement;
  - (7) If a trust is or making application to become a licensee, 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 licensee, a natural person who is a member of the business organization.
- (b) For the purposes of these regulations and Cherokee Code Chapter 17A, the following persons must comply with the provisions governing owners, officers, and board members of a licensee:
- (1) If a corporation is applying for a license, the shareholders, officers, and Board members of the corporation;
  - (2) If a limited partnership is applying for a license, the partners;
  - (3) If a limited liability company is applying for a license, the members and managers of the limited liability company;
  - (4) If an association or cooperative is applying for a license, the members of the association or cooperative;
  - (5) If a joint venture is applying for a license, the natural persons who signed the joint venture agreement;
  - (6) If a trust is applying for a license, the trustees of the trust, and
  - (7) If a business organization other than those described in this subsection is applying for a license, the members of the business organization.

### **17A CAR 3.03 Qualifications for licensure.**

- (a) In addition to the considerations in Cherokee Code Chapter 17A, 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

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- (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 17A, this Title, or the Tribe.

**17A CAR 3.04 Applications for hemp retail licenses.**

- (a) The Board determines whether a sufficient number of hemp retail stores exist to serve the Tribal community 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.

**17A CAR 3.05 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 licensee and of any person proposing to engage in the operation of a hemp retail store. 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 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 hemp retail store upon request to assist with questions and identify issues for correction.
- (d) A hemp retail store may not operate until it has been issued a license from the Board.
- (e) The Board will not issue a license 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.

**17A CAR 3.06 Authority of Board relating to inspections.**

- (a) Submission of an application for a license constitutes permission for entry to and inspection of the hemp retail store 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 licensee initiate an investigation of the hemp retail store, with or without notice, regarding the premises, facilities, qualifications of personnel, methods of operation, policies, procedures, and records of that hemp retail store or any hemp retail store which may have information pertinent to the complaint.
- (c) Board Agents may enter and inspect any building or premises of a licensee at any time, with or without notice, to:
  - (1) Confirm or secure compliance with any provision of these regulations or Cherokee Code Chapter 17A;
  - (2) Prevent a violation of any provision of these regulations or Cherokee Code Chapter 17A; or
  - (3) Conduct an unannounced inspection of a licensee in response to an allegation of noncompliance with these regulations or Cherokee Code Chapter 17A.
- (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 17A. 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.



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- (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 hemp and hemp products are 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 17A; 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 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 licensee to ensure compliance with the provisions of these regulations and Cherokee Code Chapter 17A. 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 licensee as otherwise provided by Tribal law.
  - (h) Board Agents will enter and inspect, with or without notice, any building or premises within 72 hours after the Board is notified that a hemp retail store is operating without a license.
  - (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 17A for the protection of the public and in the public interest in accordance with the policy of the Tribe.

### **17A CAR 3.07 Notification to Board of closing.**

If a licensee is closing or suspending sales of hemp and hemp products for 90 days or more, the licensee must notify the Board of the closing at least 10 days beforehand. If the intent is to permanently close the hemp retail store, it must surrender the license to the Board immediately upon closing.

### **17A CAR 3.08 Renewal of license.**

- (a) A licensee that wishes to renew a license 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.

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### **17A CAR 3.09 Grounds for denial of application or renewal.**

- (a) The Board may deny an application for the issuance or renewal of a license if:
  - (1) The application or the licensee is not in compliance with any provision of these regulations or Cherokee Code Chapter 17A; or
  - (2) An owner, officer, or board member of the applicant:
    - (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 licensee 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 licensee, the Board may provide the licensee with an opportunity to correct the situation.

### **17A CAR 3.10 Transfer of ownership.**

- (a) 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 licensee or any portion thereof or enter into or create a voting trust agreement or any other agreement of any sort in connection with any licensee or any portion thereof, except in accordance with these regulations and Cherokee Code Chapter 17A.
- (b) A licensee shall notify the Board prior to any:
  - (1) Transfer or conveyance of any interest in or to a licensee, 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.
- (c) A licensee, or an owner, officer, or board member thereof, shall not cause or permit any stock certificate or other evidence of beneficial interest in the licensee to be registered in the books or records of the licensee in the name of any person other than the true and lawful owner of the beneficial interest without the written permission of the Board.
- (d) Each employee, agent, personal representative, lender, or holder of indebtedness of a licensee who, in the opinion of the Board, has the power to exercise a significant influence over the licensee's operation as a hemp retail store may be required to apply for a license. A person required to be licensed pursuant to this section shall apply for a license within 30 days after the Board requests that the person do so.

### **17A CAR 3.11 Contracts or agreements with certain persons prohibited.**

- (a) A person who has:

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- (1) Been denied a license by the Board; or
  - (2) Had a license 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.

### **17A CAR 3.12 Notification to the Board of subsequent events.**

- (b) A licensee must provide notification to the Board of the following within five days of occurrence pertaining to any owner, employee, or agent associated with the hemp retail store:
  - (1) A charge or conviction of any felony offense or controlled substance offense;
  - (2) The initiation by a tribal, federal, state, or local government of an investigation or proceeding against the person to which the licensee is aware.
- (c) A licensee 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 licensee; or
  - (2) The initiation by a tribal, federal, state, or local government of an investigation or proceeding against the licensee and/or hemp retail store.

## ***CHAPTER 4 RETAIL SALE OF HEMP.***

### **17A CAR 4.01 License required.**

A valid license issued by the Board is required to sell, offer to sell, or otherwise transfer, either for profit or not, hemp and hemp products. A licensee shall post its license for a hemp retail store and any other authorization to conduct business in a public view within the hemp store premises.

### **17A CAR 4.02 Operation in accordance with plans and specifications included in application.**

- (a) Except as otherwise provided in this section, a licensee shall operate according to the plans and specifications included within the application for its license.
- (b) A licensee 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 licensee 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; 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 licensee and send notification of approval or denial.

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- (d) A licensee which has completed a material change to its facilities which affect retail sale of hemp or hemp products 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) A licensee shall not commence the operation of any material change to the facilities or operations of the until the Board Agents complete an inspection of the change or notifies the licensee in writing that an inspection is not necessary. Material changes include, without limitation, modifications to 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.
  - (f) A licensee must be operational within 30 days of receiving its final inspection and is issued a license to operate. A licensee must maintain all minimum requirements at all times. If a licensee plans to be inactive in selling hemp or hemp products for more than 30 days, a plan must be presented to the Board for approval.

#### **17A CAR 4.03 Written request for move to new location; issuance of new amended license.**

- (a) A licensee may move its hemp retail store location to a new location on Tribal lands with the approval of the Board.
- (b) A licensee that seeks to move to a new location or commence operations at a location other than the location contained in its application 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 hemp retail store;
  - (2) Evidence demonstrating that the proposed location meets the requirements set forth in Cherokee Code Chapter 17A and this title.
  - (3) A signed, written attestation that the operation of the hemp retail store at the new address will meet or exceed the merits of the location specified in the application submitted by the licensee;
  - (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 hemp retail sales on the property, or a letter from the landlord of the property stating the licensee is authorized to operate a hemp retail store 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 licensee an amended license which reflects the new address.

#### **17A CAR 4.04 Training for employees.**

- (a) A licensee shall ensure that training is provided to its employees before that person begins to sell hemp and hemp products. Such training must include, without limitation:
  - (1) Training on how to properly check age and identification of customers.
  - (2) The proper use of security measures and controls that have been adopted by the licensee for the prevention of diversion, theft or loss of product;
  - (3) Procedures and instructions for responding to an emergency; and
  - (4) Applicable laws and regulations related to the sale, possession, and use of cannabis, including hemp.

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- (b) In addition to the training set forth in subsection (a), a cannabis retail facility shall ensure that training is provided to any person before that person begins to provide labor to the hemp retail store. Such training must include, without limitation:
- (1) The different items offered for sale by the licensee;
  - (2) The different methods of using hemp and hemp products;
  - (3) Learning to recognize signs of cannabis and 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 cannabis, including hemp and hemp products, 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 cannabis, including hemp;
  - (8) Applicable laws and regulations regarding cannabis, including hemp;
  - (9) Preventing the use of cannabis 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;
  - (10) How to prevent and address disturbances; and
  - (11) The responsibility of the employee to put into effect strategies adopted by the licensee to prevent the diversion of products and money.

#### **17A CAR 4.05 Development, documentation, and implementation of policies.**

A hemp retail store shall:

- (a) Develop, document, and implement policies and procedures regarding:
  - (1) Job descriptions, 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 hemp and hemp products; and

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- (D) Disposing of unusable hemp and hemp products.
  - (4) If applicable, consumer education and support, including, without limitation:
    - (A) The availability of different strains of hemp and the purported effects of the different strains;
    - (B) Information about the purported effectiveness of various methods, forms and routes of administering hemp and hemp products;
    - (D) Education on how cannabis 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 or while impaired is unlawful.
  - (b) Maintain copies of the policies and procedures developed pursuant to subsection (a) at the hemp retail store and provide copies to the Board or Board Agents for review upon request.

**17A CAR 4.06 Inventory control system/recordkeeping.**

- (a) Each licensee shall designate at least one employee who has oversight of the inventory control system of the licensee.
- (b) Unless pre-approved by the Board, a licensee shall only acquire hemp or hemp products from a source which has a valid license and operating lawfully within the jurisdiction in which it is located. If the source is located in more than one jurisdiction, according to the laws of the jurisdiction from which the hemp or hemp products are being sourced.
- (c) Each licensee shall establish and implement an inventory control system or recordkeeping that documents:
  - (1) When acquiring hemp or hemp products:
    - (A) A description of the item acquired, including the amount, strain and batch number, lot number and processing run number, or any combination thereof;
    - (B) The name and identification details of the source providing the marijuana;
    - (C) Certificates of analysis for all hemp and hemp products acquired; and
    - (C) The date of acquisition.
  - (2) The disposal of hemp and hemp products, including:
    - (A) A description of and reason for item being disposed of;
    - (B) The date of disposal;
    - (C) Confirmation that the item was rendered unusable before disposal;
    - (D) The method of disposal; and
    - (E) The name of the employee responsible for the disposal.
- (d) A licensee shall:
  - (1) Maintain the documentation required by this section at the hemp retail store for at least one year 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.

**17A CAR 4.07 Required security measures.**

- (a) To prevent unauthorized access at the hemp retail store, the licensee must have:
  - (1) Entrances and exits of the physical building or premises that can be secured;

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- (2) No clearly visible hemp or hemp products from outside the establishment.
  - (3) 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;
    - (B) Exterior lighting to facilitate surveillance;
    - (C) Electronic monitoring, including, without limitation, each of the following:
      - (i) 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 areas relevant to the sale of hemp and hemp products;
      - (ii) A secure method for storing video recordings from the video cameras for at least 30 days;
      - (iii) A failure notification system that provides an audible and visual notification of any failure in the electronic monitoring system; and
      - (iv) 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 premises; and
  - (4) Policies and procedures:
    - (A) That restrict access to the areas of the retail hemp store that contain hemp and hemp products to only persons authorized to be in those areas;
    - (B) That provide for the identification of persons authorized to be in the areas of the premises that contain hemp and hemp products;
    - (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 premises;
    - (F) For limiting the amount of money available in any retail areas of the licensee 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.

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- (c) A licensee 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. Failure to correct a malfunction within 72 hours after the malfunction is discovered is a violation of this section.

**17A CAR 4.08 Cleanliness and health of employees.**

- (a) Each licensee must ensure that each person who is providing labor at the hemp retail store:
- (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;
    - (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;
    - (I) When switching between working with unprocessed hemp or uncooked food products and working with finished hemp products;
    - (J) Before donning gloves for working with hemp; and
    - (K) After engaging in other activities that contaminate the hands.
  - (3) Wears clean clothing appropriate to the tasks assigned to him or her.
- (b) Each licensee shall ensure that:
- (1) Each person who is providing labor at the hemp retail store wears clean clothing appropriate for the duties he or she performs;
  - (2) Protective apparel, such as head, face, hand, and arm coverings, are worn as necessary to protect hemp or hemp products from contamination; and
  - (3) ) Each person who is providing labor at the hemp retail store practices good sanitation, personal hygiene, and health habits.
- (c) If the licensee determines that a person providing labor at the hemp retail has a health condition that may adversely affect the safety or quality of the hemp or hemp products at the location, that person is prohibited from having direct contact with any hemp or hemp products until the licensee determines that the health condition of the person will not adversely affect the hemp or hemp products.

**17A CAR 4.09 Hand washing procedure.**

- (a) Each person 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 person 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;



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- (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.

**17A CAR 4.10 Appropriateness, cleanliness, and maintenance of equipment, utensils, and substances.**

- (a) Each licensee shall ensure that any equipment used to package, hold, or display hemp or hemp 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, hemp, or hemp products are not reactive, additive, or absorptive so as to alter the safety, identity, strength, quality or purity of the hemp or hemp products beyond the official or other established requirements.
- (b) Each licensee shall ensure that:
  - (1) Any substances required for its operation do not come into contact with components, product containers, in-process materials, hemp or hemp 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) Any equipment and utensils are cleaned, maintained and, as appropriate for the nature of the hemp or hemp products, sanitized and sterilized at appropriate intervals to prevent malfunctions or contamination that would alter the safety, identity, strength, quality, or purity of the hemp or hemp 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 package, hold, or display hemp or hemp 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 licensee must maintain records of any maintenance, cleaning, sanitizing, and inspection carried out pursuant to this section.

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### **17A CAR 4.11 Prohibition on sales via vending machine.**

A licensee shall not sell hemp or hemp products from a vending machine or allow such a vending machine to be installed at the interior or exterior of the premises of the hemp retail store. This section does not prohibit vending machines which sell non-hemp items.

### **17A CAR 4.12 Prohibition on treating or adulterating hemp with chemical or other compound.**

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

### **17A CAR 4.13 Restrictions on advertising; required postings.**

(a) A licensee:

- (1) Shall not engage in advertising which contains any statement or illustration that:
  - (A) Is false or misleading;
  - (B) Promotes overconsumption of hemp or hemp products;
  - (C) Depicts the actual consumption of what appears to be any type or form of cannabis; or
  - (D) Depicts a child or other person who appears to be less than 21 years of age consuming any type of cannabis 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 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 licensee for private transportation;
  - (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 hemp or hemp 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."

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(b) A licensee shall post signs in prominent locations inside the hemp retail store which state activities that are strictly prohibited and punishable by law, including, without limitation, the following statements:

- (1) "No on-site or public consumption of any cannabis";
- (2) "Distribution to persons under the age of 21 is prohibited"; and
- (3) "It is unlawful to operate a motor vehicle while impaired by any form of cannabis, including hemp"

(c) This section does not prohibit a licensee from making public statements or communication promoting and encouraging the safe, responsible, and legal use of hemp and hemp products which does not contain advertisement for the purchase or sale of any items.

#### **17A CAR 4.14 Advertising of hemp.**

A licensee shall ensure that all advertising by the licensee 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) that all advertising contains the name of the licensee.
- (d) A licensee shall not engage in advertising that in any way makes hemp or hemp products appeal to children, including without limitation, advertising which uses an image of a cartoon character, mascot, action figure, balloon, fruit, or toy. The licensee shall ensure that the advertisement is not modeled after a brand of products primarily consumed by or marketed to children.

#### **17A CAR 4.15 Documenting and reporting loss or theft.**

A licensee shall:

- (a) Document and report any loss or theft 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.

#### **17A CAR 4.16 Requirements for operation; hours.**

Each licensee shall:

- (a) Ensure that the hemp retail store is operating and available to sell hemp or hemp products to consumers during, and only during, the designated hours of operation as provided to the Board in the application for a license and the hours authorized by the locality in which the hemp retail store is located; and
- (b) Post, in a place that can be viewed by persons entering the store, the hours of operation during which the hemp retail store will sell hemp or hemp products to consumers.

#### **17A CAR 4.17 Duties before sale to consumer.**

Before selling hemp or hemp products to a consumer, the licensee shall:

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

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- (c) Offer any appropriate consumer education or support materials.

**17A CAR 4.18 Valid proof of identification required.**

- (a) A licensee shall not provide hemp or hemp products to any person unless the person produces a form of valid identification showing that the person is 21 years of age or older.
- (b) Identification presented to satisfy subsection (a) must contain a photograph and the date of birth of the person.
- (c) Identification presented to satisfy subsection (a) 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, or a Merchant Mariner Credential or other similar document issued by the United States Coast Guard;
  - (4) 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;
  - (5) A tribal identification card issued by a tribal government; or
  - (6) A valid medical cannabis patient card issued by the Board.

**17A CAR 4.19 Products offered for sale; restrictions.**

- (a) A hemp retail store shall not sell hemp or hemp 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.
  - (1) 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.
- (b) Each hemp retail store shall offer for sale containers for the storage of hemp and hemp products which lock and are designed to prohibit children from unlocking and opening the container.
- (c) Any product sold by a hemp retail store 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 hemp retail store shall not sell hemp or hemp products to a consumer through the use of any other business that does not hold a license issued by the Board.
- (e) A hemp retail store shall not recommend products to women that are pregnant or breastfeeding.

**17A CAR 4.20 Restriction on sale.**

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

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### **17A CAR 4.21 Storage and location of products.**

- (a) A hemp retail store must store all hemp and hemp products behind a counter or other barrier to ensure a consumer does not have direct access to such items.
- (b) Upon the request, a licensee must disclose the name of the laboratory which performed the required quality assurance tests for the item and the corresponding certificate of analysis.
- (c) A licensee may not sell a product other than hemp or hemp products which contain any level of THC or CBD without the approval of the Board. Each licensee shall maintain a file which contains a certificate of analysis for any such approved product and shall make the file available for review upon request.

### **17A CAR 4.22 Surveillance.**

- (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) Any and all actions which impair or preclude the successful operation of the surveillance system are prohibited.
- (c) Surveillance recording media, inclusive of any copies, shall be accessible only to the licensee'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) Employee(s) involved in transaction;
  - (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 activities and record the views of all dedicated cameras and motion activated dedicated cameras within the retail hemp store.

### **17A CAR 4.23 Exclusion.**

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

### **17A CAR 4.24 Licensees are responsible for the items offered for sale.**

- (a) Each licensee shall establish and follow written procedures describing in sufficient detail the receipt, identification, storage, handling, 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) Licensees are responsible for the accuracy and completeness of the packaging and labels of hemp and hemp products which they sell. The inability or refusal of wholesalers, distributors, cultivators, processors, and other sources from which licensees obtain hemp and hemp products to correctly or accurately label and

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package items is not a valid excuse or rationale for labeling and packaging that does not meet the requirements of the Cherokee Code or this title.

- (c) Licensees are responsible for ensuring that the hemp or hemp products they sell have the identity, strength, quality, and purity they purport or are represented to possess. The inability or refusal of wholesalers, distributors, cultivators, processors, and other sources from which licensees obtain hemp and hemp products to adhere to the requirements of the Cherokee Code or this title. Licensees are responsible for the items they offer to the public for sale.

#### **17 CAR 4.25 Restrictions on salvaging hemp and hemp products.**

- (a) Each licensee shall ensure that hemp or hemp 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.

#### **17 CAR 4.26 Requirements for hemp retail store buildings.**

- (a) Each licensee shall ensure that any building used as a hemp retail store:
  - (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 receipt, storage, sale, or disposal of hemp or hemp products between different components, product containers, closures, labels, and to prevent contamination;
  - (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; and
  - (4) is maintained in a good state of repair.
- (b) Each licensee shall ensure that:
  - (1) The flow of components, product containers, closures, labels, hemp, and hemp products through any building used as a hemp retail store is designed to prevent contamination;
  - (2) The operations of the hemp retail store 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 hemp retail shop as are necessary to prevent contamination or miscalculation or misuse of any component in any step during the course of the following procedures:

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- (A) Receipt, identification, storage of hemp and hemp products;
  - (B) Holding rejected hemp and hemp products before disposal;
  - (F) Packaging and labeling correction operations;
  - (H) Storage of hemp or hemp products;
  - (I) Display and sale of hemp or hemp products; 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 rooms and equipment; and
    - (vi) A system for maintaining any equipment used to control sanitary conditions.

(c) A building used as a hemp retail store must have:

- (1) At least one toilet facility which must contain a flushable toilet, mounted toilet tissue, a hand sink with running water which is capable of delivering hot water at a minimum temperature of 100°F (37.8°C), soap contained in a dispenser, disposable, single-use paper towels in a mounted dispenser, a conveniently located trash can.
- (2) 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.
- (3) 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.
- (4) At least one mop sink or dump sink to dispose of liquid waste.
- (5) If preparation or packaging of concentrated hemp or hemp products is done in the building, a designated area for the preparation or packaging that:
  - (A) Includes workspace that can be sanitized;
  - (B) Is only used for the preparation or packaging of concentrated marijuana or marijuana products; and
  - (C) Has a fully stocked hand-washing sink conveniently located and designated for hand washing only.

### **17 CAR 4.27 Requirements for water, plumbing, and drains in hemp retail stores.**

Each licensee shall ensure that

- (a) Any building used as a hemp retail store supplies potable water under continuous positive pressure in a plumbing system free of defects that could contribute to the contamination of any hemp or hemp products. Potable water must meet the standards prescribed in the Primary Drinking Water Regulations, 40 C.F.R. Part 141.
- (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.

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### **17A CAR 4.28 Adequate lighting.**

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

### **17A CAR 4.29 Establishment of and adherence to written procedures for sanitation.**

- (a) Each licensee 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 licensee 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.

### **17 CAR 4.30 Storage, management, and disposal of waste.**

- (a) A hemp retail store may return a hemp or hemp product to its source of origin to be rendered unusable.
- (b) Unless another method approved by the Board is used, waste containing marijuana must be rendered unusable by grinding and incorporating the waste with paper waste, cardboard waste, plastic waste, food waste, yard waste, soil; or other waste as approved by the Board.
- (c) 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.

### **17A CAR 4.31 Continuous duty to report.**

- (a) All licensees have a continuous duty to immediately report all violations of Cherokee Code Chapter 17A, these regulations, and all criminal activity to the Board.
- (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) Marijuana and non-marijuana drug trafficking.
- (c) Hemp retail stores where criminal activity has taken place shall gather pertinent information including customer details, employee details/schedule (if any), and a timeline of events.

### **17A CAR 4.32 Abide by all applicable Tribal laws.**

All licensees, including the owners, operators, employees, and any agents, shall abide by all applicable Tribal laws while at the premises of the hemp retail store or acting within the course and scope of their duties to the licensee



## ***CHAPTER 5 CULTIVATION AND PROCESSING NOT AUTHORIZED.***

### **17A CAR 5.01 Cultivation not allowed under this title.**

- (a) Cultivation of hemp on tribal lands is governed by the EBCI Hemp Regulatory Plan codified in Chapter 1 of Title 16 of Cherokee Administrative Regulations. The Tribe's hemp regulatory plan is carried out by the EBCI Natural Resources Department in cooperation with the U.S. Department of Agriculture. For more information, contact the EBCI Natural Resources Department.
- (b) A license issued pursuant to Cherokee Code Chapter 17A and this title does not entitle or allow the licensee to cultivate hemp.

### **17A CAR 5.02 Processing not allowed under this title.**

- (a) "Processing" means to prepare, package, transform, change, convert, or otherwise change cannabis, including hemp, in order to be sold to consumers. Cultivated hemp is processed into hemp products. Hemp products are processed into other or alternative hemp products.
- (b) Licensees must acquire hemp and hemp products in a form which is processed, tested, packaged, and ready for sale to a consumer in compliance with Cherokee Code Chapter 17A and this title. A license issued pursuant to Cherokee Code Chapter 17A and this title does not entitle or allow the licensee to process hemp or hemp products.
- (c) This section does not prohibit a licensee from adding or amending the labeling or packaging of its hemp or hemp products in order to comply with this title. The Board may approve a licensee to amend the packaging of hemp or a hemp product in order to achieve compliance with the Cherokee Code or this title, including affixing a sticker or inclusion of additional disclosures or literature. No such approval will be allowed which could contaminate or degrade the safety of the item.

## ***CHAPTER 6 TESTING REQUIREMENTS***

### **17A CAR 6.01 Quality assurance testing required before sale.**

A licensee shall not sell, offer to sell, or transfer hemp or hemp products until all required quality assurance testing has been completed for the items. Completion of quality assurance testing shall be exhibited by a certificate of analysis. Hemp and hemp products may not be sold to the public unless the certificates of analysis demonstrates that the item meets the testing requirements of this title. Certificates of analysis, and copies thereof, shall be disclosed to the public, Board, and Board Agents immediately upon request at no cost. Certificates of analysis for a set or lot of products shall expire and no longer be valid 90 days after the date of the quality assurance testing. Hemp and hemp products must be tested in their retail condition before being sold to the public. A hemp retail store is responsible for the content, safety, and quality of the hemp and hemp products it sells.

### **17A CAR 6.02 Requirements for laboratory testing.**

- (a) A licensee must ensure that the hemp and hemp products it sells and offers to sale meet the laboratory testing requirements of this chapter. Licensees are neither required nor permitted to perform testing required by this chapter pursuant to their license, rather the testing must be completed by a licensed cannabis testing laboratory.
- (b) Testing may be performed by any cannabis laboratory which is licensed to perform analytical testing on cannabis in the jurisdiction in which it is located. Testing by a laboratory which is not licensed to analyze cannabis is insufficient to meet the requirements of this chapter.

- (c) A cannabis laboratory must have 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;
  - (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;
  - (3) The licensee may not have a financial or ownership interest in, common ownership, or operational control over or by the laboratory; and
  - (4) Not have been determined by the Board to be unlicensed, untrustworthy, unreliable, or unable to perform the testing required by this chapter.
- (d) The Board may reject any laboratory in order to protect the health, safety, and welfare of the public.

**17A CAR 6.03 Required testing.**

- (a) Before hemp or hemp products may be sold to the public it must pass quality assurance batch testing by a cannabis laboratory. No hemp or hemp 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 hemp, as received, and hemp 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 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 each stop is for the sole purpose of retrieving a sample from a cannabis facility and all samples remain secured and uncontaminated at all times. The Board may inquire and verify the collection and sampling processes of any cannabis laboratory performing tests for a licensee.
- (c) The tests required pursuant to section by a cannabis laboratory are as follows:

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

		<p>15. None detected per gram</p> <p>16. None detected per gram</p> <p>17. None detected per gram</p> <p>18. &lt; 1,000 colony forming units per gram</p>
<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 hemp extracted with ethanol or CO2</p>	<p>1. Potency analysis</p> <p>2. Foreign matter inspection</p> <p>3. Mycotoxin screening</p> <p>4. Heavy metal screening</p> <p>5. Pesticide residue analysis</p> <p>6. Total yeast and mold</p> <p>7. Total Enterobacteriaceae</p> <p>8. Salmonella</p> <p>9. Pathogenic E. coli</p> <p>10. Aspergillus fumigatus</p> <p>11. Aspergillus flavus</p> <p>12. Aspergillus terreus</p> <p>13. Aspergillus niger</p>	<p>1. N/A</p> <p>2. None detected</p> <p>3. &lt; 20 µg/kg for the total of Aflatoxins B1, B2, G1 and G2 combined and &lt; 20 µg/kg for Ochratoxin A</p> <p>4. Arsenic: &lt; 2 ppm; Cadmium: &lt; 0.82 ppm; Lead: &lt; 1.2 ppm; Mercury: &lt; 0.4 ppm</p> <p>5. See 17 CAR 11.12</p> <p>6. &lt; 1,000 colony forming units per gram</p> <p>7. &lt; 100 colony forming units per gram</p> <p>8. None detected per gram</p> <p>9. None detected per gram</p> <p>10. None detected per gram</p> <p>11. None detected per gram</p> <p>12. None detected per gram</p> <p>13. None detected per gram</p>
<p>Extract of marijuana (solvent-based) made with any approved solvent, including concentrated marijuana extracted by means other than with ethanol or CO2</p>	<p>1. Potency analysis</p> <p>2. Foreign matter inspection</p> <p>3. Residual solvent test</p> <p>4. Mycotoxin screening</p> <p>5. Heavy metal screening</p> <p>6. Pesticide residue analysis</p> <p>7. Total yeast and mold</p> <p>8. Total Enterobacteriaceae</p> <p>9. Salmonella</p> <p>10. Pathogenic E. coli</p> <p>11. Aspergillus fumigatus</p> <p>12. Aspergillus flavus</p> <p>13. Aspergillus terreus</p> <p>14. Aspergillus niger</p>	<p>1. N/A</p> <p>2. None detected</p> <p>3. &lt; 500 ppm</p> <p>4. &lt; 20 µg/kg for the total of Aflatoxins B1, B2, G1 and G2 combined and &lt; 20 µg/kg for Ochratoxin A</p> <p>5. Arsenic: &lt; 2 ppm Cadmium: &lt; 0.82 ppm Lead: &lt; 1.2 ppm Mercury: &lt; 0.4 ppm</p> <p>6. See 17 CAR 10.12</p> <p>7. &lt; 1,000 colony forming units per gram</p> <p>8. &lt; 100 colony forming units per gram</p> <p>9. None detected per gram</p> <p>10. None detected per gram</p> <p>11. None detected per gram</p> <p>12. None detected per gram</p> <p>13. None detected per gram</p> <p>14. None detected per gram</p>
<p>Edible hemp product, including a product which contains concentrated hemp</p>	<p>1. Potency analysis</p> <p>2. Foreign matter inspection</p> <p>3. Total Enterobacteriaceae</p> <p>4. Salmonella</p> <p>5. Pathogenic E. coli</p> <p>6. Total aerobic count</p>	<p>1. N/A</p> <p>2. None detected</p> <p>3. &lt; 1,000 colony forming units per gram</p> <p>4. None detected per gram</p> <p>5. None detected per gram</p>

	7. Water activity or pH	6. < 100,000 colony forming units per gram 7. Water activity < 0.86 or pH < 4.6
Liquid hemp product, including, without limitation, soda, or tonic, including a product which contains concentrated hemp	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 hemp product, including a product which contains concentrated marijuana	1. Potency analysis	1. N/A

- (d) A sample of usable hemp 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 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) Wet cannabis shall not be submitted to a cannabis laboratory for testing unless the wet cannabis 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 cannabis bud and 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 licensee from which the sample was collected within two days after obtaining the results. The certificate of analysis shall include a photo of the product, as received.
- (j) All quality assurance testing records shall be made available by the licensee to the Board or Board Agents for inspection. The Board may conduct its own testing of any hemp or hemp product offered for sale by a licensee. A licensee may not charge a price for such item in excess of the price offered to the public.
- (k) Certificates of analysis shall only be valid for a period of 90 days immediately after the sample date. A certificate of analysis which is expired may not be used to exhibit compliance with this title.
- (l) Certificates of analysis must be marked and labelled for retail sale. A licensee may obtain testing for research and development or investigatory purposes, but no certificate of analysis for such testing may be used to exhibit compliance with this title.

**17A CAR 6.04 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;

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- (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.

**17A CAR 6.05 Performance of testing to verify homogeneity of potency of edible hemp 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 hemp product by testing multiple samples from a single processing run.
- (b) A cannabis laboratory that tests an edible hemp product which has previously had the homogeneity of the potency of the edible hemp 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 hemp product.
- (c) The cannabis laboratory will verify the homogeneity of the potency of the edible hemp 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 hemp product.

**17A CAR 6.06 Edible hemp products; testing; requirements for sale.**

- (a) Each licensee shall ensure that testing is completed to verify the homogeneity of the potency of the product on each edible hemp product sold. A licensee shall not sell an edible hemp product unless a laboratory has verified the homogeneity of the potency of the product as evidenced by a certificate of analysis.
- (b) A licensee shall not sell an edible hemp product unless the recipe and production procedures for the product will ensure consistent concentration of cannabinoids throughout the edible hemp product.

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**17A CAR 6.07 Use of approved pesticides and plant growth regulators; performance of pesticide residue analysis by laboratory.**

- (a) A licensee may not sell hemp or hemp products which have at any point in their cultivation, processing, or production been treated with pesticides, unless 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 6.08 Testing details.**

- (a) Immediately before packaging:
  - (1) Usable hemp for sale to a hemp retail facility, a processing facility, or another cultivation facility, the hemp cultivator shall segregate all harvested hemp 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 cultivation facility has segregated. The cannabis laboratory which performs the test must collect the samples. If the cultivation facility has segregated the lot of harvested hemp into packages or container sizes smaller than the entire lot, the cultivation facility must present all packages

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- comprising the lot to the cannabis laboratory, and the laboratory must sample and test each package containing harvested hemp from the lot.
- (2) Concentrated hemp or hemp 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 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 hemp retail store, 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 hemp from becoming contaminated or losing its efficacy. Under no circumstances shall the cannabis facility which provided the sample sell the hemp or hemp products, as applicable, to a hemp retail store, 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) A licensee shall not use more than one cannabis laboratory to test the same lot or processing run of hemp or hemp products without the approval of the Board.
  - (k) The Board will take immediate disciplinary action against any licensee 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 licensee.
  - (l) A cannabis laboratory may subcontract its testing of hemp or hemp products only to another cannabis laboratory which has a valid license in its jurisdiction.
  - (m) The Board may publish on their website all Certificates of Analysis received or obtained by them.

## ***CHAPTER 7 PACKAGING AND LABELING***

### **17A CAR 7.01 Requirements for single packages.**

- (a) Hemp and hemp products must be individually packaged, labeled, and sealed in a single package for sale.
- (b) An edible hemp product must be packaged in a manner which indicates the number of servings of THC, CBD, and other cannabinoids and include a statement that the edible hemp product contains cannabis and its potency was tested with an allowable variance of plus or minus 15 percent of the allowable limit.
- (c) Text used on all labeling must be printed in at least 8-point font and may not be in italics.

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**17A CAR 7.02 Requirements for edible hemp products, products in solid or liquid form, usable hemp, and concentrated hemp products.**

- (a) Any edible product must:
- (1) Be clearly and unambiguously packaged as hemp with the words "THIS PRODUCT CONTAINS CANNABIS" or "THIS PRODUCT CONTAINS HEMP" 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;
  - (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 product;
- (b) Except as otherwise provided in subsection (c), marijuana products in solid or liquid form must be packaged in a food-grade material or container.
- (c) 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 hemp need not be opaque.
- (d) Any container or packaging containing usable hemp or hemp products must protect the contents from contamination and must be of a food grade material.
- (e) An edible hemp product must be sealed in a container which is not transparent and sold in packaging which is opaque.
- (f) Each single serving in a multiple-serving edible hemp product must be physically demarked in a way that enables a reasonable person to intuitively determine how much of the edible hemp 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 hemp product.

**17A CAR 7.03 Requirements for labeling products "organic."**

Hemp or hemp products shall not be labeled as "organic" unless the hemp 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.



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**17A CAR 7.04 Required labeling of usable hemp.**

- (a) Usable hemp must be labeled or include with each container or package containing usable hemp, if not already included on the container or package, a label which must include the following information in legible English and not misleading to consumers, without limitation:
- (1) The business or trade name and the license number of the cultivation facility that cultivated the hemp;
  - (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 hemp retail store;
  - (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 hemp was harvested;
  - (10) A warning that states: "THIS PRODUCT CONTAINS CANNABIS";
  - (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 hemp must be in substantially the following form:

AB's Hemp Shop, LLC

123 Main Street, Cherokee NC 28719

THIS PRODUCT CONTAINS CANNABIS

16.7% THC 0.2% 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.

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**17A CAR 7.05 Required labeling of hemp products.**

- (a) Hemp products must be labeled or include with each container or package containing the hemp product, if not already included on the container or package, a label which must include the following information in legible English and not misleading to consumers, 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 hemp used in the extraction of the concentrated hemp or contained in the product, as recorded in the inventory control system of the facility that sold the concentrated hemp or hemp product;
  - (3) The name and address of the hemp retail store;
  - (4) The date on which the hemp product was manufactured;
  - (5) If the product is an edible, an expiration or "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 hemp 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 hemp product;
  - (12) If concentrated hemp or a hemp 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 hemp or the hemp extract;
  - (13) A warning that states: "This product 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 HEMP."
- (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: 1/1/2024  
Best if used by: 6/3/2024  
Cannabinoid profile:  
THC content per serving +/- 15%:  
Keep out of Reach of Children

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

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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 be habit forming.

### **17A CAR 7.06 Required disclosures and warnings.**

- (a) A hemp retail store must, upon request, provide with all usable hemp and hemp products sold accompanying material that discloses any pesticides applied to the cannabis plants and growing medium during production and processing.
- (b) A hemp retail store must provide with all usable hemp and hemp products a written notification which contains the following warnings and information:
  - (1) That hemp and hemp products must be kept out of the reach of children;
  - (2) That hemp and hemp products can cause severe illness in children;
  - (3) That allowing children to ingest hemp or hemp products or storing hemp or hemp 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) "This product may have intoxicating effects and may be habit forming. Smoking is hazardous to your health";
  - (5) "Ingesting hemp or hemp 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";
  - (6) "There may be health risks associated with consumption of this product";
  - (7) "Pregnant or breastfeeding women should consult with a physician before ingesting cannabis or cannabis products, including hemp";
  - (9) "Hemp or hemp products can impair concentration, coordination and judgment. Do not operate a vehicle or machinery under the influence of hemp or hemp 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.
- (c) The text used on all accompanying material and warnings must be printed in at least 12-point font, legible, and may not be in italics.

### **17A CAR 7.07 Required labeling, cont.**

Each licensee shall:

- (a) Ensure labeling all hemp and hemp products is substantially similar to the standard label described in these regulations;
- (b) Exercise strict control over labeling materials used in labeling for hemp and hemp 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

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- (d) Have and follow written procedures describing in sufficient detail the control procedures employed for the inspection of labeling.

#### **17A CAR 7.08 Examination of products; collection of representative sample of units.**

Each licensee shall:

- (a) Examine packaged and labeled products 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.

#### **17A CAR 7.09 Hemp treated with radiation.**

If any hemp or hemp product has been treated with radiation at any time, any and all packaging of the irradiated hemp or hemp product must include the Radura symbol as used by the U.S. Food and Drug Administration. Licensees who sell hemp or hemp 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.

#### **17A CAR 7.10 Review of packaging.**

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

### ***CHAPTER 8 FEES***

#### **17A CAR 8.01 Fees, generally.**

- (a) Maximum and required fees are set out in Cherokee Code Section 17A-5.
- (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.

### ***CHAPTER 9 DISCIPLINARY AND OTHER PROCEEDINGS BEFORE THE BOARD.***

#### **17A CAR 9.01 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 "hemp" includes hemp and hemp products.

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### **17A CAR 9.02 Grounds for disciplinary action.**

- (a) Any violation of any of the provisions of Cherokee Code Chapter 17A or this title is grounds for disciplinary action by the Board, including, without limitation, immediate revocation of a license for a hemp store.

### **17A CAR 9.03 Notices of noncompliance, corrective action plans.**

- (a) The Board may, prior to initiating disciplinary procedures, issue the licensee 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 17A or this title;
  - (3) Describe the corrective action plan the licensee 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 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 in remedying the noncompliance or violation.
- (c) Failure to successfully complete a corrective action plan may subject the licensee to disciplinary procedures pursuant to this chapter.

### **17A CAR 9.04 Imposition of civil penalty; revocation of suspension of license; corrective action.**

- (a) The Board may:
  - (1) Subject to the provisions of this title, impose a civil penalty of not more than \$5,000 per violation on any person who fails to comply with or violates any provision of Cherokee Code Chapter 17A or this title.
  - (2) Except as otherwise provided in subsection (3) below, suspend or revoke a license. If the Board orders the suspension of a license, the Board shall prescribe the time period of the suspension in the written decision. If the Board orders the revocation of a license, the Board shall prescribe a period of not more than 10 years during which the person may not apply for reinstatement of the license; and
  - (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 of a person who fails to comply with or violates the provisions of Cherokee Code Chapter 17A 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 17A 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.

### **17A CAR 9.05 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

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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 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.

**17A CAR 9.06 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 hemp retail store, the Chair or Executive Director will convene an emergency Board meeting.
- (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 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 hemp retail store 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 licensee to resubmit a plan of correction or the Board may develop a directed plan of correction with which the licensee 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.

**17A CAR 9.07 Category I violations.**

- (a) The Board will determine a category I violation of Cherokee Code Chapter 17A or this title as follows:

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- (1) Category I violations are of a severity that make a person ineligible to receive, renew, or maintain a license, including, without limitation:
    - (A) Conviction of an excluded offense;
    - (B) Operating without all required permits, certificates, registrations, 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 hemp store while the license for the hemp store 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 hemp store;
    - (K) Refusing to allow an inspection or obstructing regulatory personnel or law enforcement officer from performing his or her official duties;
    - (L) Selling marijuana without a license issued by the Board pursuant to Cherokee Code Chapter 17;
    - (M) Intentionally modifying, adulterating, or otherwise transforming marijuana to avoid or frustrate the requirements of this title;
    - (N) Theft, diversion, or intentional removal in contravention of the Cherokee Code or this title of hemp;
    - (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 17A or this title:
    - (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 \$5,000 and a suspension for not more than 30 days or revocation of a license.
      - (B) Second or subsequent violation in the immediately preceding three years, revocation of a license.

**17A CAR 9.08 Category II violations.**

- (a) The Board will determine a category II violation of Cherokee Code Chapter 17A or this title 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 hemp, hemp products, or hemp paraphernalia to, a person who is less than 21 years of age;

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- (D) 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;
  - (E) 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;
  - (F) Allowing a person who is less than 18 years of age to work or volunteer at the hemp store;
  - (G) Failing to cease operation and notify the Board or Board Agents during an imminent health hazard;
  - (H) Failing to maintain required security alarm and surveillance systems;
  - (I) Failing to immediately notify the Board or Board Agents of a loss of possession or control of a hemp store;
  - (J) Transferring, moving, or disturbing hemp which has been quarantined by the Board without Board approval;
  - (K) Failing to renew the hemp store license on time; or
  - (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 17A or this title:
- (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 \$2,500 and a suspension for not more than 20 days of a license.
    - (B) Second violation in the immediately preceding three years, a civil penalty of not more than \$5,000 and a suspension for not more than 30 days of a license.
    - (C) Third or subsequent violation in the immediately preceding three years, revocation of a license.

### **17A CAR 9.09 Category III violations.**

- (a) The Board will determine a category III violation of Cherokee Code Chapter 17A or this title:
- (1) Category III violations are violations of a severity that create a potential threat to public health or safety, including, without limitation:
    - (A) Without Board approval, allowing consumption by any person of alcohol, marijuana, or other intoxicants on the premises of the hemp store or in areas adjacent to the premises of the hemp store which are under the licensee's control;
    - (B) Failing to keep any required records;
    - (C) Failing to label hemp as required;
    - (D) Allowing disorderly activity within a hemp store;
    - (E) Allowing any activity which violates the laws of the Tribe;
    - (F) Failing to immediately notify the Board or Board Agents after discovery of a serious incident or criminal activity on the premises of the hemp store;
    - (G) Unintentionally failing to pay or remit any taxes, fines, or levy;
    - (H) Selling unauthorized products or using unauthorized ingredients within hemp;
    - (I) Violating packaging or labeling requirements;



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- (J) Failing to properly dispose of hemp waste;
  - (K) Failing to comply with requirements for hand washing and employee hygiene;
  - (L) Failing to maintain proper temperature of potentially hazardous food or ingredients;
  - (M) Selling or failing to dispose of hemp or food items that are spoiled or contaminated;
  - (N) Failing to properly update the licensee's point of contact with the Board;
  - (O) Failure to maintain updated standard operating procedures; or
  - (P) 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 17A or this title:
- (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.
    - (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.
    - (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.
    - (E) Fifth or subsequent violation in the immediately preceding three years, revocation of a license.

#### **17A CAR 9.10 Category IV violations.**

- (a) The Board will determine a category IV violation of Cherokee Code Chapter 17A or Title 17A of the Cherokee Administrative Regulations as follows:
- (1) Category IV violations create a climate which is conducive to abuses associated with the sale of hemp, including, without limitation:
    - (A) Removing, altering, or covering a notice of suspension of a license or any other required notice or sign;
    - (B) Violating advertising requirements;
    - (C) Displaying products in a manner visible to the general public from a public right of way;
    - (D) Failing to respond to an administrative notice of a violation or failing to pay fines;
    - (E) Violating restrictions on sampling;
    - (F) Failing to maintain a standardized scale as required;
    - (G) Improper storing of hemp, ingredients, or other foods;
    - (H) Failing to properly wash, rinse, and sanitize product contact surfaces as required;
    - (I) Failing to maintain hand-washing facilities that are stocked, accessible and limited to hand washing only;
    - (J) Infestation by pests that are not multigenerational or on contact surfaces;
    - (K) Failing to properly use sanitizer as required;
    - (L) Violating any transportation or delivery requirements not described in another category of violations;

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- (M) Failing to respond to a Board or Board Agent's request for documentation, information, video, or other records; or
  - (N) 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 17A or this title:
- (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.
    - (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.
    - (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.
    - (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.
    - (F) Sixth or subsequent violation in the immediately preceding three years, revocation of a license.

#### **17A CAR 9.11 Category V violations.**

- (a) The Board will determine a category V violation of Cherokee Code Chapter 17A or Title 17A of the Cherokee Administrative Regulations as follows:
- (1) Category V violations are inconsistent with the orderly regulation of the sale of hemp, 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 closure greater than five days in duration of the hemp store within 48 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 hemp store;
    - (E) Failing to comply with any other requirements not described in another category of violations;
    - (F) Failing to properly submit quarterly inventory reports, monthly sales reports, or other reports required by the Board;
    - (G) Failure to pay for all costs involved in screening or testing related to quality assurance compliance checks within 30 days; or
    - (H) 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 17A or this title:
- (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.

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- (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.
  - (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.
  - (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.
  - (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.

### **17A CAR 9.12 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 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 17A, that failure shall create a rebuttal presumption that such items would be harmful to that licensee's case at the disciplinary proceeding.

### **17A CAR 9.13 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;
  - (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.

### **17A CAR 9.14 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.

### **17A CAR 9.15 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

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- (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.

**17A CAR 9.16 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.

**17A CAR 9.17 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.
- (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.

**17A CAR 9.18 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

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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.
  - (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.

### **17A CAR 9.19 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.

### **17A CAR 9.20 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.

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

### **17A CAR 9.21 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.

### **17A CAR 9.22 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.

### **17A CAR 9.23 Reinstatement of license after revocation.**

- (a) If a person applies for reinstatement of a license that has been revoked pursuant to this chapter, the person shall:

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- (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;
  - (2) The conduct of the person after the revocation of the license;
  - (3) The amount of time elapsed since the revocation of the license;
  - (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 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 card as it deems necessary.
- (d) The Board may deny reinstatement of the license 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.