

SUPREME COURT OF NEVADA

Case No. 79669

GREENMART OF NEVADA NLV LLC,; and
NEVADA ORGANIC REMEDIES, LLC
Appellants/Cross-Respondents,

Electronically Filed
Apr 15 2020 09:19 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

v.

ETW MANAGEMENT GROUP LLC; GLOBAL HARMONY LLC; GREEN
LEAF FARMS HOLDINGS LLC; GREEN THERAPEUTICS LLC; HERBAL
CHOICE INC.; JUST QUALITY LLC; LIBRA WELLNESS CENTER LLC;
ROMBOUGH REAL ESTATE INC. D/B/A MOTHER HERB; NEVCANN LLC;
RED GARDENS LLC; THC NEVADA LLC; ZION GARDENS LLC; and
MMOF VEGAS RETAIL INC.,
Respondents/Cross-Appellants,

and

THE STATE OF NEVADA DEPARTMENT OF TAXATION,
Respondent,

Appeal from the Eighth Judicial District Court,
Clark County, Nevada
District Court Case # A-19-797004-B
The Honorable Elizabeth Gonzalez

APPELLANT'S APPENDIX – VOLUME 1

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29	Notice of Entry of Order and Order Regarding Nevada Wellness Center, LLC's Motion to Alter or Amend Findings of Fact and Conclusions of Law Granting Preliminary Injunction	11/6/19	AA 007058 - AA 007067
20	Order Granting in Part Motion to Coordinate Cases for Preliminary Injunction Hearing	7/11/19	AA 004938 - AA 004940
22	Order Granting Preliminary Injunction (Findings of Fact and Conclusions of Law)	8/23/19	AA 005277 - AA 005300
46, 47	Preliminary Injunction Hearing, Defendant's Exhibit 2009 Governor's Task Force Report	n/a	AA 011408 - AA 011568
47	Preliminary Injunction Hearing, Defendant's Exhibit 2018 List of Applicants for Marijuana Establishment Licenses 2018	n/a	AA 011569 - AA 011575

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47	Preliminary Injunction Hearing, Defendant's Exhibit 5025 Nevada Organic Remedies, LLC's Organizational Chart	n/a	AA 011576 - AA 011590
47	Preliminary Injunction Hearing, Defendant's Exhibit 5026 Nevada Organic Remedies, LLC's Ownership Approval Letter	n/a	AA 011591, AA 011592
47	Preliminary Injunction Hearing, Defendant's Exhibit 5026 Nevada Organic Remedies, LLC's Ownership Approval Letter as Contained in the Application	n/a	AA 011593 - AA 011600
47	Preliminary Injunction Hearing, Defendant's Exhibit 5038 Evaluator Notes on Nevada Organic Remedies, LLC's Application	n/a	AA 011601 - AA 011603
47	Preliminary Injunction Hearing, Defendant's Exhibit 5045 Minutes of ther Legislative Commission, Nevada Legislative Counsel Bureau	n/a	AA 011604 - AA 011633
47	Preliminary Injunction Hearing, Defendant's Exhibit 5049 Governor's Task Force for the Regulation and Taxation of Marijuana Act Meeting Minutes	n/a	AA 011634 - AA 011641
47	Register of Actions for Serenity Wellness Center, LLC v. State of Nevada, Department of Taxation, Case No. A-18-786962-B	n/a	AA011642 - AA 011664
27	Serenity Wellness Center, LLC et al.'s Joinder to MM Development Company Inc. and LivFree Wellness, LLC Development Company Inc. and LivFree Wellness, LLC's Motion to Amend the Findings of Fact and Conclusions of Law Granting Motion for Preliminary Injunction	9/30/19	AA 006506 - AA 006508
2	Serenity Wellness Center, LLC et al.'s Complaint	1/4/19	AA 000343 - AA 000359
0	Serenity Wellness Center, LLC et al.'s Corrected First Amended Complaint	7/11/19	AA 004907 - AA 004924
5, 6	Serenity Wellness Center, LLC et al.'s Ex Parte Motion for Leave to file Brief in Support of Motion for Preliminary Injunction in Excess of Thirty Pages in Length	4/10/19	AA 001163 - AA 001288

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20	Serenity Wellness Center, LLC et al.'s First Amended Complaint	7/3/19	AA 004889 - AA 004906
40	Serenity Wellness Center, LLC et al.'s Joinder to MM Development Company Inc. and LivFree Wellness, LLC Development Company Inc. and LivFree Wellness, LLC's Motion for Preliminary Injunction	5/20/19	AA 003603 - AA 003636
23	Serenity Wellness Center, LLC et al.'s Joinder to MM Development Company Inc. and LivFree Wellness, LLC Development Company Inc. and LivFree Wellness, LLC's Objection to Court's Exhibit 3	8/27/19	AA 005540 - AA 005543
27	Serenity Wellness Center, LLC et al.'s Joinder to Nevada Wellness Center, LLC's Motion to Amend the Findings of Fact and Conclusions of Law Granting Motion for Preliminary Injunction	10/7/19	AA 006528 - AA 006538
4	Serenity Wellness Center, LLC et al.'s Motion for Preliminary Injunction	3/19/19	AA 000769 - AA 000878
18	Serenity Wellness Center, LLC et al.'s Reply in support of Motions for Summary Judgment	5/22/19	AA 004395 - AA 004408
29	Serenity Wellness Center, LLC et al.'s Second Amended Complaint	11/26/19	AA 007131 - AA 007153
5	Serenity Wellness Center, LLC et al.'s Summons to State of Nevada, Department of Taxation	3/26/19	AA 001031 - AA 001034
19	Serenity Wellness Center, LLC et al.'s Supplemental Memorandum of Points and Authorities in Support of Preliminary Injunction	6/10/19	AA 004564 - AA 004716
6	State of Nevada, Department of Taxation's Answer to ETW Management Group, LLC et al.'s Amended Complaint	4/17/19	AA 001313 - AA 001326
19	State of Nevada, Department of Taxation's Answer to ETW Management Group, LLC et al.'s Second Amended Complaint	6/4/19	AA 004513 - AA 004526
5	State of Nevada, Department of Taxation's Answer to MM Development Company Inc. and LivFree Wellness, LLC Development Company Inc. and LivFree Wellness, LLC's First Amended Complaint	4/10/19	AA 001150 - AA 001162

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6	State of Nevada, Department of Taxation's Answer to Nevada Wellness Center, LLC's Complaint	5/2/19	AA 001342 - AA 001354
15	State of Nevada, Department of Taxation's Answer to Serenity Wellness Center, LLC et al.'s Complaint	5/20/19	AA 003637 - AA 003648
20	State of Nevada, Department of Taxation's Answer to Serenity Wellness Center, LLC et al.'s Corrected First Amended Complaint	7/15/19	AA 004949 - AA 004960
11	State of Nevada, Department of Taxation's Opposition to MM Development Company Inc. and LivFree Wellness, LLC Development Company Inc. and LivFree Wellness, LLC's Motion for Preliminary Injunction	5/20/19	AA 002704 - AA 002724
11-14	State of Nevada, Department of Taxation's Opposition to MM Development Company Inc. and LivFree Wellness, LLC Development Company Inc. and LivFree Wellness, LLC's Motion for Preliminary Injunction, Appendix	5/20/19	AA 002725 - AA 003444
24	State of Nevada, Department of Taxation's Opposition to Motion to Amend the Findings of Fact and Conclusions of Law Granting Motion for Preliminary Injunction	9/23/19	AA 005984 - AA 005990
28	State of Nevada, Department of Taxation's Opposition to Motion to Nevada Wellness Center, LLC's Amend the Findings of Fact and Conclusions of Law Granting Motion for Preliminary Injunction	10/24/19	AA 006827 - AA 006832
28	State of Nevada, Department of Taxation's Opposition to Nevada Organic Remedies, LLC's Application for Writ of Mandamus to Compel State of Nevada , Department of Taxation to Move Nevada Organic Remedies, LLC Into "Tier 2" of Successful Conditional License Applicants	10/24/19	AA 006889 - AA 006954
10	State of Nevada, Department of Taxation's Opposition to Serenity Wellness Center, LLC et al.'s Motion for Preliminary Injunction	5/9/19	AA 002273 - AA 002534
19-20	State of Nevada, Department of Taxation's Pocket Brief Regarding Regulatory Power Over Statutes Passed by Voter Initiative	6/10/19	AA 004717 - AA 004777

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20	State of Nevada, Department of Taxation's Supplement to Pocket Brief Regarding Regulatory Power Over Statutes Passed by Voter Initiative	6/24/19	AA 004879 - AA 004888
5	Stipulation and Order to Continue Hearing and Extend Briefing Schedule for Motion for Preliminary Injunction	4/8/19	AA 001144 - AA 001149
46	Transcripts for Hearing on Objections to State's Response, Nevada Wellness Center, LLC's Motion Re Compliance Re Physical Address, and Bond Amount Set	8/29/19	AA 011333 - AA 011405
29	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 1	5/24/19	AA 007170 - AA 007404
30	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 2 Volume 1	5/28/19	AA 007405 - AA 007495
30, 31	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 2 Volume 2	5/28/19	AA 007496 - AA 007601
31	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 3 Volume 1	5/29/19	AA 007602 - AA 007699
31, 32	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 3 Volume 2	5/29/19	AA 007700 - AA 007843
32, 33	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 4	5/30/19	AA 007844 - AA 008086
33	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 5 Volume 1	5/31/19	AA 008087 - AA 008149
33, 34	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 5 Volume 2	5/31/19	AA 008150 - AA 008369
34, 35	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 6	6/10/19	AA 008370 - AA 008594
35, 36	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 7	6/11/19	AA 008595 - AA 008847

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36	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 8 Volume 1	6/18/19	AA 008848 - AA 008959
36, 37	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 8 Volume 2	6/18/19	AA 008960 - AA 009093
37	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 9 Volume 1	6/19/19	AA 009094 - AA 009216
38	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 10 Volume 1	6/20/19	AA 009350 - AA 009465
38, 39	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 10 Volume 2	6/20/19	AA 009466 - AA 009623
39	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 11	7/1/19	AA 009624 - AA 009727
39, 40	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 12	7/10/19	AA 009728 - AA 009902
40, 41	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 13 Volume 1	7/11/19	AA 009903 - AA 010040
41	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 13 Volume 2	7/11/19	AA 010041 - AA 010162
41, 42	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 14	7/12/19	AA 010163 - AA 010339
42	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 15 Volume 1	7/15/19	AA 010340 - AA 010414
42, 43	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 15 Volume 2	7/15/19	AA 010415 - AA 010593
43	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 16	7/18/19	AA 010594 - AA 010698

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43, 44	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 17 Volume 1	8/13/19	AA 010699 - AA 010805
44	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 17 Volume 2	8/13/19	AA 010806 - AA 010897
44, 45	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 18	8/14/19	AA 010898 - AA 011086
45	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 19	8/15/19	AA 011087 - AA 011165
45, 46	Transcripts for the Evidentiary Hearing on Motions for Preliminary Injunction Day 20	8/16/19	AA 011166 - AA 011332

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **APPELLANT NEVADA ORGANIC REMEDIES, LLC'S OPENING BRIEF** was filed electronically with the Nevada Supreme Court on the 17th day of January, 2020. Electronic service of the foregoing document shall be made in accordance with the Master Service List as follows:

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Brownsein Hyatt Farber Shreck, LLP

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Ketan D. Bhirud, Aaron D. Ford, Theresa M. Haar, David J. Pope,
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Office of the Attorney General

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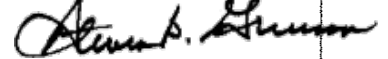
McLetchie Law

Counsel for Appellant,

Counsel for GreenMart of Nevada NLV LLC

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6 **DISTRICT COURT**

7 **CLARK COUNTY, NEVADA**

8 MM DEVELOPMENT COMPANY, INC., a
9 Nevada corporation,

10 Plaintiff,

11 vs.

12 STATE OF NEVADA, DEPARTMENT OF
13 TAXATION; and DOES 1 through 10; and
14 ROE CORPORATIONS 1 through 10.

15 Defendants.

Case No.: A-18-785818-W

Dept. No.: Department 18

**COMPLAINT AND PETITION FOR
JUDICIAL REVIEW OR WRIT OF
MANDAMUS**

Arbitration Exemption Claimed:

- *Involves Declaratory Relief*
- *Presents Significant Issue of Public Policy*
- *Involves Equitable or Extraordinary Relief*

16 COMES NOW Plaintiff, MM DEVELOPMENT COMPANY, INC., by and through their
17 counsel of record, Kemp, Jones & Coulthard, LLP, and hereby complains against Defendants STATE
18 OF NEVADA, DEPARTMENT OF TAXATION, and Does I through X, and petitions this Court for
19 Writ of Mandamus as follows:

20 **I.**
PARTIES & JURISDICTION

21 1. Plaintiff, MM DEVELOPMENT COMPANY, LLC., is a Nevada corporation duly
22 licensed under the laws of the State of Nevada.
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3. The true names and capacities, whether individual, corporate, association or otherwise of the Defendants DOES 1 through 10 and/or ROE CORPORATIONS 1 through 10, inclusive, are unknown to Plaintiffs, who therefore sue said Defendants by such fictitious names. Plaintiffs are informed and believe, and thereupon allege, that each of the Defendants designated herein as DOES and/or ROE CORPORATIONS is responsible in some manner for the events and happenings herein referred to, and in some manner caused the injuries and damages to Plaintiffs alleged herein. Plaintiffs will ask leave of the court to amend this Complaint to insert the true names and capacities of said Defendants DOES 1 through 10 and/or ROE CORPORATIONS 1 through 10, inclusive when the same have been ascertained by Plaintiffs, together with the appropriate charging allegations, and to join such Defendants in this action.

4. The Nevada State Legislature passed a number of bills during the 2017 legislative session that affected the licensing, regulation, and operation of recreational marijuana establishments in the state of Nevada. One of those bills, Assembly Bill 422, transferred responsibility for the registration, licensing, and regulation of marijuana establishments from the State of Nevada's Division of Public and Behavioral Health to the Department of Taxation.

AA 000002

1 6. The Department issued a notice for an application period wherein the Department
2 sought applications from qualified applicants to award sixty-four (64) recreational marijuana retail
3 store licenses throughout various jurisdictions in Nevada.

4 7. The application period for those licenses, including thirty-one (31) licenses in Clark
5 County, seven (7) licenses in Washoe County and one (1) license in Nye County, opened on
6 September 7, 2018 and closed on September 20, 2018.

7 8. If the Department received more than one application for a license for a recreational
8 marijuana retail store and the Department determined that more than one of the applications was
9 complete and in compliance with R092-17, Sec. 78 and NRS 453D, the Department was required to
10 rank the applications within each applicable locality for any applicants in a jurisdiction that limits the
11 number of retail marijuana stores in order from first to last. Ranking is based on compliance with the
12 provisions of R092-17 Sec. 80, NRS 453D and on the content of the applications relating to:

- 13 a. Operating experience of another kind of business by the owners, officers or
14 board members that has given them experience which is applicable to the
15 operation of a marijuana establishment.
- 16 b. Diversity of the owners, officers or board members.
- 17 c. Evidence of the amount of taxes paid and other beneficial financial
18 contributions.
- 19 d. Educational achievements of the owners, officers or board members.
- 20 e. The applicant's plan for care, quality and safekeeping of marijuana from seed to
21 sale.
- 22 f. The financial plan and resources of the applicant, both liquid and illiquid.
- 23 g. The experience of key personnel that the applicant intends to employ.
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1 h. Direct experience of the owners, officers or board members of a medical
2 marijuana establishment or marijuana establishment in this State.

3 9. No later than December 5, 2018, the Department was responsible for issuing
4 conditional licenses to those applicants who score and rank high enough in each jurisdiction to be
5 awarded one of the allocated licenses.

6 10. The Department allocated ten (10) licenses for unincorporated Clark County, Nevada;
7 ten (10) licenses for Las Vegas, Nevada; six (6) licenses for Henderson, Nevada; five (5) licenses for
8 North Las Vegas, Nevada; six (6) licenses for Reno, Nevada; one (1) license for Sparks, Nevada; and
9 one (1) license for Nye County, Nevada.

10 11. Prior to the application process with the Department, Plaintiff was previously scored
11 and ranked in the 2015 licensing procedure, pursuant to NRS 453A, in conjunction with a medical
12 marijuana establishment permit application.

13 12. At that time, Plaintiff received a score of 203.58 and was ranked as the fourth-highest
14 applicant for a medical marijuana dispensary in unincorporated Clark County, Nevada.

15 13. The factors used for the 2015 rankings were substantially similar to the factors to be
16 used by the Department for the 2018 rankings for the allocated licenses.

17 14. The only major difference between the factors assessed for the 2015 rankings and the
18 2018 rankings was the addition of diversity of race, ethnicity, or gender of applicants (owners,
19 officers, board members) to the existing merit criteria.

20 15. Plaintiff submitted applications for recreational marijuana retail store licenses to own
21 and operate recreational marijuana retail stores in the following jurisdictions: unincorporated Clark
22 County, Nevada; Las Vegas, Nevada; North Las Vegas, Nevada; Mesquite, Nevada; Reno, Nevada;
23 and Nye County, Nevada.

1 24. The Department's actions and/or inactions also have created an actual justiciable
2 controversy ripe for judicial determination between Plaintiff and the Department with respect to the
3 construction, interpretation, and implementation of NRS 453D, NAC 453D, and R092-17 as to
4 Plaintiff. Plaintiff has been harmed, and will continue to be harmed, by the Defendants' actions.

5 25. The Department's actions and/or inactions failed to appropriately address the necessary
6 considerations and intent of NRS 453D.210, designed to restrict monopolies.

7 26. Accordingly, Plaintiff seeks a declaration from this Court that, *inter alia*:

- 8 a. That the Department improperly denied Plaintiff six (6) "conditional" licenses
9 for the operation of a recreational marijuana establishment in the following
10 jurisdictions: unincorporated Clark County, Nevada; Las Vegas, Nevada; North
11 Las Vegas, Nevada; Mesquite, Nevada; Reno, Nevada; and Nye County,
12 Nevada.
- 13 b. The denial of a "conditional" license to Plaintiff is void *ab initio*;
- 14 c. The procedures employed in the denial violated Plaintiff's procedural due
15 process rights and equal protection rights under the Nevada and United States
16 Constitutions and, therefore, the denial is void and unenforceable;
- 17 d. The denial violates Plaintiff's substantive due process rights and equal
18 protection rights under the Nevada and United States Constitutions and,
19 therefore, the denial is void and unenforceable;
- 20 e. The denial is void for vagueness and therefore unenforceable;
- 21 f. Defendant acted arbitrarily and capriciously or in contravention of a legal duty
22 and Plaintiff is therefore entitled to a writ of mandamus;
- 23 g. Plaintiff is entitled to judicial review; and
- 24 h. The Department's denial lacked substantial evidence.
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29. Plaintiff has found it necessary to retain the legal services of Kemp, Jones & Coulthard, LLP, to bring this action, and Plaintiff is entitled to recover its reasonable attorneys' fees and costs therefor.

34. The Department's interpretation of NRS 453D, NAC Chapter 453D, and R092-17 is flawed and Plaintiff is likely to succeed on the merits in this litigation.

1 35. The public interest favors Plaintiffs because in the absence of injunctive relief, the
2 consumers who would have benefitted will have less available options from which they can receive
3 recreational marijuana.

4 36. Therefore, Plaintiffs is entitled to preliminary injunctive relief, and after a trial on the
5 merits, permanent injunctive relief, ordering the Department to issue “conditional” licenses to Plaintiff
6 in accordance with NRS 453D, NAC 453D, and R092-17.

7
8 **THIRD CLAIM FOR RELIEF**
9 **(Violation of Procedural Due Process)**

10 37. Plaintiff repeats and realleges all prior paragraphs as though fully set forth herein.

11 38. The procedures employed by the Department in denying Plaintiff’s applications have
12 deprived Plaintiff of due process of law as guaranteed by the Nevada Constitution and the United
13 States Constitution.

14 39. The process in which denial was considered, noticed to the public, and passed failed to
15 provide Plaintiff a meaningful opportunity to be heard at a consequential time and was fundamentally
16 unfair and violated the due process requirements of the Nevada and United States Constitutions.

17 40. The Constitutional infirmity of this entire process renders the denial void and
18 unenforceable, and Plaintiff is entitled to a declaration as to the denials’ ineffectiveness and an order
19 enjoining its enforcement.
20

21 41. Plaintiff is also entitled to damages for these due process violations.

22 42. As the action of the Department necessitated that Plaintiff retain the legal services of
23 Kemp, Jones & Coulthard, LLP, and incur fees and costs to bring this action, Plaintiff is also entitled
24 to attorneys’ fees and costs of suit.

25 43. Plaintiff has found it necessary to bring this action, and Plaintiff is entitled to recover
26 its reasonable attorneys’ fees and costs therefor.
27
28

FOURTH CLAIM FOR RELIEF
(Violation of Substantive Due Process)

44. Plaintiff repeats and realleges all prior paragraphs as though fully set forth herein.

45. The denial violates Plaintiff's substantive due process rights guaranteed by the Nevada Constitution and the United States Constitution.

46. The Constitutional infirmity of this entire process and the Department's denial renders the denial void and unenforceable, and Plaintiff is entitled to a declaration as to the denials' ineffectiveness and an order enjoining its enforcement.

47. Plaintiff is also entitled to damages for these due process violations.

48. As the action of the Department necessitated that Plaintiff retain the legal services of Kemp, Jones & Coulthard, LLP, and incur fees and costs to bring this action, Plaintiff is also entitled to attorneys' fees and costs of suit.

FIFTH CLAIM FOR RELIEF
(Equal Protection Violation)

49. Plaintiff repeats and realleges all prior paragraphs as though fully set forth herein.

50. The denial violates Plaintiff's right to equal protection under the Nevada and United States Constitutions.

51. The denial divides up marijuana applications into two or more classes.

52. This classification and disparate treatment is unconstitutional because there is no rational relationship between the disparity of this treatment and any legitimate governmental purpose.

53. The constitutional infirmity of this denial renders it void and unenforceable, and Plaintiff is entitled to a declaration as to the denials' ineffectiveness and an order enjoining its enforcement.

SIXTH CLAIM FOR RELIEF (Petition for Judicial Review)

55. Plaintiff repeats and realleges all prior paragraphs as though fully set forth herein.

56. The Department, in misinterpreting and incorrectly applying NRS 453D, NAC 453D and the related Nevada laws and regulations, has exceeded its jurisdiction by issuing “conditional” licenses to applicants that do not merit “conditional” licenses under NRS 453D, NAC 453D, and R092-17.

57. Plaintiff is aggrieved by the decision of the Department to deny Plaintiff's application without proper notice, substantial evidence, or compliance with NRS 453D, NAC 453D, R092-17, and other Nevada state laws or regulations.

58. There is no provision in NRS 453D, NAC 453D, or R092-17 allowing for an administrative appeal of the Department's decision, and apart from injunctive relief, no plain, speedy, and adequate remedy for the Department's improper actions.

59. Accordingly, Plaintiff petitions this Court for judicial review of the record on which the Department's denial was based, including but not limited to:

- a. A determination that the decision lacked substantial evidence;
- b. A determination that the denial is void *ab initio* for non-compliance with NRS 453D, NAC 453D, R092-17, and other Nevada state laws or regulations; and
- c. Other relief consistent with those determinations.

60. Plaintiff has found it necessary to retain the legal services of Kemp, Jones & Coulthard, LLP, to bring this action, and Plaintiff is entitled to recover its reasonable attorneys' fees and costs therefor.

SEVENTH CLAIM FOR RELIEF
(Petition for Writ of Mandamus)

61. Plaintiff repeats and realleges all prior paragraphs as though fully set forth herein.

62. When a governmental body fails to perform an act “that the law requires” or acts in an arbitrary or capricious manner, a writ of mandamus shall issue to correct the action. Nev. Rev. Stat. § 34.160.

63. The Department failed to perform various acts that the law requires including but not limited to:

- a. Providing proper pre-hearing notice of the denial; and
- b. Arbitrarily and capriciously denying the application for no legitimate reason.

64. The Department acted arbitrarily and capriciously in the denial by performing or failing to perform the acts enumerated above and because, *inter alia*:

- a. The Board lacked substantial evidence to deny the application; and
- b. The Board denied the application solely to approve other competing applicants without regard to the merit of Plaintiffs’ application.

65. These violations of the Defendants’ legal duties were arbitrary and capricious actions that compel this Court to issue a Writ of Mandamus directing the Department to review the application on its merits and/or approve it.

66. As a result of the Defendants’ unlawful and arbitrary and capricious actions, Plaintiff has been forced to retain legal counsel to prosecute this action and is therefore also entitled to its damages, costs in this suit, and an award of attorneys’ fees pursuant to NRS 34.270.

IV.
PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment as follows:

- 1. For declaratory relief as set forth above;

2. For a preliminary and permanent injunction enjoining the enforcement of the denial;
3. For judicial review of the record and history on which the denial was based;
4. For the issuance of a writ of mandamus;
5. For compensatory and special damages as set forth herein;
6. For attorneys' fees and costs of suit; and
7. For all other and further relief as the Court deems just and proper.

V.
JURY DEMAND

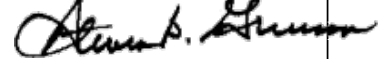
Trial by jury is hereby demanded on all claims and issues so triable.

DATED this December 11, 2018

KEMP, JONES & COULTHARD LLP



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DISTRICT COURT

CLARK COUNTY, NEVADA

MM DEVELOPMENT COMPANY, INC., a
Nevada corporation; LIVFREE WELLNESS
LLC, dba The Dispensary, a Nevada limited
liability company

Plaintiffs,

vs.

STATE OF NEVADA, DEPARTMENT OF
TAXATION; and DOES 1 through 10; and
ROE CORPORATIONS 1 through 10.

Defendants.

Case No.: A-18-785818-W

Dept. No.: XVIII

**FIRST AMENDED COMPLAINT AND
PETITION FOR JUDICIAL REVIEW OR
WRIT OF MANDAMUS**

Arbitration Exemption Claimed:

- *Involves Declaratory Relief*
- *Presents Significant Issue of
Public Policy*
- *Involves Equitable or
Extraordinary Relief*

COMES NOW Plaintiffs, MM DEVELOPMENT COMPANY, INC., and LIVFREE
WELLNESS LLC, dba The Dispensary, by and through their counsel of record, Kemp, Jones &
Coulthard, LLP, and hereby complains against Defendants STATE OF NEVADA, DEPARTMENT
OF TAXATION, and Does I through X, and petitions this Court for Writ of Mandamus as follows:

I
PARTIES & JURISDICTION

1. Plaintiff, MM DEVELOPMENT COMPANY, LLC., is a Nevada corporation duly
licensed under the laws of the State of Nevada.
2. Plaintiff, LIVFREE WELLNESS, LLC, dba The Dispensary, is a Nevada limited
liability company duly licensed under the laws of the State of Nevada.

3. Defendant STATE OF NEVADA, DEPARTMENT OF TAXATION (the “Department”) is an agency of the State of Nevada. The Department is responsible for licensing and regulating retail marijuana businesses in Nevada through its Marijuana Enforcement Division.

4. The true names and capacities, whether individual, corporate, association or otherwise of the Defendants DOES 1 through 10 and/or ROE CORPORATIONS 1 through 10, inclusive, are unknown to Plaintiffs, who therefore sue said Defendants by such fictitious names. Plaintiffs are informed and believe, and thereupon allege, that each of the Defendants designated herein as DOES and/or ROE CORPORATIONS is responsible in some manner for the events and happenings herein referred to, and in some manner caused the injuries and damages to Plaintiffs alleged herein. Plaintiffs will ask leave of the court to amend this Complaint to insert the true names and capacities of said Defendants DOES 1 through 10 and/or ROE CORPORATIONS 1 through 10, inclusive when the same have been ascertained by Plaintiffs, together with the appropriate charging allegations, and to join such Defendants in this action.

II. GENERAL ALLEGATIONS

5. The Nevada State Legislature passed a number of bills during the 2017 legislative session that affected the licensing, regulation, and operation of recreational marijuana establishments in the state of Nevada. One of those bills, Assembly Bill 422, transferred responsibility for the registration, licensing, and regulation of marijuana establishments from the State of Nevada's Division of Public and Behavioral Health to the Department of Taxation.

6. According to an August 16, 2018 letter from the Department, pursuant to Section 80(3) of Adopted Regulation of the Department of Taxation, LCB File No. R092-17 (“R092-17”), the Department was responsible for allocating the licenses of recreational marijuana retail stores “to jurisdictions within each county and to the unincorporated area of the county proportionally based on the population of each jurisdiction and of the unincorporated area of the county.”

1 7. The Department issued a notice for an application period wherein the Department
2 sought applications from qualified applicants to award sixty-four (64) recreational marijuana retail
3 store licenses throughout various jurisdictions in Nevada.

4 8. The application period for those licenses, including thirty-one (31) licenses in Clark
5 County, seven (7) licenses in Washoe County, one (1) license in Elko County, and one (1) license in
6 Nye County, opened on September 7, 2018 and closed on September 20, 2018.

7 9. If the Department received more than one application for a license for a recreational
8 marijuana retail store and the Department determined that more than one of the applications was
9 complete and in compliance with R092-17, Sec. 78 and NRS 453D, the Department was required to
10 rank the applications within each applicable locality for any applicants in a jurisdiction that limits the
11 number of retail marijuana stores in order from first to last. Ranking is based on compliance with the
12 provisions of R092-17 Sec. 80, NRS 453D and on the content of the applications relating to:

- 13 a. Operating experience of another kind of business by the owners, officers or
14 board members that has given them experience which is applicable to the
15 operation of a marijuana establishment.
- 16 b. Diversity of the owners, officers or board members.
- 17 c. Evidence of the amount of taxes paid and other beneficial financial
18 contributions.
- 19 d. Educational achievements of the owners, officers or board members.
- 20 e. The applicant's plan for care, quality and safekeeping of marijuana from seed to
21 sale.
- 22 f. The financial plan and resources of the applicant, both liquid and illiquid.
- 23 g. The experience of key personnel that the applicant intends to employ.
- 24
- 25
- 26
- 27
- 28

1 h. Direct experience of the owners, officers or board members of a medical
2 marijuana establishment or marijuana establishment in this State.

3 10. No later than December 5, 2018, the Department was responsible for issuing
4 conditional licenses to those applicants who score and rank high enough in each jurisdiction to be
5 awarded one of the allocated licenses.

6 11. The Department allocated ten (10) licenses for unincorporated Clark County, Nevada;
7 ten (10) licenses for Las Vegas, Nevada; six (6) licenses for Henderson, Nevada; five (5) licenses for
8 North Las Vegas, Nevada; six (6) licenses for Reno, Nevada; one (1) license for Sparks, Nevada; and
9 one (1) license for Nye County, Nevada.

10 12. Prior to the application process with the Department, Plaintiffs were previously scored
11 and ranked in the 2015 licensing procedure, pursuant to NRS 453A, in conjunction with a medical
12 marijuana establishment permit application.

13 13. At that time, Plaintiff MM Development Company, Inc. received a score of 203.58 and
14 was ranked as the fourth-highest applicant for a medical marijuana dispensary in unincorporated Clark
15 County, Nevada. Plaintiff Livfree Wellness, LLC dba The Dispensary was ranked as the highest
16 applicant for Henderson, Nevada with a score of 208.3; the highest applicant for Reno, Nevada with a
17 score of 207; and the fifth-highest applicant in unincorporated Clark County, Nevada with a score of
18 201.64.

19 14. The factors used for the 2015 rankings were substantially similar to the factors to be
20 used by the Department for the 2018 rankings for the allocated licenses.

21 15. The only major difference between the factors assessed for the 2015 rankings and the
22 2018 rankings was the addition of diversity of race, ethnicity, or gender of applicants (owners,
23 officers, board members) to the existing merit criteria.

17. Plaintiff Livfree Wellness, LLC dba The Dispensary submitted applications (i.e., RD 292, RD 293, RD 294, RD 295, RD 296, and RD 297) for recreational marijuana retail store licenses to own and operate recreational marijuana retail stores in the following jurisdictions: unincorporated Clark County, Nevada; Las Vegas, Nevada; North Las Vegas, Nevada; Reno, Nevada; Elko County, Nevada; and Nye County, Nevada.

18. On or about December 5, 2018, despite their prior exceptional ranking, Plaintiffs was informed by the Department that all of their applications to operate recreational marijuana retail stores were denied.

19. Plaintiffs are informed and believe that the Department improperly granted “conditional” licenses to applicants that were ranked substantially lower than Plaintiffs on the 2015 rankings.

20. Plaintiffs are informed and believe that the Department improperly granted more than one recreational marijuana store license per jurisdiction to certain applicants, owners, or ownership groups.

III.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF
(Declaratory Relief)

21. Plaintiffs repeat and reallege all prior paragraphs as though fully set forth herein.

22. A justiciable controversy exists that warrants a declaratory judgment pursuant to Nevada's Uniform Declaratory Judgments Act, NRS 30.010 to 30.160, inclusive.

1 23. Plaintiffs and the Defendant have adverse and/or competing interests as the
2 Department, through its Marijuana Enforcement Division, has denied the applications that violate
3 Plaintiffs' Constitutional Rights, Nevada law, and State policy.

4 24. The Department's refusal to issue Plaintiffs any "conditional" licenses affects
5 Plaintiffs' rights afforded them by NRS 453D, NAC 453D, R092-17, and other Nevada laws and
6 regulations.

7
8 25. Further, the Department's improper ranking of the other applicants for a recreational
9 marijuana establishment license and the Department's subsequent, improper issuance to each of a
10 "conditional" license also affects the rights of Plaintiffs afforded them by NRS 453D, NAC 453D,
11 R092-17, and other Nevada laws and regulations.

12 26. The Department's actions and/or inactions also have created an actual justiciable
13 controversy ripe for judicial determination between Plaintiffs and the Department with respect to the
14 construction, interpretation, and implementation of NRS 453D, NAC 453D, and R092-17 as to
15 Plaintiffs. Plaintiffs have been harmed, and will continue to be harmed, by the Defendants' actions.

16
17 27. The Department's actions and/or inactions failed to appropriately address the necessary
18 considerations and intent of NRS 453D.210, designed to restrict monopolies.

19 28. Accordingly, Plaintiffs seek a declaration from this Court that, *inter alia*:

- 20 a. That the Department improperly denied each Plaintiff six (6) "conditional"
21 licenses for the operation of a recreational marijuana establishment in the
22 following jurisdictions: unincorporated Clark County, Nevada; Las Vegas,
23 Nevada; North Las Vegas, Nevada; Mesquite, Nevada; Reno, Nevada; Elko
24 County, Nevada; and Nye County, Nevada.
25
26 b. The denial of a "conditional" license to Plaintiffs is void *ab initio*;
27
28

- c. The procedures employed in the denial violated Plaintiffs' procedural due process rights and equal protection rights under the Nevada and United States Constitutions and, therefore, the denial is void and unenforceable;
- d. The denial violates Plaintiffs' substantive due process rights and equal protection rights under the Nevada and United States Constitutions and, therefore, the denial is void and unenforceable;
- e. The denial is void for vagueness and therefore unenforceable;
- f. Defendant acted arbitrarily and capriciously or in contravention of a legal duty and Plaintiffs are therefore entitled to a writ of mandamus;
- g. Plaintiffs are entitled to judicial review; and
- h. The Department's denial lacked substantial evidence.

29. Plaintiffs also seek a declaration from this Court that the Department must issue each Plaintiff six (6) "conditional" license for the operation of a recreational marijuana establishment in unincorporated Clark County, Nevada; Las Vegas, Nevada; North Las Vegas, Nevada; Mesquite, Nevada; Reno, Nevada; Elko County, Nevada; and Nye County, Nevada since Plaintiffs' scores issued by the Department would have ranked high enough to entitle them to a "conditional" license had the Department properly applied the provisions of NRS 453D, NAC Chapter 453D, and R092-17.

30. Plaintiffs assert and contend that a declaratory judgment is both necessary and proper at this time for the Court to determine the respective rights, duties, responsibilities and liabilities of the Plaintiffs afforded them by NRS 453D, NAC Chapter 453D, R092-17, and other Nevada laws and regulations.

31. Plaintiffs have found it necessary to retain the legal services of Kemp, Jones & Coulthard, LLP, to bring this action, and Plaintiffs are entitled to recover their reasonable attorneys' fees and costs therefor.

SECOND CLAIM FOR RELIEF
(Injunctive Relief)

32. Plaintiffs repeat and reallege all prior paragraphs as though fully set forth herein.

33. The Department's flawed interpretation of the provisions of NRS 453D, NAC Chapter 453D, and R092-17, and refusal to issue "conditional" licenses in accordance with the law constitute and cause continuing and irreparable harm to Plaintiffs with no adequate remedy at law.

34. The purpose of this refusal was and is to unreasonably interfere with Plaintiffs' business and causing Plaintiffs to suffer irreparable harm.

35. The Department will suffer no harm by following the law with respect to issuing "conditional" licenses.

36. The Department's interpretation of NRS 453D, NAC Chapter 453D, and R092-17 is flawed and Plaintiff is likely to succeed on the merits in this litigation.

37. The public interest favors Plaintiffs because in the absence of injunctive relief, the consumers who would have benefitted will have less available options from which they can receive recreational marijuana.

38. Therefore, Plaintiffs are entitled to preliminary injunctive relief, and after a trial on the merits, permanent injunctive relief, ordering the Department to issue "conditional" licenses to Plaintiffs in accordance with NRS 453D, NAC 453D, and R092-17.

THIRD CLAIM FOR RELIEF
(Violation of Procedural Due Process)

39. Plaintiffs repeat and reallege all prior paragraphs as though fully set forth herein.

40. The procedures employed by the Department in denying Plaintiffs' applications have deprived Plaintiffs of due process of law as guaranteed by the Nevada Constitution and the United States Constitution.

1 41. The process in which denial was considered, noticed to the public, and passed failed to
2 provide Plaintiffs any meaningful opportunity to be heard at a consequential time and was
3 fundamentally unfair and violated the due process requirements of the Nevada and United States
4 Constitutions.

5 42. The Constitutional infirmity of this entire process renders the denial void and
6 unenforceable, and Plaintiffs are entitled to a declaration as to the denials' ineffectiveness and an order
7 enjoining its enforcement.
8

9 43. Plaintiffs are also entitled to damages for these due process violations.

10 44. As the action of the Department necessitated that Plaintiffs retain the legal services of
11 Kemp, Jones & Coulthard, LLP, and incur fees and costs to bring this action, Plaintiffs are also
12 entitled to attorneys' fees and costs of suit.
13

14 45. Plaintiffs have found it necessary to bring this action, and Plaintiffs are entitled to
15 recover their reasonable attorneys' fees and costs therefor.
16

17 **FOURTH CLAIM FOR RELIEF**
18 **(Violation of Substantive Due Process)**

19 46. Plaintiffs repeat and reallege all prior paragraphs as though fully set forth herein.

20 47. The denial violates Plaintiffs' substantive due process rights guaranteed by the Nevada
21 Constitution and the United States Constitution.

22 48. The Constitutional infirmity of this entire process and the Department's denial renders
23 the denials void and unenforceable, and Plaintiffs are entitled to a declaration as to the denials'
24 ineffectiveness and an order enjoining its enforcement.
25

26 49. Plaintiffs are also entitled to damages for these due process violations.
27
28

1 59. Plaintiffs are aggrieved by the decision of the Department to deny Plaintiffs'
2 applications without proper notice, substantial evidence, or compliance with NRS 453D, NAC 453D,
3 R092-17, and other Nevada state laws or regulations.

4 60. There is no provision in NRS 453D, NAC 453D, or R092-17 allowing for an
5 administrative appeal of the Department's decision, and apart from injunctive relief, no plain, speedy,
6 and adequate remedy for the Department's improper actions.

7 61. Accordingly, Plaintiffs petition this Court for judicial review of the record on which the
8 Department's denial was based, including but not limited to:
9

- 10 a. A determination that the decision lacked substantial evidence;
11 b. A determination that the denial is void *ab initio* for non-compliance with NRS
12 453D, NAC 453D, R092-17, and other Nevada state laws or regulations; and
13 c. Other relief consistent with those determinations.

14 62. Plaintiffs have found it necessary to retain the legal services of Kemp, Jones &
15 Coulthard, LLP, to bring this action, and Plaintiffs are entitled to recover their reasonable attorneys'
16 fees and costs therefor.
17

18 **SEVENTH CLAIM FOR RELIEF**
19 **(Petition for Writ of Mandamus)**

20 63. Plaintiffs repeat and reallege all prior paragraphs as though fully set forth herein.

21 64. When a governmental body fails to perform an act "that the law requires" or acts in an
22 arbitrary or capricious manner, a writ of mandamus shall issue to correct the action. Nev. Rev. Stat. §
23 34.160.

24 65. The Department failed to perform various acts that the law requires including but not
25 limited to:
26

- 27 a. Providing proper pre-hearing notice of the denial; and
28 b. Arbitrarily and capriciously denying the application for no legitimate reason.

1 66. The Department acted arbitrarily and capriciously in the denial by performing or failing
2 to perform the acts enumerated above and because, *inter alia*:

- 3 a. The Board lacked substantial evidence to deny the application; and
4 b. The Board denied the application solely to approve other competing applicants
5 without regard to the merit of Plaintiffs' application.
6

7 67. These violations of the Defendants' legal duties were arbitrary and capricious actions
8 that compel this Court to issue a Writ of Mandamus directing the Department to review the application
9 on its merits and/or approve it.

10 68. As a result of the Defendants' unlawful and arbitrary and capricious actions, Plaintiffs
11 have been forced to retain legal counsel to prosecute this action and are therefore also entitled to their
12 damages, costs in this suit, and an award of attorneys' fees pursuant to NRS 34.270.

13 **IV.**
14 **PRAYER FOR RELIEF**

15 WHEREFORE, Plaintiffs pray for judgment as follows:

- 16 1. For declaratory relief as set forth above;
17 2. For a preliminary and permanent injunction enjoining the enforcement of the denial;
18 3. For judicial review of the record and history on which the denial was based;
19 4. For the issuance of a writ of mandamus;
20 5. For compensatory and special damages as set forth herein;
21 6. For attorneys' fees and costs of suit; and
22 7. For all other and further relief as the Court deems just and proper.
23
24

25 ///
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28 ///
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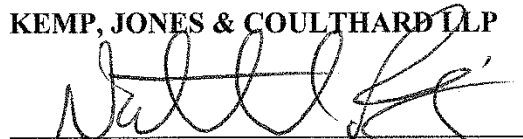
KEMP, JONES & COULTHARD, LLP
3800 Howard Hughes Parkway, 17th Floor
Las Vegas, Nevada 89169
Tel. (702) 385-6000 • Fax: (702) 385-6001
kje@kempjones.com

V.
JURY DEMAND

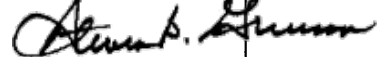
Trial by jury is hereby demanded on all claims and issues so triable.

DATED this December 18, 2018

KEMP, JONES & COULTHARD LLP



Will Kemp, Esq. (NV Bar No. 1205)
Nathanael R. Rulis (NV Bar No. 11259)
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Las Vegas, Nevada 89169
Attorneys for Plaintiffs



CODE AFF.

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Attorney for: Plaintiff

**EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA**

MM DEVELOPMENT COMPANY, LLC, a Nevada
limited liability company,

Plaintiff(s)/Petitioner(s),

vs.

STATE OF NEVADA, DEPARTMENT OF
TAXATION; and DOES 1 through 10; and ROE
CORPORATIONS 1 through 10.

Defendant(s)/Respondent(s)

Case No.: A-18-785818-W
Dept. No.: 18

**AFFIDAVIT/DECLARATION OF
SERVICE**

STATE OF NEVADA)
) ss.
COUNTY OF CARSON CITY)

I, James P. Thomas, being duly sworn or under penalty of perjury, state that at all times relevant, I was over 18 years of age and not a party to or interested in the above-captioned case; that I received a copy of the following document(s): Summons, and Complaint, on December 12, 2018, and that I served the Defendant, State of Nevada, Department of Taxation, on December 12, 2018 at the hour of 2:00 P.M. by the following method:

1. **For personal service per NRCP 4(d)(6):** Delivering and leaving a copy with Defendant at (insert address at which documents were served) _____.

2. **For substitute service per NRCP 4(d)(6):** Delivering and leaving a copy with (insert name or physical description of person served) _____, a person of

suitable age and discretion residing at Defendant's dwelling house or usual place of abode, at (insert address _____)

1 where documents were served) _____.

2 3. **For service on a business entity per NCRCP 4(d)(1) or (2):** Delivering and leaving a copy with
3 Tina Padovano, Administrative Assistant, pursuant to NRS 14.020 as a person of suitable age and discretion
4 at the below address, which address is the address of the State of Nevada, Department of Taxation at 1550
5 E. College Pkwy #115, Carson City, NV 89706.

6 4. **For other method of service authorized by NRCP 4 or other rule or statute:** _____

7
8 (Check one of the following boxes, date and sign, insert the address and phone number of the person performing service, and have this
affidavit notarized or sign the unsworn declaration per NRS 53.045.)

9 ☒ I am a licensed process server or an employee of a licensed process server; my license or registration
number is: 845.

10 ☐ I am not required to be licensed under chapter 648 of the Nevada Revised Statutes or another
11 provision of law because I am not engaged in the business of serving legal process within the State of
Nevada.

12 ☐ Residential/ ☒ Business Address: 1627 Salmon Drive
13 Carson City, Nevada 89701
Telephone: (775) 392-3237

14 **Per NRS 53.045**

15 (a) If executed in the State of Nevada: "I declare under penalty of perjury that the foregoing is true and
correct."

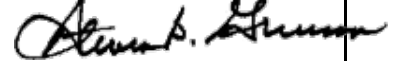
16 Executed on: December 12, 2018,
17 (Date)


(Signature of Person Making Service)

18 (b) If executed outside of the State of Nevada: "I declare under penalty of perjury under the law of the
State of Nevada that the foregoing is true and correct."

19 Executed on: _____
(Date)

(Signature of Person Making Service)



COMPB

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Attorneys for Plaintiffs

DISTRICT COURT

CLARK COUNTY, NEVADA

ETW MANAGEMENT GROUP LLC, a Nevada limited liability company; GLOBAL HARMONY LLC, a Nevada limited liability company; GREEN LEAF FARMS HOLDINGS LLC, a Nevada limited liability company; HERBAL CHOICE INC., a Nevada corporation; JUST QUALITY, LLC, a Nevada limited liability company; LIBRA WELLNESS CENTER, LLC, a Nevada limited liability company; MOTHER HERB, INC., a Nevada corporation; NEVCANN LLC, a Nevada limited liability company; RED EARTH LLC, a Nevada limited liability company; THC NEVADA LLC, a Nevada limited liability company; and ZION GARDENS LLC, a Nevada limited liability company,

Plaintiffs,

v.

STATE OF NEVADA, DEPARTMENT OF TAXATION, a Nevada administrative agency; DOES 1 through 20, inclusive; and ROE CORPORATIONS 1 through 20, inclusive,

Defendants.

CASE NO.: A-19-787004-B

DEPT NO.: Department 11

COMPLAINT

(Exempt From Arbitration Pursuant to N.A.R. 3(A): Action Seeks Damages in Excess of \$50,000 and Action Seeks Equitable or Extraordinary Relief)

1 Plaintiffs ETW MANAGEMENT GROUP LLC (“ETW”), GLOBAL HARMONY LLC
2 (“Global Harmony”), GREEN LEAF FARMS HOLDINGS LLC (“GLFH”), HERBAL CHOICE
3 INC. (“Herbal Choice”), JUST QUALITY, LLC (“Just Quality”), LIBRA WELLNESS
4 CENTER, LLC (“Libra”), MOTHER HERB, INC. (“Mother Herb”), NEVCANN LLC
5 (“NEVCANN”), RED EARTH LLC (“Red Earth”), THC NEVADA LLC (“THCNV”), and
6 ZION GARDENS LLC (“Zion”) (collectively, the “Plaintiffs”), by and through their undersigned
7 counsel of record Adam K. Bult, Esq. and Travis F. Chance, Esq., of the law firm of Brownstein
8 Hyatt Farber Schreck, LLP, and Adam R. Fulton, Esq., of the law firm of Jennings & Fulton,
9 Ltd., hereby file their Complaint against the STATE OF NEVADA, DEPARTMENT OF
10 TAXATION (the “DOT”), DOES 1 through 20 inclusive, and ROE CORPORATIONS 1 through
11 20, inclusive, alleging and complaining as follows:

12 **PARTIES**

13 1. At all times relevant hereto, ETW is and was a limited liability company organized
14 and existing under the laws of the State of Nevada and authorized to do business in Clark County,
15 Nevada.

16 2. At all times relevant hereto, Global Harmony is and was a limited liability
17 company organized and existing under the laws of the State of Nevada and authorized to do
18 business in Clark County, Nevada.

19 3. At all times relevant hereto, GLFH is and was a limited liability company
20 organized and existing under the laws of the State of Nevada and authorized to do business in
21 Clark County, Nevada.

22 4. At all times relevant hereto, Herbal Choice is and was a Nevada corporation
23 authorized to do business in Clark County, Nevada.

24 5. At all times relevant hereto, Just Quality is and was a limited liability company
25 organized and existing under the laws of the State of Nevada and authorized to do business in
26 Clark County, Nevada.

27 6. At all times relevant hereto, Libra is and was a limited liability company organized
28 and existing under the laws of the State of Nevada and authorized to do business in Clark County,

1 Nevada.

2 7. At all times relevant hereto, Mother Herb is and was a Nevada corporation and
3 authorized to do business in Clark County, Nevada.

4 8. At all times relevant hereto, NEVCANN is and was a limited liability company
5 organized and existing under the laws of the State of Nevada and authorized to do business in
6 Clark County, Nevada.

7 9. At all times relevant hereto, Red Earth is and was a limited liability company
8 organized and existing under the laws of the State of Nevada and authorized to do business in
9 Clark County, Nevada.

10 10. At all times relevant hereto, THCNV is and was a limited liability company
11 organized and existing under the laws of the State of Nevada and authorized to do business in
12 Clark County, Nevada.

13 11. At all times relevant hereto, Zion is and was a limited liability company organized
14 and existing under the laws of the State of Nevada and authorized to do business in Clark County,
15 Nevada.

16 12. At all times relevant hereto, the DOT is and was an agency and political
17 subdivision of the State of Nevada.

18 13. The true names and capacities, whether individual, corporate, associate or
19 otherwise, of Defendants Does 1-20, inclusive, and Roe Corporations 1-20, inclusive, are
20 unknown to Plaintiffs, which therefore sue said Defendants by such fictitious names. Plaintiffs
21 will amend this Complaint to state the true names and capacities of said fictitious Defendants
22 when they have been ascertained.

23 14. Plaintiffs are informed and believe, and thereon allege, that each of the fictitiously
24 named Defendants are responsible in some manner for the occurrences herein alleged, and that
25 Plaintiffs' damages as herein alleged were proximately caused by Defendants' acts. Each
26 reference in this Complaint to "Defendant" or "Defendants," or a specifically named Defendant
27 refers also to all Defendants sued under fictitious names.

28 . . .

JURISDICTION AND VENUE

15. Jurisdiction is proper in this Court pursuant to the Nevada Constitution, Article 6, § 6, NRS 4.370(2), NRS 30, and because the acts and omissions complained of herein occurred and caused harm within Clark County, Nevada. Further, the amount in controversy exceeds \$15,000.00.

16. Venue is proper in this Court pursuant to NRS 13.020(2)-(3).

GENERAL ALLEGATIONS

17. Plaintiffs incorporate and reallege Paragraphs 1 through 16 as though fully set forth herein.

The Statutory Scheme Governing Retail Marijuana Licenses

18. In or around November 2016, the citizens of the State of Nevada approved a statutory ballot initiative that, *inter alia*, legalized the recreational use of marijuana and allowed for the licensing of recreational marijuana dispensaries.

19. The statutory scheme approved by the voters was codified in NRS Chapter 453D and vested authority for the issuance of licenses for retail marijuana dispensaries in the DOT.

20. NRS 453D.210 required the DOT to accept applications and issue licenses only to medical marijuana establishments for 18 months following the date upon which the DOT began to receive applications for recreational dispensaries (the "Early Start Program").

21. Upon information and belief, the DOT began to accept applications for recreational dispensary licenses on or around May 15, 2017.

22. Beginning upon the expiration of the Early Start Program (or on or around November 15, 2018), the DOT was to receive and consider applications for a recreational dispensary license from any applicant.

23. The DOT released the application package for non-Early Start Program applicants on July 6, 2018 and required those applications to be returned in complete form between September 7 and September 20, 2018. A true and correct copy of the application package is attached hereto as **Exhibit 1**.

...

24. NRS 453D.210(d)(1) limits the number of retail marijuana licenses in Clark County to a total of 80.

25. However, NRS 453D.210(d)(5) provides that Clark County may request that the DOT issue retail marijuana licenses above the limit set forth in NRS 453D.210(d)(5).

26. As mandated by NRS 453D.210(6), “[w]hen competing applications are submitted for a proposed retail marijuana store within a single county, the Department **shall use an impartial and numerically scored competitive bidding process** to determine which application or applications among those competing will be approved.”

27. On or around January 16, 2018, the DOT adopted regulations governing the issuance, suspension, or revocation of retail marijuana licenses in LCB File No. R092-17 (the “Regulations”). A true and correct copy of the Regulations is attached hereto as **Exhibit 2**.¹

28. Section 80 of the Regulations relates to the DOT’s method of evaluating competing retail marijuana license applications.

29. Section 80(1) of the Regulations provides that where the DOT receives competing applications, it will “rank the applications...in order from first to last based on compliance with the provisions of this chapter and chapter 453D of NRS and on the content of the applications relating to” several enumerated factors.

30. The factors set forth in Section 80(1) of the Regulations that are used to rank competing applications (collectively, the “Factors”) are:

- a. Whether the owners, officers or board members have experience operating another kind of business that has given them experience which is applicable to the operation of a marijuana establishment;
- b. The diversity of the owners, officers or board members of the proposed marijuana establishment;
- c. The educational achievements of the owners, officers or board members of the proposed marijuana establishment;

¹ The Regulations have been adopted but have yet to be codified in the Nevada Administrative Code.

- d. The financial plan and resources of the applicant, both liquid and illiquid;
- e. Whether the applicant has an adequate integrated plan for the care, quality and safekeeping of marijuana from seed to sale;
- f. The amount of taxes paid and other beneficial financial contributions, including, without limitation, civic or philanthropic involvement with this State or its political subdivisions, by the applicant or the owners, officers or board members of the proposed marijuana establishment;
- g. Whether the owners, officers or board members of the proposed marijuana establishment have direct experience with the operation of a medical marijuana establishment or marijuana establishment in this State and have demonstrated a record of operating such an establishment in compliance with the laws and regulations of this State for an adequate period of time to demonstrate success;
- h. The experience of key personnel that the applicant intends to employ in operating the type of marijuana establishment for which the applicant seeks a license; and
- i. Any other criteria that the DOT determines to be relevant.

31. Aside from the Factors, there is no other competitive bidding process used by the DOT to evaluate competing applications.

32. Section 80(5) of the Regulations provides that the DOT will not issue more than one retail marijuana license to the same person, group of persons, or entity.

Plaintiffs' Arbitrary Denial of Retail Marijuana Licenses

33. Each of the Plaintiffs submitted an Application for issuance of a retail marijuana license after the expiration of the Early Start Program during the period specified by the DOT.

34. On or around December 5, 2018, each of the Plaintiffs' Applications was denied by identical written notices issued by the DOT.

35. Each of the written notices from the DOT stated that "NRS 453D.210 limits the total number of licenses that can be issued in each local jurisdiction. This applicant was not issued

1 a conditional license because it did not achieve a score high enough to receive an available
2 license...”

3 36. Upon information and belief, the DOT utilized the Factors in evaluating each of
4 the Applications, assigning a numerical score to each Factor.

5 37. Upon information and belief, the DOT issued multiple licenses to the same entity
6 or group of persons to the exclusion of other applicants, including Plaintiffs.

7 **FIRST CLAIM FOR RELIEF**

8 **Violation of Substantive Due Process**

9 38. Plaintiffs incorporate and reallege Paragraphs 1 through 37 as though fully set
10 forth herein.

11 39. The Fourteenth Amendment to the United States Constitution provides that “no
12 state [may] deprive any person of life, liberty, or property, without due process of law.”

13 40. Similarly, Article 1, Section 8 of the Nevada Constitution provides that “[n]o
14 person shall be deprived of life, liberty, or property, without due process of law.”

15 41. Plaintiffs are persons within the meaning of the United States and Nevada
16 Constitutions’ guarantees of due process.

17 42. Retail marijuana licenses constitute protectable property interests under the
18 Nevada and United States Constitutions.

19 43. The denials of Plaintiffs’ Applications were based upon the Factors.

20 44. The Factors are arbitrary, irrational, and lack impartiality.

21 45. As a result of the DOT’s use of the Factors in denying Plaintiffs’ Applications,
22 Plaintiffs have been deprived of their fundamental property rights in violation of the substantive
23 due process guarantees of the Nevada and United States Constitutions.

24 46. As a direct and proximate result of the DOT’s constitutional violations, as set forth
25 hereinabove, Plaintiffs have sustained damages in an amount in excess of \$15,000.00.

26 47. Plaintiffs have been forced to retain counsel to prosecute this action and are thus
27 entitled to an award of attorneys’ fees and costs as provided by applicable law.

28 . . .

SECOND CLAIM FOR RELIEF

Violation of Procedural Due Process

48. Plaintiffs incorporate and reallege Paragraphs 1 through 47 as though fully set forth herein.

49. The Fourteenth Amendment to the United States Constitution provides that “no state [may] deprive any person of life, liberty, or property, without due process of law.”

50. Similarly, Article 1, Section 8 of the Nevada Constitution provides that “[n]o person shall be deprived of life, liberty, or property, without due process of law.”

51. Plaintiffs are persons within the meaning of the United States and Nevada Constitutions’ guarantees of due process.

52. Retail marijuana licenses constitute protectable property interests under the Nevada and United States Constitutions.

53. NRS 453D, in conjunction with the Regulations, govern the application for and the issuance of retail marijuana licenses within the State of Nevada.

54. Under those provisions, the DOT denied Plaintiffs’ Applications for a retail marijuana license without notice or a hearing.

55. Neither NRS 453D nor the Regulations require the DOT to provide Plaintiffs with notice of denial of their Applications prior to the effectiveness of the same.

56. Neither NRS 453D nor the Regulations provide for a mechanism through which Plaintiffs may have their Applications fully and finally determined, either before or after denial of the same.

57. As a result of the denial of Plaintiffs’ Applications without notice or a hearing, Plaintiffs have been denied their right to procedural due process guaranteed by the Nevada and United States Constitutions.

58. As a direct and proximate result of the DOT’s constitutional violations, as set forth hereinabove, Plaintiffs have sustained damages in an amount in excess of \$15,000.00.

59. Plaintiffs have been forced to retain counsel to prosecute this action and are thus entitled to an award of attorneys’ fees and costs as provided by applicable law.

THIRD CLAIM FOR RELIEF

Violation of Equal Protection

60. Plaintiffs incorporate and reallege Paragraphs 1 through 59 as though fully set forth herein.

61. The Fourteenth Amendment to the United States Constitution provides that no “state [may]...deny to any person within its jurisdiction the equal protection of the laws.”

62. Similarly, Article 4, Section 21 of the Nevada Constitution requires that all laws be “general and of uniform operation throughout the State.”

63. Plaintiffs are persons within the meaning of the Nevada and United States Constitutions’ guarantees of equal protection.

64. The DOT utilized the Factors when evaluating Plaintiffs’ Applications.

65. As applied to Plaintiffs’ Applications, the Factors affect Plaintiffs’ fundamental property rights and interests.

66. The Factors contain arbitrary, partial, and unreasonable classifications that bear no rational relationship to a legitimate governmental interest.

67. The Factors contain arbitrary, partial, and unreasonable classifications that are not narrowly tailored to the advancement of any compelling interest.

68. The application of the Factors to Plaintiffs’ Applications violated Plaintiffs’ rights to equal protection of the law.

69. As a direct and proximate result of the DOT’s constitutional violations, as set forth hereinabove, Plaintiffs have sustained damages in an amount in excess of \$15,000.00.

70. Plaintiffs have been forced to retain counsel to prosecute this action and are thus entitled to an award of attorneys’ fees and costs as provided by applicable law.

FOURTH CLAIM FOR RELIEF

Declaratory Judgment

71. Plaintiffs incorporate and reallege Paragraphs 1 through 70 as though fully set forth herein.

72. Under NRS 30.010, *et seq.*, the Uniform Declaratory Judgment Act, any person

1 whose rights, status or other legal relations are affected by a statute, municipal ordinance, contract
2 or franchise, may have determined any question of construction or validity arising under the
3 instrument, statute, ordinance, contract or franchise and obtain a declaration of rights, status or
4 other legal relations thereunder.

5 73. The DOT enacted the Regulations, including the Factors and Section 80(5) of the
6 Regulations, pursuant to NRS 453D.200 and NRS 453D.210(6).

7 74. NRS 453D.210(6) requires that the Factors be “an impartial and numerically
8 scored competitive bidding process.”

9 75. Plaintiffs contend that the DOT violated NRS 453D.210(6) because the Factors are
10 not impartial and are instead partial, arbitrary, and discretionary, in contravention of NRS
11 453D.210(6).

12 76. Plaintiffs further contend that the DOT violated NRS 453D.210(6) because the
13 Factor evaluation procedure is not a competitive bidding process, as required by NRS
14 453D.210(6).

15 77. Plaintiffs further contend that the DOT violated Section 80(5) of the Regulations
16 because multiple retail marijuana licenses were issued to the same entity or group of persons.

17 78. The DOT contends that that Factors are compliant with NRS 453D.210(6) and that
18 all applications it approved were done so in a valid manner.

19 79. The foregoing issues are ripe for judicial determination because there is a
20 substantial controversy between parties having adverse legal interests of sufficient immediacy and
21 reality to warrant the issuance of a declaratory judgment.

22 80. Accordingly, Plaintiffs request a declaratory judgment from this Court that: (1) the
23 Factors do not comply with NRS 453D.210(6) because they are not impartial or a competitive
24 bidding process; and (2) the DOT violated Section 80(5) of the Regulations by issuing multiple
25 retail marijuana licenses to the same entity or group of persons.

26 81. Plaintiffs have been forced to retain counsel to prosecute this action and are thus
27 entitled to an award of attorneys’ fees and costs as provided by applicable law.

28 . . .

1 **WHEREFORE**, Plaintiffs pray for relief from this Court as follows:

- 2 1. For an award of compensatory damages in an amount to be determined at
3 trial for the DOT's violation of Plaintiffs' substantive due process rights, as
4 set forth herein;
- 5 2. For an award of compensatory damages in an amount to be determined at
6 trial for the DOT's violation of Plaintiffs' procedural due process rights, as
7 set forth herein;
- 8 3. For an award of compensatory damages in an amount to be determined at
9 trial for the DOT's violation of Plaintiffs' rights to equal protection of the
10 law, as set forth herein;
- 11 4. For relief in the form of a judgment from this Court that: (1) the Factors do
12 not comply with NRS 453D.210(6) because they are not impartial or a
13 competitive bidding process; and (2) the DOT violated Section 80(5) of the
14 Regulations by issuing multiple retail marijuana licenses to the same entity
15 or group of persons;
- 16 5. For an award of attorneys' fees and costs in bringing the instant action as
17 provided by applicable law; and
- 18 6. For any additional relief this Court deems just and proper.

19 DATED this 4th day of January, 2019.

20 BROWNSTEIN HYATT FARBER SCHRECK, LLP

21 /s/ Adam K. Bult

22 ADAM K. BULT, ESQ., Nevada Bar No. 9332
23 MAXIMILIEN D. FETAZ, ESQ., Nevada Bar No. 12737
24 TRAVIS F. CHANCE, ESQ., Nevada Bar No. 13800

25 JENNINGS & FULTON, LTD.
26 Adam R. Fulton, Esq., Nevada Bar No. 11572

27 Attorneys for Plaintiffs

EXHIBIT 1



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WILLIAM D. ANDERSON
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Recreational Marijuana Establishment License Application Recreational Retail Marijuana Store Only

Release Date: July 6, 2018

Application Period: September 7, 2018 through September 20, 2018

(Business Days M-F, 8:00 A.M. - 5:00 P.M.)

For additional information, please contact:

Marijuana Enforcement Division
State of Nevada Department of Taxation
1550 College Parkway, Suite 115
Carson City, NV 89706

marijuana@tax.state.nv.us



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APPLICANT INFORMATION

Provide all requested information in the space next to each numbered question. The information in Sections V1 through V10 will be used for application questions and updates. Type or print responses. **Include this applicant information sheet in Tab III of the Identified Criteria Response (Page 10).**

V1	Company Name:	
V2	Street Address:	
V3	City, State, ZIP:	
V4	Telephone: () _____ - _____ ext: _____	
V5	Email Address:	
V6	Toll Free Number: () _____ - _____ ext: _____	
Contact person who will provide information, sign, or ensure actions are taken pursuant to R092-17 & NRS 453D		
V7	Name:	
	Title:	
	Street Address:	
	City, State, ZIP:	
V8	Email Address:	
V9	Telephone number for contact person: () _____ - _____ ext: _____	
V10	Signature:	Date:



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1. TERMS AND DEFINITIONS

For the purposes of this application, the following acronyms/definitions will be used.

TERMS	DEFINITIONS
<i>Applicant</i>	Organization/individual submitting an application in response to this request for application.
<i>Awarded applicant</i>	The organization/individual that is awarded and has an approved conditional license with the State of Nevada for the establishment type identified in this application.
<i>Confidential information</i>	Any information relating to building or product security submitted in support of a recreational marijuana establishment license.
<i>Department</i>	The State of Nevada Department of Taxation.
<i>Edible marijuana products</i>	Products that contain marijuana or an extract thereof and are intended for human consumption by oral ingestion and are presented in the form of foodstuffs, extracts, oils, tinctures and other similar products.
<i>Enclosed, locked facility</i>	A closet, display case, room, greenhouse, or other enclosed area equipped with locks or other security devices which allow access only by a recreational marijuana establishment agent and the holder of a valid registry identification card.
<i>Establishment license approval to operate date</i>	The date the State Department of Taxation officially gives the approval to operate based on approval of the local jurisdiction and successful fulfillment of all approval-to-operate instructions between the Department and the successful applicant.
<i>Conditional establishment license award date</i>	The date when applicants are notified that a recreational marijuana establishment conditional license has been successfully awarded and is awaiting approval of the local jurisdiction and successful fulfillment of all approval-to-operate instructions.
<i>Evaluation committee</i>	An independent committee comprised of state officers or employees and contracted professionals established to evaluate and score applications submitted in response to this request for applications.
<i>Excluded felony offense</i>	A crime of violence or a violation of a state or federal law pertaining to controlled substances if the law was punishable as a felony in the jurisdiction where the person was convicted. The term does not include a criminal offense for which the sentence, including any term of probation, incarceration or supervised release, was completed more than 10 years before or an offense involving conduct that would be immune from arrest, prosecution or penalty, except that the conduct occurred before April 1, 2014 or was prosecuted by an authority other than the State of Nevada.



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<i>Facility for the production of edible marijuana products or marijuana infused products</i>	A business that is registered/licensed with the Department and acquires, possesses, manufactures, delivers, transfers, transports, supplies, or sells edible marijuana products or marijuana-infused products to recreational marijuana retail stores.
<i>Identifiers or Identified Criteria Response</i>	A non-identified response, such as assignment of letters, numbers, job title or generic business type, to assure the identity of a person or business remains unidentifiable. Assignment of identifiers will be application-specific and will be communicated in the application in the identifier legend.
<i>Marijuana Testing Facility</i>	Means an entity licensed to test marijuana and marijuana products, including for potency and contaminants.
<i>Inventory control system</i>	A process, device or other contrivance that may be used to monitor the chain of custody of marijuana used for recreational purposes from the point of cultivation to the end consumer.
<i>Marijuana</i>	All parts of any plant of the genus Cannabis, whether growing or not, and the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. "Marijuana" does not include the mature stems of the plant, fiber produced from the stems, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stems (except the resin extracted there from), fiber, oil or cake, or the sterilized seed of the plant which is incapable of germination. "Marijuana" does not include industrial hemp as defined in NRS 557.040, and grown or cultivated pursuant to Chapter 557 of NRS.
<i>Marijuana-infused products</i>	Products that are infused with marijuana or an extract thereof and are intended for use or consumption by humans through means other than inhalation or oral ingestion. The term includes topical products, ointments, oils and tinctures.
<i>May</i>	Indicates something that is recommended but not mandatory. If the applicant fails to provide recommended information, the Department may, at its sole discretion, ask the applicant to provide the information or evaluate the application without the information.
<i>Medical use of marijuana</i>	The possession, delivery, production or use of marijuana; the possession, delivery or use of paraphernalia used to administer marijuana, as necessary, for the exclusive benefit of a person to mitigate the symptoms or effects of his or her chronic or debilitating medical condition.



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<i>Must</i>	Indicates a mandatory requirement. Failure to meet a mandatory requirement may result in the rejection of an application as non-responsive.
<i>NAC</i>	Nevada Administrative Code. All applicable NAC documentation may be reviewed via the internet at: http://www.leg.state.nv.us/NAC/CHAPTERS.HTML
<i>Non-Identified Criteria Response</i>	A response to the application in which no information is included pertaining to identifiable information for any and all owners, officers, board members or employees and business details (proposed business name(s), D/B/A, current or previous business names or employers). Identifiers that must be removed from the application include all names; specific geographic details including street address, city, county, precinct, ZIP code, and their equivalent geocodes; telephone numbers; fax numbers; email addresses; social security numbers; financial account numbers; certificate/license numbers; vehicle identifiers and serial numbers including license plate numbers; Web Universal Resource Locators (URLs); Internet Protocol (IP) addresses; biometric identifiers including finger and voice prints, full-face photographs and any comparable images; previous or proposed company logos, images or graphics; and, any other unique identifying information, images, logos, details, numbers, characteristics, or codes.
<i>NRS</i>	Nevada Revised Statutes. All applicable NRS documentation may be reviewed via the internet at: http://www.leg.state.nv.us/NRS/ .
<i>Pacific Time (PT)</i>	Unless otherwise stated, all references to time in this request for applications and any subsequent award of license are understood to be Pacific Time.
<i>Recreational marijuana retail store</i>	Means an entity licensed to purchase marijuana from marijuana cultivation facilities, to purchase marijuana and marijuana products from marijuana product manufacturing facilities and retail marijuana stores, and to sell marijuana and marijuana products to consumers.
<i>Recreational marijuana establishment</i>	Means a marijuana cultivation facility, a marijuana testing facility, a marijuana product manufacturing facility, a marijuana distributor, or a retail marijuana store.
<i>Recreational marijuana establishment agent</i>	Means an owner, officer, board member, employee or volunteer of a marijuana establishment, an independent contractor who provides labor relating to the cultivation, processing or distribution of marijuana or the production of marijuana or marijuana products for a marijuana establishment or an employee of such an independent contractor. The term does not include a consultant who performs professional services for a recreational marijuana establishment.



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<i>Recreational marijuana establishment agent registration card</i>	A registration card that is issued by the Department pursuant to R092-17, Sec. 94 to authorize a person to volunteer or work at a recreational marijuana establishment.
<i>Recreational marijuana establishment license</i>	A license that is issued by the Department pursuant to NRS 453D and R092-17 to authorize the operation of a recreational marijuana establishment.
<i>Shall</i>	Indicates a mandatory requirement. Failure to meet a mandatory requirement may result in the rejection of an application as non-responsive.
<i>Should</i>	Indicates something that is recommended but not mandatory. If the applicant fails to provide recommended information the Department may, at its sole discretion, ask the applicant to provide the information or evaluate the application without the information.
<i>State</i>	The State of Nevada and any agency identified herein.
<i>Will</i>	Indicates a mandatory requirement. Failure to meet a mandatory requirement may result in the rejection of an application as non-responsive.



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2. APPLICATION OVERVIEW

The Nevada State Legislature passed a number of bills during the 2017 session which affect the licensing, regulation and operation of recreational marijuana establishments in the state. In addition, the Department of Taxation has approved regulations effective February of 2018. Legislation changes relevant to this application include but are not limited to the following:

Assembly Bill 422 (AB422):

- Transfers responsibility for registration/licensing and regulation of marijuana establishments from the State of Nevada's Division of Public and Behavioral Health (DPBH) to the Department of Taxation.
- Adds diversity of race, ethnicity, or gender of applicants (owners, officers, board members) to the existing merit criteria for the evaluation of marijuana establishment registration certificates.

LCB File No. Regulation R092-17:

- On or before November 15, 2018, a person who holds a medical marijuana establishment registration certificate may apply for one or more licenses, in addition to a license issued pursuant to section 77 of the regulation, for a marijuana establishment of the same type or for one or more licenses for a marijuana establishment of a different type.

No applicant may be awarded more than 1 (one) retail store license in a jurisdiction/locality, unless there are less applicants than licenses allowed in the jurisdiction.

The Department is seeking applications from qualified applicants in conjunction with this application process for recreational marijuana retail store license. If a marijuana establishment has not received a final inspection within 12 months after the date on which the Department issued a license, the establishment must surrender the license to the Department. The Department may extend the period specified in R092-17, Sec. 87 if the Department, in its discretion, determines that extenuating circumstances prevented the marijuana establishment from receiving a final inspection within the period.

3. APPLICATION TIMELINE

The following represents the timeline for this project. All times stated are in Pacific Time (PT).

Task	Date/Time
Request for application date	July 6, 2018
Opening of 10-day window for receipt of applications	September 7, 2018
Deadline for submission of applications	September 20, 2018 – 5:00 p.m.
Application evaluation period	September 7, 2018 – December 5, 2018
Conditional licenses award notification	Not later than December 5, 2018
Anticipated approximate fully operational deadline	12 months after notification date of conditional license



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4. APPLICATION INSTRUCTIONS

The State of Nevada Department of Taxation is seeking applications from qualified applicants to award recreational marijuana retail store licenses.

The Department anticipates awarding a recreational marijuana retail store license in conjunction with this application as determined by the applicant's establishment type, geographic location and the best interest of the State. Therefore, applicants are encouraged to be as specific as possible regarding services provided, geographic location, and information submitted for each application merit criteria category.

Pursuant to section 78 subsection 12 of R092-17, the application must include the signature of a natural person for the proposed marijuana establishment as described in subsection 1 of section 74 of R092-17.

5. APPLICATION REQUIREMENTS, FORMAT AND CONTENT

5.1. General Submission Requirements

- 5.1.1. Applications must be packaged and submitted in counterparts; therefore, applicants must pay close attention to the submission requirements. Applications will have an Identified Criteria Response and a Non-Identified Criteria Response. Applicants must submit their application separated into the two (2) required sections, Identified Criteria Responses and Non-Identified Criteria Responses, recorded to separate electronic media (CD-Rs or USB thumb drives).
- 5.1.2. The required electronic media must contain information as specified in Section 5.4, and must be packaged and submitted in accordance with the requirements listed at Section 5.5.
- 5.1.3. Detailed instructions on application submission and packaging are provided below. Applicants must submit their applications as identified in the following sections.
- 5.1.4. All information is to be completed as requested.
- 5.1.5. Each section within the Identified Criteria Response and the Non-Identified Criteria Response must be saved as separate PDF files, one for each required "Tab". The filename will include the tab number and title (e.g., 5.2.1 Tab I – Title Page.pdf).
- 5.1.6. For ease of evaluation, the application must be presented in a format that corresponds to and references the sections outlined within the submission requirements section and must be presented in the same order. Written responses must be typed and placed immediately following the applicable criteria question, statement and/or section.
- 5.1.7. Applications are to be prepared in such a way as to provide a straightforward, concise delineation of information to satisfy the requirements of this application.
- 5.1.8. In a Non-Identified Criteria Response, when a specific person or company is referenced the identity must remain confidential. A person may be addressed through their position, discipline or job title, or assigned an identifier. Identifiers assigned to people or companies must be detailed in a legend (Attachment H) to be submitted in the Identified Criteria Response section.
- 5.1.9. Materials not requested in the application process will not be reviewed.



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5.2. Part I – General Criteria Response

The IDENTIFIED CRITERIA RESPONSE must include:

- Electronic media (CD-R or thumb drive) containing only the Identified Criteria Response.
- Do not password protect electronic media or individual files.
- The response must contain separate PDF files for each of the tabbed sections as described below.

5.2.1. Tab I – Title Page

The title page must include the following:

Part I – Identified Criteria Response	
Application Title:	A Recreational Marijuana Establishment License
Applicant Name:	
Address:	
Application Opening Date and Time:	September 7, 2018
Application Closing Date and Time:	September 20, 2018

5.2.2. Tab II – Table of Contents

An accurate table of contents must be provided in this tab.

5.2.3. Tab III – Applicant Information Sheet (Page 2)

The completed Applicant Information Sheet signed by the contact person who is responsible for providing information, signing documents, or ensuring actions are taken pursuant to R092-17, Sec. 74 must be included in this tab.

5.2.4. Tab IV – Recreational Marijuana Establishment License Application (Attachment A)

The completed and signed Recreational Marijuana Establishment License Application must be included in this tab.

5.2.5. Tab V – Multi-Establishment Limitations Form (Attachment F)

If applicable, a copy of the Multi-Establishment Limitations Form must be included in this tab. If not applicable, please insert a plain page with the words “Not applicable.”

5.2.6. Tab VI – Identifier Legend (Attachment H)

If applicable, a copy of the Identifier Legend must be included in this tab. If not applicable, please insert a page with the words “Not Applicable”.



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- 5.2.7. **Tab VII – Confirmation that the applicant has registered with the Secretary of State**
Documentation that the applicant has registered as the appropriate type of business and the Articles of Incorporation, Articles of Organization, Operating Agreements, or partnership or joint venture documents of the applicant must be included in this tab.
- 5.2.8. **Tab VIII– Documentation of liquid assets**
Documentation demonstrating the liquid assets and the source of those liquid assets from a financial institution in this state or in any other state or the District of Columbia must be included in this tab and demonstrate the following criteria :
- 5.2.8.1. That the applicant has at least \$250,000 in liquid assets which are unencumbered and can be converted within 30 days after a request to liquidate such assets; and
- 5.2.8.2. The source of those liquid assets.
Note: If applying for more than one recreational marijuana establishment license, available funds must be shown for each establishment application.
- 5.2.9. **Tab IX – Evidence of taxes paid; other beneficial financial contributions**
Evidence of the amount of taxes paid and/or other beneficial financial contributions made to the State of Nevada or its political subdivisions within the last five years by the applicant or the persons who are proposed to be owners, officers or board members of the establishment must be included in this tab.
- 5.2.10. **Tab X – Organizational structure and owner, officer or board member information**
The description of the proposed organizational structure of the proposed recreational marijuana establishment and information concerning each owner, officer and board member of the proposed recreational marijuana establishment must be included in this tab and demonstrate the following criteria:
- 5.2.10.1. An organizational chart showing all owners, officers and board members of the recreational marijuana establishment including percentage of ownership for each individual.
- 5.2.10.2. An Owner, Officer and Board Member Attestation Form must be completed for each individual named in this application (Attachment B).
- 5.2.10.3. The supplemental Owner, Officer and Board Member Information Form should be completed for each individual named in this application. This attachment must also include the diversity information required by R092-17, Sec. 80.1(b) (Attachment C).
- 5.2.10.4. A resume, including educational level and achievements for each owner, officer and board member must be completed for each individual named in this application.
- 5.2.10.5. Narrative descriptions not to exceed 750 words demonstrating the following:
- 5.2.10.5.1. Past experience working with government agencies and highlighting past community involvement.



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- 5.2.10.5.2. Any previous experience at operating other businesses or non-profit organizations, including marijuana industry experience.
- 5.2.10.6. A Request and Consent to Release Application Form for Recreational Marijuana Establishment License(s) for each owner, officer and board member should be completed for each individual named in this application (Attachment D).
- 5.2.10.7. A copy of each individual's completed fingerprint submission form demonstrating he or she has submitted fingerprints to the Nevada Department of Public Safety. Agent cards will not be accepted.

5.2.11. **Tab XI– Financial plan**

A financial plan must be included in this tab which includes:

- 5.2.11.1. Financial statements showing the resources of the applicant, both liquid and illiquid.
- 5.2.11.2. If the applicant is relying on funds from an owner, officer, board member or any other source, evidence that such person has unconditionally committed such funds to the use of the applicant in the event the Department awards a recreational marijuana establishment license to the applicant.
- 5.2.11.3. Proof that the applicant has adequate funds to cover all expenses and costs of the first year of operation.

5.2.12. **Tab XII – Name, signage and advertising plan**

A proposal of the applicant's name, signage and advertising plan which will be used in the daily operations of the recreational marijuana establishment on the form supplied by the Department (Attachment G) must be included in this tab.

Please note: This section will require approval, but will not be scored.

5.2.13. **Application Fee**

- 5.2.13.1. Include with this packet the \$5,000.00 non-refundable application fee per NRS 453D.230(1). License fee is not required until a conditional license has been awarded.

Please note: Only cash, cashier's checks and money orders made out to the "Nevada Department of Taxation" will be accepted for payment of the nonrefundable application fee.

5.3. **Part II – Non-identified Criteria Response**

The NON-IDENTIFIED CRITERIA RESPONSE must include:

- Electronic media (CD-R or thumb drive) containing only the Identified Criteria Response.
- Do not password-protect electronic media or individual files.



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- The response must contain separate PDF files for each of the tabbed sections as described below:

5.3.1. **Tab I – Title Page**

Please note: Title page will not be viewed by Non-Identified Criteria evaluators.

The title page must include the following:

Part II –Non-Identified Criteria Response	
Application Title:	A Recreational Marijuana Establishment License
Applicant Name:	
Address:	
Application Opening Date and Time:	September 7, 2018
Application Closing Date and Time:	September 20, 2018

5.3.2. **Tab II – Table of Contents**

An accurate table of contents must be provided in this tab.

5.3.3. **Tab III – Building/Establishment information**

Documentation concerning the adequacy of the size of the proposed recreational marijuana establishment to serve the needs of persons who are authorized to engage in the use of marijuana must be included in this tab. The content of this response must be in a **non-identified** format and include general floor plans with all supporting details

Please note: The size or square footage of the proposed establishment should include the maximum size of the proposed operation. The start-up plans and potential expansion should be clearly stated to prevent needless misunderstandings and surrendering of certification.

5.3.4. **Tab IV – Care, quality and safekeeping of marijuana from seed to sale plan**

Documentation concerning the integrated plan of the proposed recreational marijuana establishment for the care, quality and safekeeping of recreational marijuana from seed to sale must be included in this tab. The content of this response must be in a **non-identified** format and include:

- 5.3.4.1. A plan for verifying and testing recreational marijuana
- 5.3.4.2. A transportation or delivery plan
- 5.3.4.3. Procedures to ensure adequate security measures for building security
- 5.3.4.4. Procedures to ensure adequate security measures for product security

5.3.5. **Tab V – System and Inventory Procedures plan**



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A plan for the operating procedures for verification system and inventory control system must be included in this tab. The content of this response must be in a **non-identified** format and include:

- 5.3.5.1. A description of the operating procedures for the verification system of the proposed marijuana establishment for verifying age.
- 5.3.5.2. A description of the inventory control system of the proposed recreational marijuana establishment.

Please note: Applicants should demonstrate a system to include thorough tracking of product movement and sales. The applicant shall demonstrate capabilities for an external interface via a secure API to allow third party software systems to report all required data into the State database to allow seamless maintenance of records and to enable a quick and accurate update on demand. The system shall account for all inventory held by an establishment in any stage of cultivation, production, display or sale as applicable for the type of establishment, and demonstrate an internal reporting system to provide the Department with comprehensive information about an establishment's inventory.

5.3.6. **Tab VI— Operations and resources plan**

Evidence that the applicant has a plan to staff and manage the proposed marijuana establishment on a daily basis must be included in this tab. The content of this response must be in a **non-identified** format and include:

- 5.3.6.1. A detailed budget for the proposed establishment including pre-opening and first year operating expenses.
- 5.3.6.2. An operations manual that demonstrates compliance with the regulations of the Department.
- 5.3.6.3. An education plan which must include providing training and educational materials to the staff of the proposed establishment.
- 5.3.6.4. A plan to minimize the environmental impact of the proposed establishment.

5.3.7. **Tab VII – Community impact and serving authorized persons in need**

A proposal demonstrating the likely impact on the community and convenience to serve the needs of persons authorized to use marijuana must be included in this tab. The content of this response must be in a **non-identified** format and include:

- 5.3.7.1. The likely impact of the proposed recreational marijuana establishment in the community in which it is proposed to be located.
- 5.3.7.2. The manner in which the proposed recreational marijuana establishment will meet the needs of the persons who are authorized to use marijuana.



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5.4. Electronic Media Requirements

Electronic media submitted as part of the application must include:

- 5.4.1. A separate CD-R or thumb drive which contains only the Identified Criteria Response.
- 5.4.2. A separate CD-R or thumb drive which contains only the Non-Identified Criteria Response.
 - 5.4.2.1. The electronic files must follow the format and content section for the Identified Criteria Response and Non-Identified Criteria Response.
 - 5.4.2.2. All electronic files must be saved in "PDF" format with separate files for each required "Tab". Individual filenames must comply with the naming requirements specified in 5.1.5 of the General Submission Requirements.
 - 5.4.2.3. CD-Rs or thumb drives will be labeled as either Identified or Non-Identified Criteria Response. Identified Criteria Responses and Non-Identified Criteria Responses must not be saved to the same CD-R or thumb drive.
 - 5.4.2.3.1. Part I – Identified Criteria Response
 - 5.4.2.3.2. Part II – Non-Identified Criteria Response
 - 5.4.2.4. Seal the Identified Criteria Response and Non-Identified Criteria Response electronic media in separate envelopes and affix labels to the envelopes per the example below:

CDs or Thumb Drives	
Application	A Recreational Marijuana Establishment License
Applicant Name:	
Address:	
Contents:	Part I – Identified Criteria Response OR Part II – Non-Identified Criteria Response



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5.5. Application Packaging and Instructions

- 5.5.1. Recreational Marijuana Establishment License Applications may be mailed or dropped off in person at:

**Department of Taxation
Marijuana Enforcement Division
1550 College Parkway
Carson City, NV 89706**

- OR -

**Department of Taxation
Marijuana Enforcement Division
555 E. Washington Ave. Ste 1300
Las Vegas, NV 89101**

- 5.5.2. Applications dropped off in person at one of the two Taxation office's must be received no later than **5:00 p.m. on September 20, 2018.**
- 5.5.3. Applications mailed in to one of the two Taxation office's must be postmarked by the United States Postal Service not later than **September 20, 2018.**
- 5.5.4. If an application is sent via a different delivery service (i.e. UPS, FedEx, etc.) and does not arrive at one of the two Taxation offices by **5:00 p.m. on September 20, 2018**, the application will not be considered.
- 5.5.5. If mailing the application, combine the separately sealed Identified and Non-Identified Criteria Response envelopes into a single package suitable for mailing.
- 5.5.6. The Department will not be held responsible for application envelopes mishandled as a result of the envelope not being properly prepared.
- 5.5.7. Email, facsimile, or telephone applications will **NOT** be considered.



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6. APPLICATION EVALUATION AND AWARD PROCESS

The information in this section does not need to be returned with the applicant's application.

- 6.1. Applications shall be consistently evaluated and scored in accordance with NRS 453D, NAC 453D and R092-17 based upon the following criteria and point values.

Grey boxes are the Identified Criteria Response. White boxes are Non-Identified Criteria Response.

Nevada Recreational Marijuana Application Criteria	Points
The description of the proposed organizational structure of the proposed marijuana establishment and information concerning each owner, officer and board member including key personnel of the proposed marijuana establishment including the information provided pursuant to R092-17.	60
Evidence of the amount of taxes paid or other beneficial financial contributions made to the State of Nevada or its political subdivisions within the last five years by the applicant or the persons who are proposed to be owners, officers or board members of the proposed establishment.	25
A financial plan which includes: <ul style="list-style-type: none"> Financial statements showing the resources of the applicant, both liquid and illiquid. If the applicant is relying on funds from an owner, officer or board member, or any other source, evidence that such source has unconditionally committed such funds to the use of the applicant in the event the Department awards a recreational marijuana establishment license to the applicant and the applicant obtains the necessary local government approvals to operate the establishment. Proof that the applicant has adequate funds to cover all expenses and costs of the first year of operation. 	30
Documentation from a financial institution in this state or in any other state or the District of Columbia which demonstrates: <ul style="list-style-type: none"> That the applicant has at least \$250,000 in liquid assets which are unencumbered and can be converted within 30 days after a request to liquidate such assets. The source of those liquid assets. 	10
Documentation concerning the integrated plan of the proposed marijuana establishment for the care, quality and safekeeping of marijuana from seed to sale, including: <ul style="list-style-type: none"> A plan for testing recreational marijuana. A transportation plan. Procedures to ensure adequate security measures for building security. Procedures to ensure adequate security measures for product security. 	40
<i>Please note: The content of this response must be in a non-identified format.</i>	
Evidence that the applicant has a plan to staff, educate and manage the proposed recreational marijuana establishment on a daily basis, which must include: <ul style="list-style-type: none"> A detailed budget for the proposed establishment including pre-opening, construction and first year operating expenses. An operations manual that demonstrates compliance with the regulations of the Department. An education plan which must include providing educational materials to the staff of the proposed establishment. A plan to minimize the environmental impact of the proposed establishment. 	30



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<i>Please note: The content of this response must be in a non-identified format.</i>	
A plan which includes: <ul style="list-style-type: none"> A description of the operating procedures for the electronic verification system of the proposed marijuana establishment. A description of the inventory control system of the proposed marijuana establishment. <i>Please note: The content of this response must be in a non-identified format.</i>	20
Documentation concerning the adequacy of the size of the proposed marijuana establishment to serve the needs of persons who are authorized to engage in the use of marijuana, including: <ul style="list-style-type: none"> Building plans with supporting details. <i>Please note: The content of this response must be in a non-identified format.</i>	20
A proposal demonstrating: <ul style="list-style-type: none"> The likely impact of the proposed marijuana establishment in the community in which it is proposed to be located. The manner in which the proposed marijuana establishment will meet the needs of the persons who are authorized to use marijuana. <i>Please note: The content of this response must be in a non-identified format.</i>	15
Application Total	250
Unweighted: <ul style="list-style-type: none"> Review plan for all names and logos for the establishment and any signage or advertisement. Review results of background check(s). Applicant has until the end of the 90-day application period to resolve background check information which may cause the application to be rejected. 	

6.2. If the Department receives more than one application for a license for a retail marijuana store in response to a request for applications made pursuant to R092-17, Sec. 76 and the Department determines that more than one of the applications is complete and in compliance with R092-17, Sec. 78 and Chapter 453D of the NRS, the Department will rank the applications within each applicable locality for any applicants which are in a jurisdiction that limits the number of retail marijuana stores in order from first to last. Ranking will be based on compliance with the provisions of R092-17 Sec. 80, Chapter 453D of NRS and on the content of the applications relating to:

- 6.2.1. Operating experience of another kind of business by the owners, officers or board members that has given them experience which is applicable to the operation of a marijuana establishment.
- 6.2.2. Diversity of the owners, officers or board members.
- 6.2.3. Evidence of the amount of taxes paid and other beneficial financial contributions.
- 6.2.4. Educational achievements of the owners, officers or board members.
- 6.2.5. The applicant's plan for care, quality and safekeeping of marijuana from seed to sale.
- 6.2.6. The financial plan and resources of the applicant, both liquid and illiquid.
- 6.2.7. The experience of key personnel that the applicant intends to employ.
- 6.2.8. Direct experience of the owners, officers or board members of a medical marijuana establishment or marijuana establishment in this State.



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- 6.3. Applications that have not demonstrated a sufficient response related to the criteria set forth above will not have additional criteria considered in determining whether to issue a license and will not move forward in the application process.
- 6.4. Any findings from a report concerning the criminal history of an applicant or person who is proposed to be an owner, officer or board member of a proposed recreational marijuana establishment that disqualify that individual from serving in that capacity will also result in the disqualification of the application. The applicant will have the opportunity to resolve such an issue within the 90-day application period.
- 6.5. The Department and evaluation committee may also contact anyone referenced in any information provided for the owners, officers and board members of the proposed establishment; contact any applicant to clarify any response; solicit information from any available source concerning any aspect of an application; and, seek and review any other information deemed pertinent to the evaluation process. The evaluation committee shall not be obligated to accept any application, but shall make an award in the best interests of the State of Nevada per Regulation R092-17 and Chapter 453D of the NRS.
- 6.6. Clarification discussions may, at the Department's sole discretion, be conducted with applicants who submit applications determined to be acceptable and competitive per R092-17, Sec. 77-80 and NRS 453D.210. Applicants shall be afforded fair and equal treatment with respect to any opportunity for discussion and/or written clarifications of applications. Such clarifications may be permitted after submissions and prior to award for the purpose of obtaining best and final ranking of applications. In conducting discussions, there shall be no disclosure of any information derived from applications submitted by competing applicants. Any clarification given for the original application during the clarification discussions will be included as part of the application.
- 6.7. The Department will issue conditional recreational marijuana establishment licenses subject to final inspection in accordance with R092-17, Sec. 87 and subject to local jurisdiction to the highest ranked applicants up to the designated number of licenses the Department plans to issue.
- 6.8. If two or more applicants have the same total number of points for the last application being awarded a conditional license, the Department shall select the applicant which has scored the highest number of points as it is related to the proposed organizational structure of the proposed marijuana establishment and the information concerning each owner, officer and board member of the proposed marijuana establishment.
- 6.9. If the Department receives only one response within a specific jurisdiction; and, if the jurisdiction limits the number of a type of establishment to one; and, statewide, if there is not a limit on the number of a type of establishments to a request for applications for recreational marijuana establishments issued pursuant to R092-17, Sec. 76 (3) within 10 business days after the Department begins accepting responses to the request for applications; and, the



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Department determines that the response is complete and in compliance with the regulations, the Department will issue a conditional license to that applicant to operate a recreational marijuana establishment in accordance with R092-17.

- 6.10. The issuance by the Department of a recreational marijuana establishment license is conditional and not an approval to begin business operations until such time as:
 - 6.10.1. The marijuana establishment is in compliance with all applicable local government ordinances and rules; and
 - 6.10.2. The local government has issued a business license or otherwise approved the applicant for the operation of the establishment.
- 6.11. If the local government does not issue business licenses and does not approve or disapprove marijuana establishments in its jurisdiction, a recreational marijuana establishment license becomes an approval to begin business operations when the marijuana establishment is in compliance with all applicable local government ordinances and rules and has fulfilled all the requirements of the approval to operate by the Department.
- 6.12. Any license resulting from this application shall not be effective until approved by the Department.



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ATTACHMENT A RECREATIONAL MARIJUANA ESTABLISHMENT APPLICATION

GENERAL INFORMATION

Type of Marijuana Establishment: <input type="checkbox"/> Recreational Retail Marijuana Store						
Marijuana Establishment's proposed physical address if the applicant owns property or has secured a lease or other property agreement (this must be a Nevada address and cannot be a P.O. Box).						
City:	County:	State:	Zip Code:			
Proposed Hours of Operation :						
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday

APPLYING ENTITY INFORMATION

Applying Entity's Name:		
Business Organization:	<input type="checkbox"/> Individual	<input type="checkbox"/> Corp.
	<input type="checkbox"/> LLC	<input type="checkbox"/> Assoc. /Coop.
	<input type="checkbox"/> Partnership	<input type="checkbox"/> Other specify:
Telephone #:	E-Mail Address:	
State Business License #:	Expiration Date:	
Mailing Address:		
City:	State:	Zip Code:

DESIGNEE INFORMATION

Name of individual designated to manage agent registration card applications on behalf of the establishment.

Last Name:	First Name:	MI:
------------	-------------	-----

SUPPLEMENTAL REQUESTS

Does the applicant agree to allow the Nevada Department of Taxation (Department) to submit supplemental requests for information? <input type="checkbox"/> Yes <input type="checkbox"/> No
--



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ATTACHMENT A (continued)

Recreational Marijuana Establishment Owner (OR), Officer (OF), Board Member (BM) Names

For each owner, officer and board member listed below, please fill out a corresponding Establishment Principal Officers and Board Members Information Form (Attachment C).

Last Name:	First Name:	MI:	OR	OF	BM
Last Name:	First Name:	MI:	OR	OF	BM
Last Name:	First Name:	MI:	OR	OF	BM
Last Name:	First Name:	MI:	OR	OF	BM
Last Name:	First Name:	MI:	OR	OF	BM
Last Name:	First Name:	MI:	OR	OF	BM
Last Name:	First Name:	MI:	OR	OF	BM
Last Name:	First Name:	MI:	OR	OF	BM
Last Name:	First Name:	MI:	OR	OF	BM
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Last Name:	First Name:	MI:	OR	OF	BM
Last Name:	First Name:	MI:	OR	OF	BM



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ATTACHMENT A (continued)

A marijuana agent identification card or recreational marijuana establishment license issued by the Nevada Department of Taxation (Department) pursuant to R092-17, Sec. 95 does not protect the applicant from legal action by federal authorities, including possible criminal prosecution for violations of federal law for the sale, manufacture, distribution, use, dispensing, possession, etc. of marijuana.

The acquisition, possession, cultivation, manufacturing, delivery, transfer, transportation, supplying, selling, distributing, or dispensing of "recreational" marijuana under state law is lawful only if done in strict compliance with the requirements of the State Medical & Recreational Marijuana Act(s) & Regulations (NAC- 453, NRS-453D, R092-17). Any failure to comply with these requirements may result in revocation of the marijuana agent identification card or Recreational Marijuana Establishment License issued by the Department.

The issuance of a license pursuant to section 80 of R092-17 of this regulation is conditional and not an approval to begin operations as a marijuana establishment until such time as all requirements in section 83 of R092-17 are completed and approved by the Department by means of a final inspection.

The State of Nevada, including but not limited to the employees of the Department, is not facilitating or participating in any way with my acquisition, possession, cultivation, manufacturing, delivery, transfer, transportation, supplying, selling, distributing, or dispensing of marijuana.

I attest that the information provided to the Department for this Recreational Marijuana Establishment License application is true and correct.

_____ Print Name	_____ Title
_____ Signature	_____ Date Signed
_____ Print Name	_____ Title
_____ Signature	_____ Date Signed



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ATTACHMENT B OWNER, OFFICER AND BOARD MEMBER ATTESTATION FORM

I, _____ (PRINT NAME)

Attest that:

I have not been convicted of an excluded felony offense as defined in NRS 453D; and

I agree that the Department may investigate my background information by any means feasible to the Department; and

I will not divert marijuana to any individual or person who is not allowed to possess marijuana pursuant to R092-17, Sec. 94 and 453D of the NRS; and

All information provided is true and correct.

Signature of Owner, Officer or Board Member Date Signed

State of Nevada	
County of _____	
Signed and sworn to (or affirmed) before me on _____ (date)	
By _____ (name(s) of person(s) making statement)	
Notary Stamp	
	Signature of notarial officer



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ATTACHMENT C OWNER, OFFICER AND BOARD MEMBER INFORMATION FORM

Provide the following information for each owner, officer and board member listed on the Recreational Marijuana Establishment Application. Use as many sheets as needed.				
Last Name:	First Name:	MI:	<input type="checkbox"/> OR <input type="checkbox"/> OF <input type="checkbox"/> BM	
Date of Birth:	Race:	Ethnicity:		
Gender:				
Residence Address:				
City:	County:	State:	Zip:	
Describe the individual's title, role in the organization and the responsibilities of the position of the individual:				
Has this individual served as a principal officer or board member for a marijuana establishment that has had their establishment license or certificate revoked? <input type="checkbox"/> Yes <input type="checkbox"/> No				
Has this individual previously had a medical marijuana establishment agent registration card or marijuana establishment agent registration card revoked <input type="checkbox"/> Yes <input type="checkbox"/> No				
Is this individual an attending provider of health care currently providing written documentation for the issuance of registry identification cards or letters of approval? <input type="checkbox"/> Yes <input type="checkbox"/> No				
Is this individual employed by or a contractor of the Department? <input type="checkbox"/> Yes <input type="checkbox"/> No				
Has a copy of this individual's signed and dated Recreational Retail Marijuana Store Principal Officer or Board Member Attestation Form been submitted with this application? <input type="checkbox"/> Yes <input type="checkbox"/> No				
Is this individual a law enforcement officer? <input type="checkbox"/> Yes <input type="checkbox"/> No				
Has a copy of this individual's fingerprints on a fingerprint card been submitted to the Nevada Department of Public Safety? <input type="checkbox"/> Yes <input type="checkbox"/> No				
Has a copy of the Request and Consent to Release Application Form been submitted with this application? <input type="checkbox"/> Yes <input type="checkbox"/> No				



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For each owner (OR), officer (OF) and board member (BM) that is currently serving as an owner, officer or board member for another medical marijuana establishment or marijuana establishment, please fill out the information below.

[illegible]



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ATTACHMENT D REQUEST AND CONSENT TO RELEASE APPLICATION FORM RECREATIONAL MARIJUANA ESTABLISHMENT LICENSE

I, _____, am the duly authorized representative of

_____ to represent and interact with the Department of Taxation (Department) on all matters and questions in relation to the Nevada Recreational Marijuana Establishment License(s) Application. I understand that R092-17, Sec. 242 makes all applications submitted to the Department confidential but that local government authorities, including but not limited to the licensing or zoning departments of cities, towns or counties, may need to review this application in order to authorize the operation of an establishment under local requirements. Therefore, I consent to the release of this application to any local governmental authority in the jurisdiction where the address listed on this application is located.

By signing this Request and Consent to Release Application Form, I hereby acknowledge and agree that the State of Nevada, its sub-departments including the Department of Taxation and its employees are not responsible for any consequences related to the release of the information identified in this consent. I further acknowledge and agree that the State and its sub-departments and its employees cannot make any guarantees or be held liable related to the confidentiality and safe keeping of this information once it is released.

Date: _____

Signature of Requestor/Applicant or Designee

State of Nevada	
County of _____	
Signed and sworn to (or affirmed) before me on _____ (date)	
By _____ (name(s) of person(s) making statement)	
Notary Stamp	Signature of notarial officer



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**ATTACHMENT E
PROPOSED ESTABLISHMENT PROPERTY ADDRESS**

To be completed by the applicant for the physical address of the proposed marijuana establishment if the applicant owns property or has secured a lease or other property agreement.

Name of Individual or Entity Applying for a Marijuana Establishment License:

Physical Address of Proposed Marijuana Establishment (must be a Nevada address, not a P.O. Box):

City:

County:

State:

Zip Code:

Legal Description of the Property:



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ATTACHMENT F MULTI-ESTABLISHMENT LIMITATIONS FORM

NRS 453D.210 places a limitation on the total number of Recreational Retail Marijuana Store licenses that can be issued within each county, and R092-17, Sec. 80 (5) places limitations on the number of recreational marijuana retail stores located in any one governmental jurisdiction and a limitation on the number of licenses issued to any one person, group or entity. Due to these limitations, please list below all applications submitted from this business organization and/or persons as identified in the recreational marijuana establishment owner, officer and board member names section of Attachment A in the 10-day window of **September 7, 2018 – September 20, 2018**.

If this business organization were to not receive approval on all applications submitted, would the applicant still want approval on the applications determined by the ranking below? ☐ Yes ☐ No

Please list in order of preference for approval (use as many sheets as needed).

Type of Establishment: Recreational Retail Marijuana Store <input type="checkbox"/>			
Recreational Marijuana Establishment's Proposed Physical Address (Must be a Nevada address, not a P.O. Box.):			
City:	County:	State:	Zip Code:

Type of Establishment: Recreational Retail Marijuana Store <input type="checkbox"/>			
Recreational Marijuana Establishment's Proposed Physical Address (Must be a Nevada address, not a P.O. Box.):			
City:	County:	State:	Zip Code:

Type of Establishment: Recreational Retail Marijuana Store <input type="checkbox"/>			
Recreational Marijuana Establishment's Proposed Physical Address (Must be a Nevada address, not a P.O. Box.):			
City:	County:	State:	Zip Code:

Type of Establishment: Recreational Retail Marijuana Store <input type="checkbox"/>			
Recreational Marijuana Establishment's Proposed Physical Address (Must be a Nevada address, not a P.O. Box.):			
City:	County:	State:	Zip Code:



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**ATTACHMENT G
NAME, SIGNAGE, AND ADVERTISING PLAN FORM**

A recreational marijuana establishment must have all advertising plans approved by the Department as a requirement for approval to operate a recreational marijuana establishment. A recreational marijuana establishment shall not use:

- A name or logo unless the name or logo has been approved by the Department; or
- Any sign of advertisement unless the sign or advertisement has been approved by the Department.

Please demonstrate the Name, Signage and Advertising Plans for the proposed marijuana establishment. Additional pages and documents can be included to demonstrate the full advertising plans of the proposed establishment.



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In a Non-Identified Criteria Response, when a specific person or company is referenced, the identity must remain confidential. A person may be addressed through their position, discipline or job title, or be assigned an identifier. Identifiers assigned to people or companies must be detailed in a legend (Attachment H) to be submitted in the Identified Criteria Response section (use as many sheets as needed).

[illegible]



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ATTACHMENT I FACILITY JURISDICTION FORM

Mark the jurisdiction(s) and number of stores in each jurisdiction for which you are applying. Only one application is necessary for multiple jurisdictions and licenses, however, you must submit attachments "A" & "E" for each jurisdiction, location and the appropriate application fee for each of the jurisdictions/locality and number of licenses requested.

No applicant may be awarded more than 1 (one) retail store license in a jurisdiction/locality, unless there are less applicants than licenses allowed in the jurisdiction.

<i>Jurisdiction</i>	<i>Indicate Number of Licenses Requested</i>	<i>Jurisdiction</i>	<i>Indicate Number of Licenses Requested</i>
Unincorporated Clark County		Unincorporated Washoe County	
City of Henderson		City of Reno	
City of Las Vegas		City of Sparks	
City of Mesquite		Lander County	
City of North Las Vegas		Lincoln County	
Carson City		Lyon County	
Churchill County		Mineral County	
Douglas County		Nye County	
Elko County		Pershing County	
Esmeralda County		Storey County	
Eureka County		White Pine County	
Humboldt County			



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ATTACHMENT J FEDERAL LAWS AND AUTHORITIES (Apply outside of NAC 453, NAC 453A, NRS 453A, NRS 453D, R092-17)

The information in this section does not need to be returned with the applicant's application. The following is a list of federal laws and authorities with which the awarded Applicant will be required to comply.

ENVIRONMENTAL:

- Archeological and Historic Preservation Act of 1974, PL 93-291
- Clean Air Act, 42 U.S.C. 7506(c)
- Endangered Species Act 16 U.S.C. 1531, ET seq.
- Executive Order 11593, Protection and Enhancement of the Cultural Environment
- Executive Order 11988, Floodplain Management
- Executive Order 11990, Protection of Wetlands Farmland Protection Policy Act, 7 U.S.C. 4201 ET seq.
- Fish and Wildlife Coordination Act, PL 85-624, as amended
- National Historic Preservation Act of 1966, PL 89-665, as amended
- Safe Drinking Water Act, Section 1424(e), PL 92-523, as amended

ECONOMIC:

- Demonstration Cities and Metropolitan Development Act of 1966, PL 89-754, as amended
- Section 306 of the Clean Air Act and Section 508 of the Clean Water Act, including Executive Order 11738, Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants or Loans

SOCIAL LEGISLATION:

- Age Discrimination Act, PL 94-135 Civil Rights Act of 1964, PL 88-352
- Section 13 of PL 92-500; Prohibition against sex discrimination under the Federal Water Pollution Control Act
- Executive Order 11246, Equal Employment Opportunity
- Executive Orders 11625 and 12138, Women's and Minority Business Enterprise Rehabilitation Act of 1973, PL 93, 112

MISCELLANEOUS AUTHORITY:

- Uniform Relocation and Real Property Acquisition Policies Act of 1970, PL 91-646 Executive Order 12549 – Debarment and Suspension

EXHIBIT 2

SECRETARY OF STATE
FILING DATA

FILED.NV.SOS
2018 FEB 27 PM2:30



Form For Filing
Administrative Regulations

Agency: Department of Taxation

Permanent Regulation
LCB File No. R092-17

FOR EMERGENCY
REGULATIONS ONLY

Effective date _____

Expiration date _____

Governor's signature

Classification: ADOPTED BY AGENCY

Brief description of action: The Nevada Tax Commission adopted LCB File No. R092-17 to establish procedures for the issuance, suspension or revocation of licenses issued by the department of Taxation, provide operating requirements to licensed marijuana establishments, require monthly filing of returns and remittance of tax imposed on the sales of marijuana, require the maintenance of certain records, and provide for the inspection of such records relating to the regulation and taxation of marijuana pursuant to NRS 453D and other matters properly relating thereto.

Authority citation other than 233B: N/A

Notice date: December 16, 2017

Date of Adoption by Agency: January 16, 2018

Hearing date: January 16, 2018

AA 000075

**APPROVED REGULATION OF THE
DEPARTMENT OF TAXATION**

LCB File No. R092-17

Effective February 27, 2018

EXPLANATION – Matter in *italics* is new; matter in brackets ~~(omitted material)~~ is material to be omitted.

AUTHORITY: §§1-21, NRS 453A.370, as amended by section 47 of Assembly Bill No. 422, chapter 540, Statutes of Nevada 2017, at page 3706 and section 48 of Senate Bill No. 487, chapter 541, Statutes of Nevada 2017, at page 3759; §§22-76, 79-81, 83-101, 103-234 and 236-246, NRS 453D.200; §§77, 78, 82 and 102, NRS 453D.200 and 453D.230; §235, NRS 372A.290, as amended by section 9 of Senate Bill No. 487, chapter 541, Statutes of Nevada 2017, at page 3730, and 453D.200.

A REGULATION relating to marijuana; revising requirements relating to independent testing laboratories; providing for the licensing of marijuana establishments and registration of marijuana establishment agents; providing requirements concerning the operation of marijuana establishments; providing additional requirements concerning the operation of marijuana cultivation facilities, marijuana distributors, marijuana product manufacturing facilities, marijuana testing facilities and retail marijuana stores; providing standards for the packaging and labeling of marijuana and marijuana products; providing requirements relating to the production of edible marijuana products and other marijuana products; providing standards for the cultivation and production of marijuana; establishing requirements relating to advertising by marijuana establishments; establishing provisions relating to the collection of excise taxes from marijuana establishments; establishing provisions relating to dual licensees; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Department of Taxation to adopt all regulations necessary or convenient to carry out the provisions of chapter 453D of NRS, which exempts a person who is 21 years of age or older from state or local prosecution for possession, use, consumption, purchase, transportation or cultivation of certain amounts of marijuana and requires the Department to begin receiving applications for the licensing of marijuana establishments on or before January 1, 2018.

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Approved Regulation R092-17

AA 000076

Sections 74-102 of this regulation provide for the licensing of marijuana establishments and the registration of marijuana establishment agents. **Section 76** of this regulation requires the Department to determine at least annually whether additional marijuana establishments are necessary to serve the people of this State and, if so, to issue a request for applications. **Sections 77 and 78** of this regulation establish the information that must be submitted with an application for a license for a marijuana establishment. **Sections 77-80** of this regulation establish the procedure for the Department to determine which applicants receive such a license. **Sections 83, 85 and 86** of this regulation prohibit a marijuana establishment from operating without a license and provide for inspections and investigations of marijuana establishments by the Department. **Sections 87 and 88** of this regulation provide for the surrender of a license in certain circumstances. **Section 89** of this regulation provides for the renewal of a license. **Section 94** of this regulation provides for the issuance and renewal of marijuana establishment agent registration cards. **Section 95** of this regulation establishes the categories of marijuana establishment agent registration cards and the requirements for the various categories. **Sections 94 and 102** of this regulation establish various fees relating to licenses and marijuana establishment agent registration cards.

Sections 103-143 of this regulation establish various provisions that apply to all marijuana establishments. **Section 104** of this regulation prohibits a marijuana establishment from selling a lot of usable marijuana or marijuana products until all testing has been completed. **Section 105** of this regulation restricts the persons who may be present at a marijuana establishment. **Sections 108 and 109** of this regulation provide requirements relating to inventory control for marijuana establishments. **Section 111** of this regulation provides requirements relating to the security of a marijuana establishment. **Sections 119-143** of this regulation establish the grounds for disciplinary action and civil penalties against a marijuana establishment and establish a process for hearings.

Sections 144-153 of this regulation provide additional requirements for the operation of retail marijuana stores. **Section 145** of this regulation provides the procedures that a marijuana establishment agent must complete before selling marijuana or marijuana products. **Sections 150-153** of this regulation establish requirements for the delivery of marijuana or marijuana products by a retail marijuana store. **Sections 154-157** of this regulation provide additional requirements for the operation of marijuana cultivation facilities. **Sections 158-179** of this regulation provide additional requirements for the production of marijuana products. **Sections 180-194** of this regulation provide the minimum good manufacturing practices for the cultivation and preparation of marijuana and marijuana products. **Sections 195-210** of this regulation provide additional requirements for the operation of marijuana testing facilities. **Sections 1-21** of this regulation revise existing requirements for independent testing laboratories to correspond with requirements for marijuana testing facilities. **Sections 211-218** of this regulation provide additional requirements for the operation of marijuana distributors. **Sections 219-229** of this regulation provide requirements for the packaging and labeling of marijuana products. **Sections 230 and 231** of this regulation provide requirements for the use of a name, logo, sign, advertisement or packaging by a marijuana establishment. **Sections 232-235** of this regulation

establish provisions relating to the collection and reporting of excise taxes by marijuana establishments. Sections 236-246 of this regulation establish various other provisions relating to marijuana. Section 237 of this regulation establishes the maximum quantity of marijuana and marijuana products that a person who does not hold a registry identification card or letter of approval authorizing the person to engage in the medical use of marijuana may possess at one time. Section 238 of this regulation allows for the Department to limit the amount of marijuana being cultivated within this State. Sections 241 and 242 of this regulation provide for the confidentiality of certain information. Sections 245 and 246 of this regulation establish requirements for the co-location of marijuana establishments and medical marijuana establishments and for the operation of marijuana establishments and medical marijuana establishments by a dual licensee.

Section 1. Chapter 453A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 13, inclusive, of this regulation.

Sec. 2. *“Analyte” means any compound, element, contaminant organism, species or other substance for which a marijuana sample is tested by an independent testing laboratory.*

Sec. 3. *“CBD” means cannabidiol, which is a primary phytocannabinoid compound found in marijuana.*

Sec. 4. *“Proficiency testing” means the evaluation, relative to a given set of criteria, of the performance, under controlled conditions, of an independent testing laboratory in analyzing unknown samples provided by an external source.*

Sec. 5. *“Proficiency testing program” means the program established by the Department pursuant to NAC 453A.660 to evaluate the proficiency of all independent testing laboratories in this State.*

Sec. 6. *“Proficiency testing provider” means a person accredited to operate a proficiency testing program by an organization which is accredited pursuant to standard ISO/IEC 17011 of the International Organization for Standardization to perform such accreditation.*

Sec. 7. “Proficiency testing sample” means a sample, the composition of which is unknown to the independent testing laboratory, provided to an independent testing laboratory to test whether the independent testing laboratory can produce analytical results within certain criteria.

Sec. 8. “Sampling protocols” means the procedures specified by the Department which are required to be used to obtain samples of marijuana for quality assurance testing.

Sec. 9. 1. When performing potency analysis or terpene analysis pursuant to NAC 453A.654, an independent testing laboratory shall test for and quantify the presence of the following:

(a) Cannabinoids:

- (1) THC;**
- (2) Tetrahydrocannabinolic acid;**
- (3) CBD;**
- (4) Cannabidiolic acid; and**
- (5) Cannabinol; and**

(b) Terpenoids:

- (1) Alpha-bisabolol;**
- (2) Alpha-humulene;**
- (3) Alpha-pinene;**
- (4) Alpha-terpinolene;**
- (5) Beta-caryophyllene;**
- (6) Beta-myrcene;**

- (7) Beta-pinene;*
- (8) Caryophyllene oxide;*
- (9) Limonene; and*
- (10) Linalool.*

2. An independent testing laboratory shall provide the final certificate of analysis containing the results of testing pursuant to this section to the medical marijuana establishment which provided the sample within 2 business days after obtaining the results.

Sec. 10. *1. Except as otherwise provided in subsection 2, an independent testing laboratory shall perform testing to verify the homogeneity of the potency of an edible marijuana product by testing multiple samples from a single production run.*

2. An independent testing laboratory that tests an edible marijuana product which has previously had the homogeneity of the potency of the edible marijuana product verified by an independent testing 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 production run of the edible marijuana product.

3. The independent testing laboratory will verify the homogeneity of the potency of the edible marijuana product only if:

(a) The concentration of THC and weight of each sample is within 15 percent above or below the intended concentration of THC and weight; and

(b) No combination of samples which comprise 10 percent or less of the edible marijuana product contain 20 percent or more of the total THC in the edible marijuana product.

Sec. 11. 1. *A medical marijuana establishment shall only use a pesticide in the cultivation or production of marijuana, edible marijuana products or marijuana-infused products if the pesticide appears on the list of pesticides published by the State Department of Agriculture pursuant to NRS 586.550.*

2. *When performing pesticide residue analysis pursuant to NAC 453A.654, an independent testing laboratory shall analyze for the pesticides which occur on the list of pesticides published by the State Department of Agriculture pursuant to NRS 586.550 at the detection levels specified by the State Department of Agriculture and for any other substances required by the Department of Taxation. If:*

(a) A pesticide which occurs on the list of pesticides published by the State Department of Agriculture pursuant to NRS 586.550 is detected at a level which exceeds the level specified by the State Department of Agriculture; or

(b) A pesticide which does not occur on the list of pesticides published by the State Department of Agriculture pursuant to NRS 586.550 is detected in any amount which is positively verified,

↪ the pesticide residue analysis is failed.

Sec. 12. 1. *At the request of the Department of Taxation, an independent testing laboratory may be audited or certified by the State Department of Agriculture.*

2. *If the State Department of Agriculture audits or certifies independent testing laboratories, the State Department of Agriculture will perform such technical inspections of the premises and operations of an independent testing laboratory as the State Department of Agriculture determines is appropriate.*

3. If the State Department of Agriculture audits or certifies independent testing laboratories, each independent testing laboratory shall comply with the requirements established by the State Department of Agriculture.

Sec. 13. *1. At the request of the Department of Taxation, the State Department of Agriculture may collect and test random samples from medical marijuana establishments and compare the results of its testing to the results reported by independent testing laboratories.*

2. A medical marijuana establishment shall provide samples to the State Department of Agriculture upon request if the State Department of Agriculture conducts testing pursuant to subsection 1.

Sec. 14. NAC 453A.010 is hereby amended to read as follows:

453A.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NAC 453A.020 to 453A.078, inclusive, *and sections 2 to 8, inclusive, of this regulation* have the meanings ascribed to them in those sections.

Sec. 15. NAC 453A.650 is hereby amended to read as follows:

453A.650 **1.** Each independent testing laboratory must employ a scientific director who must be responsible for:

- (a) Ensuring that the laboratory achieves and maintains quality standards of practice; and
- (b) Supervising all staff of the laboratory.

2. The scientific director of an independent testing laboratory must have earned:

- (a) A doctorate degree in ~~{chemical or biological sciences}~~ *science* from an accredited college or university and have at least 2 years of post-degree laboratory experience;

(b) A master's degree in ~~[chemical or biological sciences]~~ *science* from an accredited college or university and have at least 4 years of post-degree laboratory experience; or

(c) A bachelor's degree in ~~[chemical or biological sciences]~~ *science* from an accredited college or university and have at least 6 years of post-degree laboratory experience.

3. *If a scientific director is no longer employed by an independent testing laboratory, the independent testing laboratory shall not be permitted to conduct any testing.*

4. *Upon the appointment of a new scientific director by an independent testing laboratory, the independent testing laboratory shall not resume any testing until the Department conducts an inspection of the independent testing laboratory.*

Sec. 16. NAC 453A.652 is hereby amended to read as follows:

453A.652 1. Each independent testing laboratory must:

(a) Follow the most current version of the *Cannabis Inflorescence: Standards of Identity, Analysis, and Quality Control* monograph published by the American Herbal Pharmacopoeia . ~~or~~

(b) ~~[Notify the Division of the alternative testing methodology the laboratory is following for each quality assurance test it conducts. The Division may require the independent testing laboratory to have the testing methodology followed pursuant to this paragraph validated by an independent third party to ensure that the methodology followed by the laboratory produces scientifically accurate results before the laboratory may use the methodology when conducting testing services.]~~ *Follow the Recommendations for Regulators -- Cannabis Operations published by the American Herbal Products Association.*

(c) Be accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization by an impartial organization that operates in conformance with standard ISO/IEC 17011 of the International Organization for Standardization and is a signatory to the Mutual Recognition Arrangement of the International Laboratory Accreditation Cooperation.

(d) Follow the Guidelines for Laboratories Performing Microbiological and Chemical Analyses of Food, Dietary Supplements, and Pharmaceuticals -- An Aid to the Interpretation of ISO/IEC 17025:2005 (2015) published by AOAC International.

2. Each independent testing laboratory shall become proficient in testing samples using the analytical methods approved by the ~~{Division}~~ *Department* within 6 months after the date upon which the independent testing laboratory is issued a medical marijuana establishment registration certificate.

3. The ~~{Division}~~ *Department* may require an independent testing laboratory to have its basic proficiency to execute correctly the analytical testing methodologies used by the laboratory validated and monitored on an ongoing basis by an independent third-party.

4. Each independent testing laboratory shall:

(a) ~~{Either:~~

~~——(1)}~~ Adopt and follow minimum good laboratory practices which must, at a minimum, satisfy the *OECD Series on Principles of Good Laboratory Practice (GLP) and Compliance Monitoring* published by the Organisation for Economic Co-operation and Development . ~~{or~~

~~——(2)}~~ (b) Become certified by the International Organization for Standardization and agree to have the inspections and reports of the International Organization for Standardization made available to the ~~{Division}.~~

~~—(b)(1)~~ *Department.*

(c) Maintain internal standard operating procedures.

~~{(c)}~~ (d) Maintain a quality control and quality assurance program.

5. The ~~{Division}~~ *Department* or an independent third-party authorized by the ~~{Division}~~ *Department* may conduct an inspection of the practices, procedures and programs adopted, followed and maintained pursuant to subsection 4 and inspect all records of the independent testing laboratory that are related to the inspection.

6. *An independent testing laboratory must use, when available, testing methods that have undergone validation by the Official Methods of Analysis of AOAC International, the Performance Tested Methods Program of the Research Institute of AOAC International, the Bacteriological Analytical Manual of the Food and Drug Administration, the International Organization for Standardization, the United States Pharmacopeia, the Microbiology Laboratory Guidebook of the Food Safety and Inspection Service of the United States Department of Agriculture or an equivalent third-party validation study approved by the Department of Taxation. If no such testing method is available, an independent testing laboratory may use an alternative testing method or a testing method developed by the independent testing laboratory upon demonstrating the validity of the testing method to and receiving the approval of the *Department*.*

7. The ~~{Division}~~ *Department* hereby adopts by reference:

(a) *The Cannabis Inflorescence: Standards of Identity, Analysis, and Quality Control* monograph published by the American Herbal Pharmacopoeia. A copy of that publication may

be obtained from the American Herbal Pharmacopoeia, P.O. Box 66809, Scotts Valley, California 95067, or at the Internet address <http://www.herbal-ahp.org/>, for the price of \$44.95.

(b) The *OECD Series on Principles of Good Laboratory Practice (GLP) and Compliance Monitoring* published by the Organisation for Economic Co-operation and Development. A copy of that publication may be obtained free of charge from the Organisation for Economic Co-operation and Development at the Internet address <http://www.oecd.org/env/ehs/testing/oecdseriesonprinciplesofgoodlaboratorypracticeglpandcompliancemonitoring.htm>.

(c) *Standard ISO/IEC 17025 published by the International Organization for Standardization. A copy of that publication may be obtained from the American National Standards Institute at the Internet address <https://webstore.ansi.org/RecordDetail.aspx?sku=ISO%2fIEC+17025%3a2005> for the price of \$162.*

(d) *The Guidelines for Laboratories Performing Microbiological and Chemical Analyses of Food, Dietary Supplements, and Pharmaceuticals -- An Aid to the Interpretation of ISO/IEC 17025:2005 (2015)* published by AOAC International. A copy of that publication may be obtained from AOAC International at the Internet address http://www.aoc.org/aoc_prod_imis/AOAC/AOAC_Member/PUBSCF/ALACCCF/ALACC_M.aspx for the price of \$190.

Sec. 17. NAC 453A.654 is hereby amended to read as follows:

453A.654 1. Each independent testing laboratory must use the *sampling protocols and the* general body of required quality assurance tests for usable marijuana, as received, concentrated

cannabis, marijuana-infused products and edible marijuana products set forth in this section. Such tests may include moisture content, potency analysis, foreign matter inspection, microbial screening, pesticide and other chemical residue and metals screening and residual solvents levels. An independent testing laboratory may request additional sample material for the purposes of completing required quality assurance tests ~~(H)~~ *but may not use such material for the purposes of resampling or repeating quality assurance tests.* An independent testing laboratory may retrieve samples from the premises of another medical marijuana establishment and transport the samples directly to the laboratory. *An independent testing laboratory transporting samples may make multiple stops if:*

(a) Each stop is for the sole purpose of retrieving a sample from a medical marijuana establishment; and

(b) All samples remain secured at all times.

2. The tests required pursuant to subsection 1 by an independent testing laboratory are as follows:

Product	Tests Required	
Usable marijuana (H) <i>and crude collected resins</i> , as received, excluding wet marijuana	1. Moisture content 2. Potency analysis 3. Terpene analysis 4. Foreign matter inspection	<i>1. < 15%</i> <i>2. N/A</i> <i>3. N/A</i> <i>4. None detected</i>

Product	Tests Required	
	<p>5. [Microbial screening</p> <p>6.] Mycotoxin screening</p> <p>[7.] 6. Heavy metal screening</p> <p>[8.] 7. Pesticide residue analysis</p> <p>[9.] 8. Herbicide screening</p> <p>[10.] 9. Growth regulator screening</p> <p>10. Total yeast and mold</p> <p>11. Total Enterobacteriaceae</p> <p>12. Salmonella</p> <p>13. Pathogenic E. coli</p> <p>14. Aspergillus fumigatus</p> <p>15. Aspergillus flavus</p> <p>16. Aspergillus terreus</p> <p>17. Aspergillus niger</p> <p>18. Total coliform</p>	<p>5. < 20 µg/kg for the total of Aflatoxins B1, B2, G1 and G2 combined and < 20 µg/kg for Ochratoxin A</p> <p>6. Arsenic: < 2 ppm</p> <p>Cadmium: < 0.82 ppm</p> <p>Lead: < 1.2 ppm</p> <p>Mercury: < 0.4 ppm</p> <p>7. See section 11 of this regulation</p> <p>8. See section 11 of this regulation</p> <p>9. See section 11 of this regulation</p> <p>10. < 10,000 colony forming units per gram</p> <p>11. < 1,000 colony forming units per gram</p>

Product	Tests Required	
		<p><i>12. None detected per gram</i></p> <p><i>13. None detected per gram</i></p> <p><i>14. None detected per gram</i></p> <p><i>15. None detected per gram</i></p> <p><i>16. None detected per gram</i></p> <p><i>17. None detected per gram</i></p> <p><i>18. < 1,000 colony forming units per gram</i></p>
Wet marijuana, as received, which is destined for extraction	<p>1. Potency analysis</p> <p>2. Terpene analysis</p> <p>3. Foreign matter inspection</p> <p>4. Microbial screening</p> <p>5.1 Mycotoxin screening</p>	<p><i>1. N/A</i></p> <p><i>2. N/A</i></p> <p><i>3. None detected</i></p> <p><i>4. < 20 µg/kg for the total of Aflatoxins B1, B2, G1</i></p>

Product	Tests Required	
	[6.] 5. Heavy metal screening [7.] 6. Pesticide residue analysis [8.] 7. Herbicide screening [9.] 8. Growth regulator screening 9. Total yeast and mold 10. Total Enterobacteriaceae 11. Salmonella 12. Pathogenic E. coli 13. Aspergillus fumigatus 14. Aspergillus flavus 15. Aspergillus terreus 16. Aspergillus niger 17. Total coliform	and G2 combined and < 20 µg/kg for Ochratoxin A 5. Arsenic: < 2 ppm Cadmium: < 0.82 ppm Lead: < 1.2 ppm Mercury: < 0.4 ppm 6. See section 11 of this regulation 7. See section 11 of this regulation 8. See section 11 of this regulation 9. < 10,000 colony forming units per gram 10. < 1,000 colony forming units per gram 11. None detected per gram

Product	Tests Required	
		<p>12. <i>None detected per gram</i></p> <p>13. <i>None detected per gram</i></p> <p>14. <i>None detected per gram</i></p> <p>15. <i>None detected per gram</i></p> <p>16. <i>None detected per gram</i></p> <p>17. <i>< 1,000 colony forming units per gram</i></p>
<p>Extract of marijuana (nonsolvent) like kief, hashish, bubble hash, infused dairy butter, <i>mixtures of extracted products</i> or oils or fats derived from natural sources, including concentrated cannabis extracted with CO₂</p>	<p>1. Potency analysis</p> <p>2. Foreign matter inspection</p> <p>3. Microbial screening</p> <p>4. Terpenes analysis</p> <p>4. <i>Mycotoxin screening</i></p> <p>5. <i>Heavy metal screening</i></p> <p>6. <i>Pesticide residue analysis</i></p>	<p>1. <i>N/A</i></p> <p>2. <i>None detected</i></p> <p>3. <i>N/A</i></p> <p>4. <i>< 20 µg/kg for the total of Aflatoxins B1, B2, G1 and G2 combined and < 20 µg/kg for Ochratoxin</i></p>

Product	Tests Required	
	<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>A</p> <p>5. Arsenic: < 2 ppm</p> <p>Cadmium: < 0.82 ppm</p> <p>Lead: < 1.2 ppm</p> <p>Mercury: < 0.4 ppm</p> <p>6. See section 11 of this regulation</p> <p>7. < 1,000 colony forming units per gram</p> <p>8. < 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>

Product	Tests Required	
		<p><i>13. None detected per gram</i></p> <p><i>14. None detected per gram</i></p>
Extract of marijuana (solvent-based) made with any approved solvent, including concentrated cannabis extracted by means other than with CO ₂	<p>1. Potency analysis</p> <p>2. Terpene analysis</p> <p>3. Foreign matter inspection</p> <p>4. Microbial screening</p> <p>5.] Residual solvent test</p> <p>5. Mycotoxin screening</p> <p>6. Heavy metal screening</p> <p>7. Pesticide residue analysis</p> <p>8. Total yeast and mold</p> <p>9. Total Enterobacteriaceae</p> <p>10. Salmonella</p> <p>11. Pathogenic E. coli</p> <p>12. Aspergillus fumigatus</p> <p>13. Aspergillus flavus</p> <p>14. Aspergillus terreus</p>	<p><i>1. N/A</i></p> <p><i>2. N/A</i></p> <p><i>3. None detected</i></p> <p><i>4. < 500 ppm</i></p> <p><i>5. < 20 µg/kg for the total of Aflatoxins B1, B2, G1 and G2 combined and < 20 µg/kg for Ochratoxin A</i></p> <p><i>6. Arsenic: < 2 ppm</i></p> <p><i>Cadmium: < 0.82 ppm</i></p> <p><i>Lead: < 1.2 ppm</i></p> <p><i>Mercury: < 0.4 ppm</i></p> <p><i>7. See section 11 of this regulation</i></p>

Product	Tests Required	
	<i>15. Aspergillus niger</i>	<i>8. < 1,000 colony forming units per gram</i> <i>9. < 100 colony forming units per gram</i> <i>10. None detected per gram</i> <i>11. None detected per gram</i> <i>12. None detected per gram</i> <i>13. None detected per gram</i> <i>14. None detected per gram</i> <i>15. None detected per gram</i>

Product	Tests Required	
Edible marijuana-infused product, including a product which contains concentrated cannabis	1. Potency analysis 2. Terpene analysis 3. Foreign matter inspection 4. Microbial screening Total <i>Enterobacteriaceae</i> 5. <i>Salmonella</i> 6. <i>Pathogenic E. coli</i> 7. Total aerobic count 8. Water activity or pH	1. <i>N/A</i> 2. <i>N/A</i> 3. <i>None detected</i> 4. <i>< 1,000 colony forming units per gram</i> 5. <i>None detected per gram</i> 6. <i>None detected per gram</i> 7. <i>< 100,000 colony forming units per gram</i> 8. <i>Water activity < 0.86 or pH < 4.6</i>

Product	Tests Required	
Liquid marijuana-infused product, including, without limitation, soda or tonic, including a product which contains concentrated cannabis	1. Potency analysis 2. Terpene analysis 3. Foreign matter inspection 4. Microbial screening Total <i>Enterobacteriaceae</i> 5. <i>Salmonella</i> 6. <i>Pathogenic E. coli</i> 7. Total aerobic count 8. Water activity or pH	1. N/A 2. N/A 3. None detected 4. < 1,000 colony forming units per gram 5. None detected per gram 6. None detected per gram 7. < 100,000 colony forming units per gram 8. Water activity < 0.86 or pH < 4.6
Topical marijuana-infused product, including a product which contains concentrated cannabis	1. Potency analysis 2. Terpene analysis	1. N/A 2. N/A

3. *A sample of usable marijuana must be at least 10 grams. A sample of a production run must be the lesser of 1 percent of the total product weight of the production run or 25 units of product. All samples must be homogenized before testing.*

4. A medical marijuana establishment shall not submit wet marijuana to an independent testing laboratory for testing unless the wet marijuana is destined for extraction ~~[-~~
~~—4.]~~ *and weighed within 2 hours after harvest.*

5. 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.

Sec. 18. NAC 453A.656 is hereby amended to read as follows:

453A.656 *1.* An independent testing laboratory shall not handle, test or analyze marijuana unless:

~~[(1)]~~ (a) The laboratory has been issued a medical marijuana establishment registration certificate;

~~[(2)]~~ (b) The laboratory is independent from all other persons involved in the medical marijuana industry in Nevada; and

~~[(3)]~~ (c) No person with a direct or indirect interest in the laboratory has a direct or indirect financial interest in:

~~[(a)]~~ (1) A medical marijuana dispensary;

~~[(b)]~~ (2) A facility for the production of edible marijuana products or marijuana-infused products;

~~[(c)]~~ (3) A cultivation facility;

~~{(d)}~~ (4) A ~~{physician}~~ *provider of health care* who provides or has provided written documentation for the issuance of registry identification cards or letters of approval; or

~~{(e)}~~ (5) Any other entity that may benefit from the cultivation, manufacture, dispensing, sale, purchase or use of marijuana or marijuana products.

2. An independent testing laboratory is not required to use a marijuana distributor to collect or move samples for testing.

Sec. 19. NAC 453A.658 is hereby amended to read as follows:

453A.658 1. Immediately before packaging:

(a) Raw marijuana for sale to a medical marijuana dispensary, facility for the production of edible marijuana products or marijuana-infused products or another cultivation facility, a cultivation facility shall segregate all harvested marijuana into homogenized lots of flower and trim, respectively and allow an independent testing laboratory to select a representative sample for testing from each lot the cultivation facility has segregated. The independent testing laboratory which performs the test must collect the samples. *If the cultivation facility has segregated the lot of harvested marijuana into packages or container sizes smaller than the entire lot, the independent testing laboratory must sample and test each package containing harvested marijuana from the lot.*

(b) Concentrated cannabis, edible marijuana products or marijuana-infused products, a facility for the production of edible marijuana products or marijuana-infused products shall allow an independent testing laboratory to select a random sample from each lot or production run for testing by the independent testing laboratory. The independent testing laboratory performing the testing must collect the samples.

(c) The independent testing laboratory selecting a sample shall, using tamper-resistant products, record the batch, lot or production run number and the weight or quantity of the sample and seal the sample into a container.

2. An independent testing laboratory that receives a sample pursuant to this section shall test the sample as provided in NAC 453A.654.

3. From the time that a lot or production run has been homogenized for sample testing and eventual packaging and sale to a medical marijuana dispensary, facility for the production of edible marijuana products or marijuana-infused products or, if applicable, another cultivation facility until the independent testing laboratory provides the results from its tests and analysis, the facility which provided the sample shall segregate and withhold from use the entire lot or production run, except the samples that have been removed by the independent testing laboratory for testing. During this period of segregation, the facility which provided the sample shall maintain the lot or production run in a secure, cool and dry location so as to prevent the marijuana from becoming contaminated or losing its efficacy. Under no circumstances shall the facility which provided the sample sell the marijuana or edible marijuana products or marijuana-infused products, as applicable, to a medical marijuana dispensary, facility for the production of edible marijuana products or marijuana-infused products or, if applicable, another cultivation facility before the time that the independent testing laboratory has completed its testing and analysis and provided those results, in writing, to the facility which provided the sample.

4. ~~[An]~~ *Except as otherwise provided in subsection 5, an* independent testing laboratory shall immediately return or dispose of any sample received pursuant to this section upon the completion of any testing, use or research. If an independent testing laboratory disposes of a

sample received pursuant to this section, the laboratory shall document the disposal of the sample using its inventory control system pursuant to NRS 453A.356 and NAC 453A.414.

5. *An independent testing laboratory shall keep any sample which fails testing or which is collected by the State Department of Agriculture for confirmation testing for 30 days after failure or collection. A sample which is kept pursuant to this subsection must be stored in a manner approved by the Department of Taxation. A marijuana testing facility shall dispose of a sample kept pursuant to this subsection after 30 days have elapsed after failure or collection.*

6. Except as otherwise provided in NAC 453A.672, if a sample provided to an independent testing laboratory pursuant to this section does not pass the testing required by NAC 453A.654, the facility which provided the sample shall dispose of the entire lot or production run from which the sample was taken and document the disposal of the sample using its inventory control system pursuant to NRS 453A.356 and NAC 453A.414.

~~[6. For the purposes of the microbial test described in NAC 453A.654, a sample provided to an independent testing laboratory pursuant to this section shall be deemed to have passed if it satisfies the standards set forth in Table 9 of the Cannabis Inflorescence: Standards of Identity, Analysis, and Quality Control monograph adopted by reference pursuant to NAC 453A.652.]~~

7. ~~[For the purposes of the mycotoxin test described in NAC 453A.654, a sample provided to an independent testing laboratory pursuant to this section shall be deemed to have passed if it meets the following standards:~~

Test	Specification
The total of aflatoxin B₁,	

~~afatoxin B2, aflatoxin G1 and~~

~~aflatoxin G2..... <20 uG/KG of Substance~~

~~Ochratoxin A..... <20 uG/KG of Substance~~

~~8. For the purposes of the heavy metal test described in NAC 453A.654, a sample of marijuana shall be deemed to have passed if it meets the following standards established on the basis of 5 grams of dried marijuana as the daily dose:~~

~~Metal..... Natural Health Products~~

~~..... Acceptable limits in parts per million~~

~~Asbestos..... <2~~

~~Cadmium..... <0.82~~

~~Lead..... <1.2~~

~~Mercury..... <0.4~~

~~9.] If a sample provided to an independent testing laboratory pursuant to this section passes the testing required by NAC 453A.654, the independent testing laboratory shall release the entire lot or production run for immediate manufacturing, packaging and labeling for sale to a medical marijuana dispensary, a facility for the production of edible marijuana products or marijuana-infused products or, if applicable, another cultivation facility.~~

~~{H0-}~~ 8. A medical marijuana establishment shall not use more than one independent testing laboratory to test the same lot or production run of marijuana without the approval of the Department.

9. An independent testing laboratory shall file with the ~~{Division,}~~ Department, in a manner prescribed by the ~~{Division,}~~ Department, an electronic copy of ~~{all laboratory test results,}~~ the certificate of analysis for all tests performed by the independent testing laboratory, regardless of the outcome of the test, including all testing required by NAC 453A.654, at the same time that it transmits those results to the facility which provided the sample. ~~{In addition, the}~~ The independent testing laboratory shall ~~{maintain the laboratory test results and make them available to the Division upon request.}~~ transmit an electronic copy of the certificate of analysis for each test to the Department by electronic mail at:

(a) If the test was passed, mmelabpass@tax.state.nv.us; or

(b) If the test was failed, mmelabfail@tax.state.nv.us.

10. An electronic mail message transmitted pursuant to subsection 9 must be formatted as follows:

(a) The subject line of the electronic mail message must be the name of the medical marijuana establishment from which the sample was collected.

(b) The name of the electronic file containing the certificate of analysis must be:

(1) Except as otherwise provided in subparagraph (2) or (3), the four digit identifier assigned by the Department to the independent testing laboratory, followed by an underscore, followed by the four digit identifier assigned by the Department to the medical marijuana establishment from which the sample was collected, followed by an underscore, followed by:

(I) If the sample was from a production run, the production run number; or
(II) If the sample was not from a production run, the batch number, followed by an underscore, followed by the lot number.

(2) If the certificate of analysis is from a retesting of a previously failed sample, an underscore followed by the word “Retest” must be appended to the end of the name of the electronic file.

(3) If the certificate of analysis has been amended, an underscore followed by the word “Amended” must be appended to the end of the name of the electronic file.

(c) If the certificate of analysis has been amended, the electronic copy of the certificate of analysis must state “Amended” in bold red font at the center of the top of the first page of the report and must contain a statement of the reason for the amendment.

11. The ~~[Division]~~ **Department** will take immediate disciplinary action against any medical marijuana establishment which fails to comply with the provisions of this section or falsifies records related to this section, including, without limitation, revoking the medical marijuana establishment registration certificate of the medical marijuana establishment.

12. An independent testing laboratory may subcontract its testing of marijuana, edible marijuana products and marijuana-infused products only to another independent testing laboratory. *A transfer of samples pursuant to such a subcontract must be performed directly by the independent testing laboratories.*

Sec. 20. NAC 453A.660 is hereby amended to read as follows:

453A.660 1. The ~~[Division]~~ **Department** will establish a proficiency testing program for independent testing laboratories. *A proficiency testing program must include, without*

limitation, providing rigorously controlled and standardized proficiency testing samples to independent testing laboratories for analysis, reporting the results of such analysis and performing a statistical evaluation of the collective demographics and results of all independent testing laboratories.

2. Each independent testing laboratory must participate in the proficiency testing program established pursuant to this section.

3. If required by the ~~{Division}~~ *Department* as part of being issued or renewing a medical marijuana establishment registration certificate, the independent testing laboratory must have successfully participated in the proficiency testing program within the preceding 12 months.

4. To maintain continued registration as an independent testing laboratory, a laboratory must participate in the designated proficiency testing program with continued satisfactory performance as determined by the ~~{Division-}~~ *Department*.

5. An independent testing laboratory must analyze proficiency test samples using the same procedures with the same number of replicate analyses, standards, testing analysts and equipment as used for product testing.

6. The scientific director of the independent testing laboratory and all testing analysts that participated in a proficiency test must sign corresponding attestation statements.

7. The scientific director of the independent testing laboratory must review and evaluate all proficiency test results.

8. ~~{An independent testing laboratory must take and document remedial action when a score of less than 100 percent is achieved during a proficiency test. Documentation of remedial action~~

~~must include, without limitation, a review of samples tested and results reported since the last successful proficiency test.~~

~~—9.~~ Successful participation ~~(+)~~ *includes* the positive identification of 80 percent of the target analytes that the independent testing laboratory reports to include quantitative results when applicable. Any false positive results reported will be considered an unsatisfactory score for the proficiency test.

~~(+9.)~~ 9. Unsuccessful participation in a proficiency test may result in limitation, suspension or revocation of the medical marijuana establishment registration certificate of the independent testing laboratory.

10. The Department will select a proficiency testing provider to conduct the proficiency testing program and determine the schedule that the proficiency testing provider will follow when sending proficiency testing samples to independent testing laboratories for analysis.

11. In addition to achieving the standard required pursuant to subsection 8, an independent testing laboratory successfully participates in the proficiency testing program only if the independent testing laboratory:

- (a) Obtains single-blind proficiency testing samples from the proficiency testing provider;*
- (b) Analyzes the proficiency testing sample for all analytes listed in NAC 453A.654 and sections 9, 10 and 11 of this regulation;*
- (c) Reports the results of its analysis to the proficiency testing provider;*
- (d) Analyzes a proficiency testing sample pursuant to the proficiency testing program not less frequently than once each 12 months;*
- (e) Pays the costs of subscribing to the proficiency testing program; and*

(f) Authorizes the proficiency testing provider to submit to the Department the results of any test performed pursuant to this section.

12. The performance of an independent testing laboratory is satisfactory pursuant to subsection 4 if the results of the testing performed pursuant to this section are within the limits of the acceptance range established by the proficiency testing provider. An independent testing laboratory that fails to meet this standard may request that the Department allow the independent testing laboratory to retest a proficiency testing sample once to establish satisfactory performance. If the Department denies the request or if the independent testing laboratory fails to meet the standard on retesting, the Department may limit, suspend or revoke the medical marijuana establishment registration certificate of the independent testing laboratory.

Sec. 21. NAC 453A.664 is hereby amended to read as follows:

453A.664 1. *Each independent testing laboratory must agree to become accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization within 1 year after licensure.*

2. Each independent testing laboratory that claims to be accredited must provide the ~~[Division]~~ Department with copies of each annual inspection report from the accrediting organization, including, without limitation, any deficiencies identified in and any corrections made in response to the report.

~~[2. An independent testing laboratory may not claim to be accredited unless it is accredited by an accrediting organization that is nationally recognized and approved by the Division.]~~

3. Inspection by an accrediting organization is not a substitute for inspection by the

~~[Division]~~ *Department.*

Sec. 22. Chapter 453D of NAC is hereby amended by adding thereto the provisions set forth as sections 23 to 246, inclusive, of this regulation.

Sec. 23. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 24 to 72, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 24. *“Analyte” means any compound, element, contaminant organism, species or other substance for which a marijuana sample is tested by a marijuana testing facility.*

Sec. 25. *“Batch” means the usable flower and trim contained within one or more specific lots of marijuana grown by a marijuana 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.*

Sec. 26. *“Batch number” means a unique numeric or alphanumeric identifier assigned to a batch by a marijuana establishment when the batch is planted.*

Sec. 27. *“CBD” means cannabidiol, which is a primary phytocannabinoid compound found in marijuana.*

Sec. 28. *“Combined marijuana establishment” means a group of marijuana establishments or medical marijuana establishments which:*

- 1. Each share identical ownership; and*
- 2. Are located on the same parcel of real estate.*

Sec. 29. *“Component marijuana establishment” means an individual marijuana establishment or medical marijuana establishment which is part of a combined marijuana establishment.*

Sec. 30. *“Designated primary caregiver” has the meaning ascribed to it in NRS 453A.080.*

Sec. 31. *“Division” means the Division of Public and Behavioral Health of the Department of Health and Human Services.*

Sec. 32. *“Edible marijuana products” has the meaning ascribed to it in NRS 453A.101.*

Sec. 33. *“Enclosed, locked facility” has the meaning ascribed to it in NRS 453A.103.*

Sec. 34. *“Excise tax on marijuana” means any excise tax imposed by chapter 372A or 453D of NRS.*

Sec. 35. *“Extraction” has the meaning ascribed to it in NRS 453.0825.*

Sec. 36. *“Fair market value” means the value established by the Department based on the price that a buyer would pay to a seller in an arm’s length transaction for marijuana in the wholesale market.*

Sec. 37. *“Foreign matter” means:*

1. Any plant matter, other than the marijuana product itself, which is more than 2 millimeters in size and constitutes more than 5 percent of the marijuana product; or

2. Any physical contaminant,

↪ which is included in the marijuana product.

Sec. 38. *“Growing unit” means an area within a marijuana cultivation facility in which growing operations are performed at all stages of growth. The term includes, without*

limitation, multiple rooms or areas that collectively are used to perform growing operations at all stages of growth regardless of whether each individual room or area has the capability to perform growing operations at all stages of growth.

Sec. 39. *“Imminent health hazard” means a situation that requires immediate correction or cessation of operations to prevent injury as determined by the Department pursuant to subsection 5 of section 120 of this regulation.*

Sec. 40. *“Inventory control system” means a process, device or other contrivance that may be used to monitor the chain of custody of marijuana from the point of cultivation to the end consumer.*

Sec. 41. *“Label” means written or printed material affixed to or included with marijuana or a marijuana product to provide identification or other information.*

Sec. 42. *“Letter of approval” has the meaning ascribed to it in NRS 453A.109.*

Sec. 43. *“Lot” means:*

- 1. The flowers from one or more marijuana plants of the same batch, in a quantity that weighs 5 pounds or less;*
- 2. The leaves or other plant matter from one or more marijuana plants of the same batch, other than full female flowers, in a quantity that weighs 15 pounds or less; or*
- 3. The wet leaves or other plant matter from one or more marijuana plants of the same batch used only for extraction, in a quantity that weighs 125 pounds or less within 2 hours of harvest.*

Sec. 44. *“Marijuana establishment agent” means an owner, officer, board member, employee or volunteer of a marijuana establishment, an independent contractor who provides*

labor relating to the cultivation, processing or distribution of marijuana or the production of marijuana or marijuana products for a marijuana establishment or an employee of such an independent contractor.

Sec. 45. *“Marijuana establishment agent registration card” means a registration card that is issued by the Department to authorize a person to volunteer or work at a marijuana establishment.*

Sec. 46. *“Medical marijuana establishment” has the meaning ascribed to it in NRS 453A.116.*

Sec. 47. *“Medical marijuana establishment agent registration card” has the meaning ascribed to it in NRS 453A.118, as amended by section 14 of Assembly Bill No. 422, chapter 540, Statutes of Nevada 2017, at page 3680 and section 26 of Senate Bill No. 487, chapter 541, Statutes of Nevada 2017, at page 3744.*

Sec. 48. *“Medical marijuana establishment registration certificate” has the meaning ascribed to it in NRS 453A.119, as amended by section 15 of Assembly Bill No. 422, chapter 540, Statutes of Nevada 2017, at page 3680 and section 27 of Senate Bill No. 487, chapter 541, Statutes of Nevada 2017, at page 3744.*

Sec. 49. *“Medical use of marijuana” has the meaning ascribed to it in NRS 453A.120.*

Sec. 50. *“Multiple-serving edible marijuana product” means an edible marijuana product which is offered for sale to a consumer and contains, within a variance of 15 percent, more than 10 milligrams and not more than 100 milligrams of THC. The term includes an edible marijuana product which contains multiple pieces, each of which contains 10*

milligrams or less of THC, if the edible marijuana product offered for sale contains a total of more than 10 milligrams of THC.

Sec. 51. *“Packaging” means the materials used to wrap or protect goods.*

Sec. 52. *“Pesticide” has the meaning ascribed to it in NRS 586.195.*

Sec. 53. *“Potential total THC” means the sum of the percentage by weight of tetrahydrocannabinolic acid multiplied by 0.877 plus the percentage by weight of THC.*

Sec. 54. 1. *“Potentially hazardous marijuana products and ingredients” means an edible 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.*

2. *The term includes, without limitation:*

- (a) An animal item that is raw or heat-treated;*
- (b) An item of plant origin that is heat-treated or consists of raw seed sprouts;*
- (c) Cut melons and tomatoes;*
- (d) Garlic-in-oil mixtures that are not modified in a way that results in mixtures which prohibit growth; and*
- (e) Whipped butter.*

3. *The term does not include:*

- (a) An ingredient with a value of water activity of not more than 0.85;*
- (b) An ingredient with a pH level of not more than 4.6 when measured at 75°F (24°C); or*

(c) 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.

Sec. 55. “Premises” means:

1. 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; or

2. Any conveyance, including, without limitation, any vessel, boat, vehicle, airplane, glider, house trailer, travel trailer, motor home or railroad car,

↪ whether located aboveground or underground and whether inhabited or not.

Sec. 56. “Production run” means:

1. For the extraction of concentrated marijuana by a marijuana establishment, the combination of one or more lots used to make the same product in one homogenous mixture produced using the same method which results in not more than 2.2 pounds of concentrated marijuana.

2. For the production of marijuana products by a marijuana product manufacturing facility, one homogenous mixture produced at the same time using the same method and which may include a combination of concentrated marijuana and other materials for the production of marijuana products.

Sec. 57. “Production run number” means a unique numeric or alphanumeric identifier assigned to a production run by a marijuana product manufacturing facility which accounts for each batch or lot or any concentrated marijuana used in the production run.

Sec. 58. *“Proficiency testing” means the evaluation, relative to a given set of criteria, of the performance, under controlled conditions, of a marijuana testing facility in analyzing unknown samples provided by an external source.*

Sec. 59. *“Proficiency testing program” means the program established by the Department pursuant to section 204 of this regulation to evaluate the proficiency of all marijuana testing facilities in this State.*

Sec. 60. *“Proficiency testing provider” means a person accredited to operate a proficiency testing program by an organization which is accredited pursuant to standard ISO/IEC 17011 of the International Organization for Standardization to perform such accreditation.*

Sec. 61. *“Proficiency testing sample” means a sample, the composition of which is unknown to the marijuana testing facility, provided to a marijuana testing facility to test whether the marijuana testing facility can produce analytical results within certain criteria.*

Sec. 62. *“Public transportation” means:*

- 1. Buses;*
- 2. Trains;*
- 3. Subways; and*
- 4. Other forms of transportation which charge a fare and are available to the public.*

Sec. 63. *“Registry identification card” has the meaning ascribed to it in NRS 453A.140.*

Sec. 64. *“Sampling protocols” means the procedures specified by the Department which are required to be used to obtain samples of marijuana for quality assurance testing.*

Sec. 65. *“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 marijuana establishment.*

Sec. 66. *“Seed-to-sale tracking system” means an electronic database which is used to monitor in real time the chain of custody of marijuana from the point of acquisition or planting to the end consumer and which is accessible by the Department and by marijuana establishments.*

Sec. 67. *“Separate operations” means any area in which a component marijuana establishment must maintain legal and operational separation from all other component marijuana establishments within a combined marijuana establishment.*

Sec. 68. *“Single-serving edible marijuana product” means an edible marijuana product which is offered for sale to a consumer and contains not more than 10 milligrams of THC.*

Sec. 69. *“Surveillance” means the capability to observe and record activities being conducted outside and inside a marijuana establishment.*

Sec. 70. *“Taxpayer” means a:*

- 1. Marijuana cultivation facility; or*
- 2. Retail marijuana store.*

Sec. 71. *“THC” has the meaning ascribed to it in NRS 453.139.*

Sec. 72. *“Usable marijuana” has the meaning ascribed to it in NRS 453A.160.*

Sec. 73. *As used in chapter 453D of NRS, the Department will interpret “marijuana” to exclude industrial hemp, as defined in NRS 557.040, which is grown or cultivated pursuant to chapter 557 of NRS.*

Sec. 74. 1. *When a marijuana establishment is required pursuant to this chapter or chapter 453D of NRS to provide information, sign documents or ensure actions are taken, a person identified in this subsection shall comply with the requirement on behalf of the marijuana establishment:*

(a) If a natural person is applying for a license for a marijuana establishment, the natural person;

(b) If a corporation is applying for a license for a marijuana establishment, a natural person who is an officer of the corporation;

(c) If a partnership is applying for a license for a marijuana establishment, a natural person who is a partner;

(d) If a limited-liability company is applying for a license for a marijuana establishment, 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;

(e) If an association or cooperative is applying for a license for a marijuana establishment, a natural person who is a member of the governing board of the association or cooperative;

(f) If a joint venture is applying for a license for a marijuana establishment, a natural person who signed the joint venture agreement; and

(g) If a business organization other than those described in paragraphs (b) to (f), inclusive, is applying for a license for a marijuana establishment, a natural person who is a member of the business organization.

2. For the purposes of this chapter and chapter 453D of NRS, the following persons must comply with the provisions governing owners, officers and board members of a marijuana establishment:

(a) If a corporation is applying for a license for a marijuana establishment, the officers of the corporation;

(b) If a partnership is applying for a license for a marijuana establishment, the partners;

(c) If a limited-liability company is applying for a license for a marijuana establishment, the members of the limited-liability company;

(d) If an association or cooperative is applying for a license for a marijuana establishment, the members of the association or cooperative;

(e) If a joint venture is applying for a license for a marijuana establishment, the natural persons who signed the joint venture agreement; and

(f) If a business organization other than those described in paragraphs (a) to (e), inclusive, is applying for a license for a marijuana establishment, the members of the business organization.

Sec. 75. 1. Except as otherwise required in subsection 2, the requirements of this chapter concerning owners of marijuana establishments only apply to a person with an aggregate ownership interest of 5 percent or more in a marijuana establishment.

2. If, in the judgment of the Department, the public interest will be served by requiring any owner with an ownership interest of less than 5 percent in a marijuana establishment to comply with any provisions of this chapter concerning owners of marijuana establishments, the Department will notify that owner and he or she must comply with those provisions.

Sec. 76. 1. *At least once each year, the Department will determine whether a sufficient number of marijuana establishments exist to serve the people of this State and, if the Department determines that additional marijuana establishments are necessary, the Department will issue a request for applications to operate a marijuana establishment. The Department will provide notice of a request for applications to operate a marijuana establishment by:*

(a) Posting on the Internet website of the Department that the Department is requesting applicants to submit applications;

(b) Posting a copy of the request for applications at the principal office of the Department, at the Legislative Building and at not less than three other separate, prominent places within this State; and

(c) Making notification of the posting locations using the electronic mailing list maintained by the Department for marijuana establishment information.

2. *When the Department issues a request for applications pursuant to this section, the Department will include in the request the point values that will be allocated to each applicable portion of the application.*

3. *The Department will accept applications in response to a request for applications issued pursuant to this section for 10 business days beginning on the date which is 45 business days after the date on which the Department issued the request for applications.*

4. *If the Department receives an application in response to a request for applications issued pursuant to this section on a date other than the dates set forth in subsection 3, the*

Department will not consider the application and must return the application to the entity that submitted the application.

Sec. 77. 1. *On or before November 15, 2018, a person who holds a medical marijuana establishment registration certificate may apply for not more than one license for a marijuana establishment of the same type by submitting:*

(a) A one-time, nonrefundable application fee of \$5,000 and, for an application for a license for a:

(1) Marijuana cultivation facility, an initial licensing fee of \$30,000.

(2) Marijuana distributor, an initial licensing fee of \$15,000.

(3) Marijuana product manufacturing facility, an initial licensing fee of \$10,000.

(4) Marijuana testing facility, an initial licensing fee of \$15,000.

(5) Retail marijuana store, an initial licensing fee of \$20,000.

(b) An application on a form prescribed by the Department which includes, without limitation:

(1) Whether the applicant is applying for a license for a marijuana establishment for a marijuana cultivation facility, a marijuana distributor, a marijuana product manufacturing facility, a marijuana testing facility or a retail marijuana store;

(2) The name of the proposed marijuana establishment, as reflected in both the medical marijuana establishment registration certificate held by the applicant and the articles of incorporation or other documents filed with the Secretary of State;

(3) The physical address where the proposed marijuana establishment will be located and the physical address of any co-owned or otherwise affiliated marijuana establishments;

- (4) The mailing address of the applicant;*
 - (5) The telephone number of the applicant;*
 - (6) The electronic mail address of the applicant;*
 - (7) A signed copy of the Request and Consent to Release Application Form for Marijuana Establishment License prescribed by the Department;*
 - (8) An attestation that the information provided to the Department to apply for the license for a marijuana establishment is true and correct according to the information known by the affiant at the time of signing;*
 - (9) The signature of a natural person for the proposed marijuana establishment as described in subsection 1 of section 74 of this regulation and the date on which the person signed the application; and*
 - (10) Any other information that the Department may require.*
- 2. Upon receipt of an application submitted pursuant to subsection 1, the Department will issue a license for a marijuana establishment to the applicant if the applicant:*
- (a) Holds a medical marijuana establishment registration certificate issued pursuant to chapter 453A of NRS of the same type as the license for a marijuana establishment for which the applicant has applied; and*
 - (b) Satisfies the requirements of subsection 5 of NRS 453D.210.*
- 3. If an application submitted pursuant to subsection 1 is not approved, the Department will refund the initial licensing fee included in the application to the applicant.*
- Sec. 78. 1. On or before November 15, 2018, a person who holds a medical marijuana establishment registration certificate may apply for one or more licenses, in addition to a**

license issued pursuant to section 77 of this regulation, for a marijuana establishment of the same type or for one or more licenses for a marijuana establishment of a different type, and on or after November 16, 2018, a person may apply for one or more licenses for a marijuana establishment by submitting an application in response to a request for applications issued pursuant to section 76 of this regulation which must include:

(a) A one-time, nonrefundable application fee of \$5,000.

(b) An application on a form prescribed by the Department. The application must include, without limitation:

(1) Whether the applicant is applying for a license for a marijuana establishment for a marijuana cultivation facility, a marijuana distributor, a marijuana product manufacturing facility, a marijuana testing facility or a retail marijuana store;

(2) The name of the proposed marijuana establishment, as reflected in both the medical marijuana establishment registration certificate held by the applicant, if applicable, and the articles of incorporation or other documents filed with the Secretary of State;

(3) The type of business organization of the applicant, such as individual, corporation, partnership, limited-liability company, association or cooperative, joint venture or any other business organization;

(4) Confirmation that the applicant has registered with the Secretary of State as the appropriate type of business, and the articles of incorporation, articles of organization or partnership or joint venture documents of the applicant;

(5) The physical address where the proposed marijuana establishment will be located and the physical address of any co-owned or otherwise affiliated marijuana establishments;

- (6) The mailing address of the applicant;*
- (7) The telephone number of the applicant;*
- (8) The electronic mail address of the applicant;*
- (9) A signed copy of the Request and Consent to Release Application Form for Marijuana Establishment License prescribed by the Department;*
- (10) If the applicant is applying for a license for a retail marijuana store, the proposed hours of operation during which the retail marijuana store plans to be available to sell marijuana to consumers;*
- (11) An attestation that the information provided to the Department to apply for the license for a marijuana establishment is true and correct according to the information known by the affiant at the time of signing; and*
- (12) The signature of a natural person for the proposed marijuana establishment as described in subsection 1 of section 74 of this regulation and the date on which the person signed the application.*
- (c) Evidence of the amount of taxes paid, or other beneficial financial contributions made, to this State or its political subdivisions within the last 5 years by the applicant or the persons who are proposed to be owners, officers or board members of the proposed marijuana establishment.*
- (d) A description of the proposed organizational structure of the proposed marijuana establishment, including, without limitation:*
 - (1) An organizational chart showing all owners, officers and board members of the proposed marijuana establishment;*

(2) A list of all owners, officers and board members of the proposed marijuana establishment that contains the following information for each person:

(I) The title of the person;

(II) The race, ethnicity and gender of the person;

(III) A short description of the role in which the person will serve for the organization and his or her responsibilities;

(IV) Whether the person will be designated by the proposed marijuana establishment to provide written notice to the Department when a marijuana establishment agent is employed by, volunteers at or provides labor as a marijuana establishment agent at the proposed marijuana establishment;

(V) Whether the person has served or is currently serving as an owner, officer or board member for another medical marijuana establishment or marijuana establishment;

(VI) Whether the person has served as an owner, officer or board member for a medical marijuana establishment or marijuana establishment that has had its medical marijuana establishment registration certificate or license, as applicable, revoked;

(VII) Whether the person has previously had a medical marijuana establishment agent registration card or marijuana establishment agent registration card revoked;

(VIII) Whether the person is an attending provider of health care currently providing written documentation for the issuance of registry identification cards or letters of approval;

(IX) Whether the person is a law enforcement officer;

(X) Whether the person is currently an employee or contractor of the Department;

and

(XI) Whether the person has an ownership or financial investment interest in any other medical marijuana establishment or marijuana establishment.

(e) For each owner, officer and board member of the proposed marijuana establishment:

(1) An attestation signed and dated by the owner, officer or board member that he or she has not been convicted of an excluded felony offense, and that the information provided to support the application for a license for a marijuana establishment is true and correct;

(2) A narrative description, not to exceed 750 words, demonstrating:

(I) Past experience working with governmental agencies and highlighting past experience in giving back to the community through civic or philanthropic involvement;

(II) Any previous experience at operating other businesses or nonprofit organizations; and

(III) Any demonstrated knowledge, business experience or expertise with respect to marijuana; and

(3) A resume.

(f) Documentation concerning the size of the proposed marijuana establishment, including, without limitation, building and general floor plans with supporting details.

(g) The integrated plan of the proposed marijuana establishment for the care, quality and safekeeping of marijuana from seed to sale, including, without limitation, a plan for testing and verifying marijuana, a transportation or delivery plan and procedures to ensure adequate security measures, including, without limitation, building security and product security.

(h) A plan for the business which includes, without limitation, a description of the inventory control system of the proposed marijuana establishment to satisfy the requirements of NRS 453D.300 and section 108 of this regulation.

(i) A financial plan which includes, without limitation:

(1) Financial statements showing the resources of the applicant;

(2) If the applicant is relying on money from an owner, officer or board member, evidence that the person has unconditionally committed such money to the use of the applicant in the event the Department awards a license to the applicant and the applicant obtains the necessary approvals from the locality to operate the proposed marijuana establishment; and

(3) Proof that the applicant has adequate money to cover all expenses and costs of the first year of operation.

(j) Evidence that the applicant has a plan to staff, educate and manage the proposed marijuana establishment on a daily basis, which must include, without limitation:

(1) A detailed budget for the proposed marijuana establishment, including pre-opening, construction and first-year operating expenses;

(2) An operations manual that demonstrates compliance with this chapter;

(3) An education plan which must include, without limitation, providing educational materials to the staff of the proposed marijuana establishment; and

(4) A plan to minimize the environmental impact of the proposed marijuana establishment.

(k) If the application is submitted on or before November 15, 2018, for a license for a marijuana distributor, proof that the applicant holds a wholesale dealer license issued pursuant to chapter 369 of NRS, unless the Department determines that an insufficient number of marijuana distributors will result from this limitation.

(l) A response to and information which supports any other criteria the Department determines to be relevant, which will be specified and requested by the Department at the time the Department issues a request for applications which includes the point values that will be allocated to the applicable portions of the application pursuant to subsection 2 of section 76 of this regulation.

Sec. 79. *For the purposes of paragraph (c) of subsection 5 of NRS 453D.210, the distance must be measured from the front door of the proposed marijuana establishment to the closest point of the property line of a school or community facility.*

Sec. 80. 1. *If the Department receives more than one application for a license for a retail marijuana store in response to a request for applications made pursuant to section 76 of this regulation and the Department determines that more than one of the applications is complete and in compliance with this chapter and chapter 453D of NRS, the Department will rank the applications, within each applicable locality for any applicants which are in a jurisdiction that limits the number of retail marijuana stores, in order from first to last based on compliance with the provisions of this chapter and chapter 453D of NRS and on the content of the applications relating to:*

(a) Whether the owners, officers or board members have experience operating another kind of business that has given them experience which is applicable to the operation of a marijuana establishment;

(b) The diversity of the owners, officers or board members of the proposed marijuana establishment;

(c) The educational achievements of the owners, officers or board members of the proposed marijuana establishment;

(d) The financial plan and resources of the applicant, both liquid and illiquid;

(e) Whether the applicant has an adequate integrated plan for the care, quality and safekeeping of marijuana from seed to sale;

(f) The amount of taxes paid and other beneficial financial contributions, including, without limitation, civic or philanthropic involvement with this State or its political subdivisions, by the applicant or the owners, officers or board members of the proposed marijuana establishment;

(g) Whether the owners, officers or board members of the proposed marijuana establishment have direct experience with the operation of a medical marijuana establishment or marijuana establishment in this State and have demonstrated a record of operating such an establishment in compliance with the laws and regulations of this State for an adequate period of time to demonstrate success;

(h) The experience of key personnel that the applicant intends to employ in operating the type of marijuana establishment for which the applicant seeks a license; and

(i) Any other criteria that the Department determines to be relevant.

2. The Department will not require proof of zoning or land use approval to be submitted with an application for a license for a marijuana establishment and will not consider such approval when ranking applicants pursuant to subsection 1.

3. The Department will allocate the licenses for retail marijuana stores described in paragraph (d) of subsection 5 of NRS 453D.210 to jurisdictions within each county and to the unincorporated area of the county proportionally based on the population of each jurisdiction and of the unincorporated area of the county. Within each such jurisdiction or area, the Department will issue licenses for retail marijuana stores to the highest-ranked applicants until the Department has issued the number of licenses authorized for issuance. If two or more applicants have the same total number of points for the last application being awarded a license, the Department will select the applicant which has scored the highest number of points as related to the proposed organizational structure of the proposed marijuana establishment and the information concerning each owner, officer and board member of the proposed marijuana establishment, including, without limitation, the information provided pursuant to section 77 or 78 of this regulation. Notwithstanding the allocation of licenses pursuant to this subsection, upon the request of a county government, the Department may issue a license to a retail marijuana store located anywhere within that county if issuing such a license would not exceed the number of licenses authorized for issuance in the county pursuant to paragraph (d) of subsection 5 of NRS 453D.210.

4. After ranking applicants pursuant to subsection 1 and selecting applicants for the issuance of a license pursuant to subsection 3, the Department will notify each locality of the applicants selected to be issued a license within that locality.

5. To prevent monopolistic practices, the Department will ensure, in a county whose population is 100,000 or more, that the Department does not issue, to any person, group of persons or entity, the greater of:

(a) One license to operate a retail marijuana store; or

(b) More than 10 percent of the licenses for retail marijuana stores allocable in the county.

6. If the Department receives any findings from a report concerning the criminal history of an applicant or person who is proposed to be an owner, officer or board member of a proposed marijuana establishment that disqualify that person from being qualified to serve in that capacity, the Department will provide notice to the applicant and give the applicant an opportunity to revise its application. If a person who is disqualified from serving as an owner, officer or board member remains on the application as a proposed owner, officer or board member 90 days after the date on which the Department initially received the application, the Department may disqualify the application.

Sec. 81. If, within 10 business days after the date on which the Department begins accepting applications in response to a request for applications issued pursuant to section 76 of this regulation, the Department receives only one application from an applicant:

1. In a specific locality which limits the number of a type of marijuana establishment to one; or

2. Statewide, if the applicant is in a locality which does not limit the number of a type of marijuana establishment,

↪ and the Department determines that the application is complete and in compliance with this chapter and chapter 453D of NRS, the Department will issue a license for a marijuana

establishment to that applicant in accordance with NRS 453D.210 and section 83 of this regulation and notify the locality in which the marijuana establishment will be located.

Sec. 82. 1. *Within 10 days after the issuance of a license pursuant to section 80 or 81 of this regulation, the applicant shall pay the initial licensing fee of:*

- (a) For a marijuana cultivation facility, \$30,000.*
- (b) For a marijuana distributor, \$15,000.*
- (c) For a marijuana product manufacturing facility, \$10,000.*
- (d) For a marijuana testing facility, \$15,000.*
- (e) For a retail marijuana store, \$20,000.*

2. *If an applicant fails to pay the initial licensing fee required by subsection 1 within the 10-day period, the Department will revoke the license.*

Sec. 83. 1. *Except as otherwise provided in subsection 2, the issuance of a license pursuant to section 80 or 81 of this regulation is conditional and not an approval to begin operations as a marijuana establishment until such time as:*

- (a) The marijuana establishment is in compliance with the zoning and land use rules adopted by the locality in which the marijuana establishment will operate or, after notice of the issuance of a license to the marijuana establishment pursuant to section 80 or 81 of this regulation, the locality does not affirm to the Department within a reasonable time that the proposed marijuana establishment will be in violation of zoning or land use rules adopted by the locality;*

(b) The locality has issued a business license for the operation of the marijuana establishment, or otherwise approved the applicant, for the operation of the marijuana establishment; and

(c) The Department completes an inspection of the marijuana establishment.

2. If the locality in which a marijuana establishment is located does not issue business licenses and does not approve or disapprove marijuana establishments in its jurisdiction, a license for a marijuana establishment becomes an approval to begin operations as a marijuana establishment when:

(a) The marijuana establishment is in compliance with the zoning and land use rules adopted by the locality; and

(b) The Department completes an inspection of the marijuana establishment.

Sec. 84. If the Department does not issue to an applicant a license for a marijuana establishment, the Department must provide written notice to the applicant stating that the Department did not issue a license to the applicant as a result of the provisions of sections 80 and 81 of this regulation.

Sec. 85. 1. The Department may, at any time it determines an inspection is needed, conduct an investigation into the premises, facilities, qualifications of personnel, methods of operation, policies and purposes of any marijuana establishment and of any person proposing to engage in the operation of a marijuana establishment. An inspection of a facility may include, without limitation, investigation of standards for safety from fire on behalf of the Department by the local fire protection agency. If a local fire protection agency is not

available, the State Fire Marshal may conduct the inspection after the marijuana establishment pays the appropriate fee to the State Fire Marshal for such inspection.

2. The Department will not issue a license for a marijuana establishment until the Department completes an inspection of the marijuana establishment. Such an inspection may require more than one visit to the marijuana establishment.

3. The Department may conduct a preliminary walk-through of a marijuana establishment, upon request and subject to the availability of inspectors, to assist with questions and identify issues for correction before the inspection of the marijuana establishment. Before requesting a preliminary walk-through, a marijuana establishment must complete all construction and be near completion of all other requirements of the laws and regulations of this State. If the Department conducts a preliminary walk-through at the request of a marijuana establishment, the Department will issue an invoice to the marijuana establishment for the costs of the preliminary walk-through, including, without limitation, travel and inspection activities.

4. In addition to complying with the provisions of chapters 372A and 453D of NRS and chapter 372A of NAC governing the imposition of an excise tax on marijuana establishments, a marijuana establishment may not operate until it has been issued a license from the Department.

5. The Department will not issue a license for a marijuana establishment until the Department has received a satisfactory report of full compliance with and completion of all applicable public safety inspections required by state and local jurisdictions, including,

without limitation, fire, building, health and air quality inspections, except as otherwise provided in section 86 of this regulation.

Sec. 86. 1. *Submission of an application for a license for a marijuana establishment constitutes permission for entry to and reasonable inspection of the marijuana establishment by the Department, with or without notice. An inspector conducting an inspection pursuant to this section does not need to be accompanied during the inspection.*

2. *The Department may, upon receipt of a complaint against a marijuana establishment, except for a complaint concerning the cost of services, a complaint concerning the efficacy of marijuana or a complaint related to consumer service issues, conduct an investigation during the operating hours of the marijuana establishment, with or without notice, into the premises, facilities, qualifications of personnel, methods of operation, policies, procedures and records of that marijuana establishment or any other marijuana establishment which may have information pertinent to the complaint.*

3. *The Department may enter and inspect any building or premises at any time, with or without notice, to:*

- (a) Secure compliance with any provision of this chapter or chapter 453D of NRS;*
- (b) Prevent a violation of any provision of this chapter or chapter 453D of NRS; or*
- (c) Conduct an unannounced inspection of a marijuana establishment in response to an allegation of noncompliance with this chapter or chapter 453D of NRS.*

4. *The Department may:*

- (a) Summon witnesses to appear and testify on any subject material to its responsibilities under this chapter or chapter 453D of NRS. No property owner and no officer, director,*

superintendent, manager or agent of any company or corporation, whose property is wholly in one county, shall be required to appear, without his or her consent, at a place other than the county seat or at the nearest town to his or her place of residence or the principal place of business of such company or corporation. Such summons may be served by personal service by the Executive Director or his or her agent or by the sheriff of the county.

(b) Except as otherwise provided in this paragraph, 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. The Department will not issue a subpoena to compel the production of books and papers that contain individually identifiable health information.

5. Any member of the Nevada Tax Commission, the Executive Director or any officer of the Department designated by the Commission or Executive Director may administer oaths to witnesses.

6. The Department and its agents may:

(a) Inspect and examine all premises wherein marijuana is manufactured, sold or distributed;

(b) Inspect all equipment and supplies in, upon or about such premises;

(c) 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;

(d) Demand access to 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, respecting the gross income produced by any marijuana establishment, and require verification of income, and all other matters affecting the enforcement of the policy or any of the provisions of this chapter or chapter 453D of NRS; and

(e) Demand access to and inspect, examine, photocopy and audit all papers, books and records of any affiliate of a licensee whom the Department knows or reasonably suspects is involved in the financing, operation or management of the licensee. The inspection, examination, photocopying and audit may take place on the premises of the affiliate or another location, as practicable, and in the presence of the affiliate or its agent.

7. The Department will enter and inspect at least annually, with or without notice, each building or the premises of a marijuana establishment to ensure compliance with the provisions of this chapter and chapter 453D of NRS. Nothing in this subsection shall be construed to prohibit an appropriate local administrative authority from conducting an inspection of the facilities or operations of a marijuana establishment as provided by the ordinance of a local government.

8. The Department will enter and inspect, with or without notice, any building or premises operated by a marijuana establishment within 72 hours after the Department is notified that the marijuana establishment is operating without a license for the marijuana establishment.

9. The Department will inspect the medical marijuana establishment and the marijuana establishment of a dual licensee at the same time using the same inspection team to ensure consistency and efficiency. The Department will conduct such an inspection in a manner which is not unduly burdensome for the dual licensee.

10. The Department will administer the provisions of this chapter and chapter 453D of NRS for the protection of the public and in the public interest in accordance with the policy of this State.

11. As used in this section, "individually identifiable health information" means information which identifies a natural person, or from which the identity of a natural person may reasonably be ascertained, and which relates to:

- (a) The past, present or future physical or mental health or condition of the person; or*
- (b) The provision of health care to the person.*

Sec. 87. 1. If a marijuana establishment has not received a final inspection within 12 months after the date on which the Department issued a license to the marijuana establishment, the marijuana establishment must surrender the license to the Department. The Department may extend the period specified in this subsection if the Department, in its discretion, determines that extenuating circumstances prevented the marijuana establishment from receiving a final inspection within the period specified in this subsection.

2. If a marijuana establishment surrenders a license to the Department pursuant to this section, the applicable licensing fee paid by the marijuana establishment is not refundable.

Sec. 88. If a marijuana establishment is closing, the person identified in subsection 1 of section 74 of this regulation for the marijuana establishment must notify the Department of the closing at least 15 days before the marijuana establishment is closed, and the marijuana establishment must surrender its license to the Department immediately upon closing.

Sec. 89. A person or entity that wishes to renew a license for a marijuana establishment must annually submit to the Department:

- 1. Payment of the annual licensing fee for the renewal of the license;*
- 2. An application in the format prescribed by the Department that includes:*
 - (a) The identification number of the marijuana establishment;*
 - (b) The name of the entity applying to renew the license, as reflected in the articles of incorporation or other documents filed with the Secretary of State;*
 - (c) The name of the person designated by the marijuana establishment to provide written notice to the Department when a marijuana establishment agent is employed by, volunteers at or provides labor as a marijuana establishment agent at the marijuana establishment;*
 - (d) A list and description of each of the following which has not been previously reported to the Department:*
 - (1) A conviction of an owner, officer or board member of the marijuana establishment of an excluded felony offense;*
 - (2) A civil penalty or judgment entered against an owner, officer or board member of the marijuana establishment; and*
 - (3) The initiation by a federal, state or local government of an investigation or proceeding against an owner, officer or board member of the marijuana establishment;*
 - (e) If the marijuana establishment is a retail marijuana store, the proposed hours of operation during which the retail marijuana store plans to be available to sell marijuana to consumers;*
 - (f) The number of the marijuana establishment agent registration card issued to each owner, officer or board member of the marijuana establishment;*

(g) For each owner, officer and board member of the marijuana establishment, whether the owner, officer or board member:

(1) Has served as an owner, officer or board member for a medical marijuana establishment or marijuana establishment that has had its medical marijuana establishment registration certificate or license, as applicable, revoked;

(2) Is an attending provider of health care currently providing written documentation for the issuance of registry identification cards or letters of approval;

(3) Is a law enforcement officer;

(4) Is an employee or contractor of the Department; or

(5) Has an ownership or financial investment interest in any other medical marijuana establishment or marijuana establishment;

(h) An attestation that the information provided to the Department to renew the license for the marijuana establishment is true and correct according to the information known by the affiant at the time of signing; and

(i) The signature of a natural person for the marijuana establishment as described in subsection 1 of section 74 of this regulation and the date on which he or she signed the application;

3. For each person who is an owner, officer or board member of the marijuana establishment, a complete set of the person's fingerprints and written permission of the person authorizing the Department to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report:

(a) If such a person holds 5 percent or less of the ownership interest in any one marijuana establishment or an ownership interest in more than one marijuana establishment of the same kind that, when added together, equals 5 percent or less, once in any 5-year period; and

(b) If such a person holds more than 5 percent of the ownership interest in any one marijuana establishment or an ownership interest in more than one marijuana establishment of the same kind that, when added together, equals more than 5 percent, or is an officer or board member of a marijuana establishment, once in any 3-year period; and

4. If the marijuana establishment is a marijuana testing facility, proof that the marijuana testing facility is accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization.

Sec. 90. 1. *If the Department determines that there are any deficiencies in the operation of a marijuana establishment or in the provision of services by a marijuana establishment, the Department may suspend the license of the marijuana establishment and request a written plan of correction from the marijuana establishment.*

2. A marijuana establishment whose license has been suspended pursuant to subsection 1 shall develop a plan of correction for each deficiency and submit the plan to the Department for approval within 10 business days after receipt of the statement of deficiencies. The plan of correction must include specific requirements for corrective action, which must include times within which the deficiencies are to be corrected.

3. If the plan submitted pursuant to subsection 2 is not acceptable to the Department, the Department may direct the marijuana establishment to resubmit a plan of correction or the

Department may develop a directed plan of correction with which the marijuana establishment must comply.

Sec. 91. 1. *The Department will deny an application for the issuance or renewal of a license for a marijuana establishment if:*

(a) The application or the marijuana establishment is not in compliance with any provision of this chapter or chapter 453D of NRS; or

(b) An owner, officer or board member of the marijuana establishment:

(1) Is an employee or contractor of the Department;

(2) Has an ownership or financial investment interest in a marijuana testing facility and also is an owner, officer or board member of a marijuana cultivation facility, marijuana distributor, marijuana product manufacturing facility or retail marijuana store; or

(3) Provides false or misleading information to the Department.

2. *The Department may revoke a license for a marijuana establishment if:*

(a) The marijuana establishment engages in a category I violation pursuant to section 120 of this regulation;

(b) An owner, officer or board member of the marijuana establishment has been convicted of an excluded felony offense; or

(c) The Department receives formal notice from the applicable locality that the marijuana establishment has had its authorization to operate terminated.

3. *The Department may deny an application for the issuance or renewal of a license for a marijuana establishment or may suspend or revoke any license issued under the provisions of this chapter and chapter 453D of NRS upon any of the following grounds:*

(a) Violation by the applicant or the marijuana establishment of any of the provisions of this chapter or chapter 453D of NRS.

(b) The failure or refusal of an applicant or marijuana establishment to comply with any of the provisions of this chapter or chapter 453D of NRS.

(c) The failure or refusal of a marijuana establishment to carry out the policies and procedures or comply with the statements provided to the Department in the application of the marijuana establishment.

(d) Operating a marijuana establishment without a license.

(e) The failure or refusal to return an adequate plan of correction to the Department within 10 days after receipt of a statement of deficiencies pursuant to section 90 of this regulation.

(f) The failure or refusal to correct any deficiency specified by the Department within the period specified in a plan of correction developed pursuant to section 90 of this regulation.

(g) The failure or refusal to cooperate fully with an investigation or inspection by the Department or its agent.

(h) The failure to comply with the provisions of chapters 372A and 453D of NRS and chapter 372A of NAC governing the imposition of an excise tax on marijuana establishments.

4. If the Department denies an application for issuance or renewal of a license for a marijuana establishment or revokes such a license, the Department will provide notice to the applicant or marijuana establishment that includes, without limitation, the specific reasons for the denial or revocation.

5. Before denying an application for issuance or renewal of a license for a marijuana establishment or revoking such a license as a result of the actions of an owner, officer or board member of the marijuana establishment pursuant to paragraph (b) of subsection 1 or paragraph (b) of subsection 2, the Department may provide the marijuana establishment with an opportunity to correct the situation.

6. The Department will not deny an application to renew a license for a marijuana establishment or revoke a license based on a change in ownership of the marijuana establishment if the marijuana establishment is in compliance with the provisions of this chapter and chapter 453D of NRS.

Sec. 92. 1. *A marijuana establishment may, in accordance with this section and upon submission of a statement signed by a person authorized to submit such a statement by the governing documents of the marijuana establishment, transfer all or any portion of its ownership to another party, and the Department shall transfer the license issued to the marijuana establishment to the party acquiring ownership, if the party who will acquire the ownership of the marijuana establishment submits:*

(a) If the party will acquire the entirety of the ownership interest in the marijuana establishment, evidence satisfactory to the Department that the party has complied with the provisions of NRS 453D.300 for the purpose of operating the marijuana establishment;

(b) For the party and each person who is proposed to be an owner, officer or board member of the marijuana establishment, the name, address and date of birth of the person, a complete set of the person's fingerprints and written permission of the person authorizing the

Department to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report; and

(c) Proof satisfactory to the Department that, as a result of the transfer of ownership, no person, group of persons or entity will, in a county whose population is 100,000 or more, hold more than one license for a marijuana establishment or more than 10 percent of the licenses for marijuana establishments allocated to the county, whichever is greater.

2. A marijuana establishment shall reimburse the Department for all costs incurred by the Department to determine whether any change in ownership or other change was made to circumvent the provisions of this section which prohibit the transfer of a license for a marijuana establishment or to otherwise review or investigate a change in ownership.

3. 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 marijuana establishment or any portion thereof, whether the license for the marijuana establishment is conditional or not, or enter into or create a voting trust agreement or any other agreement of any sort in connection with any marijuana establishment or any portion thereof, except in accordance with this chapter and chapter 453D of NRS.

4. The owners, officers or board members of a marijuana establishment shall notify the Department on a form prescribed by the Department each time an ownership interest in any amount in the marijuana establishment is transferred.

5. A transfer of an ownership interest in any amount in a marijuana establishment is not effective until the Department has been notified on a form prescribed by the Department of the

intent to transfer an ownership interest in the marijuana establishment and the Department has found that each person to whom an ownership interest is proposed to be transferred is individually qualified to be an owner of the marijuana establishment.

6. A person shall not transfer or convey in any manner whatsoever any interest in or to a marijuana establishment, or any portion thereof, to, or permit any investment therein or participation in the profits thereof by, any person acting as agent or trustee or in any other representative capacity for or on behalf of another person without first disclosing all facts pertaining to such representation to the Department, including, without limitation, a description of the reason for the transfer and any contract or other agreement describing the transaction.

7. A marijuana establishment, or an owner, officer or board member thereof, shall not cause or permit any stock certificate or other evidence of beneficial interest in the marijuana establishment to be registered in the books or records of the marijuana establishment in the name of any person other than the true and lawful owner of the beneficial interest without the written permission of the Department.

8. An ownership interest in a marijuana establishment may only be transferred to a natural person or, if the person receiving an ownership interest is not a natural person, the recipient must disclose the percentage of the ownership interest in the marijuana establishment received by each person who has an ownership interest in the recipient.

9. A request to transfer an ownership interest in a marijuana establishment which holds a conditional license must be accompanied by a notarized attestation, signed by a person authorized to submit such an attestation by the governing documents of the marijuana

establishment, declaring that the prospective owner will build and operate the marijuana establishment at standards that meet or exceed the criteria contained in the original application for the marijuana establishment.

10. The owners of a marijuana establishment may request the transfer of any portion or the entirety of the ownership interest in the marijuana establishment to any existing owner or combination of existing owners of the marijuana establishment by submitting to the Department:

- (a) A completed Transfer of Interest Form prescribed by the Department;*
- (b) All contracts or other agreements which describe the ownership transaction; and*
- (c) Proof satisfactory to the Department that no monopoly will be created.*

11. The owners of a marijuana establishment may request the transfer of any portion or the entirety of the ownership interest in the marijuana establishment to any natural person who holds an ownership interest in another marijuana establishment or any person whose ownership interest is entirely held by natural persons who hold an ownership interest in another marijuana establishment by submitting to the Department:

- (a) A completed Transfer of Interest Form prescribed by the Department;*
- (b) All contracts or other agreements which describe the ownership transaction;*
- (c) Identification of each marijuana establishment in which any person who is proposed to receive an ownership interest in the marijuana establishment which is the subject of the request holds an ownership interest;*
- (d) A proposed organizational chart for the marijuana establishment which is the subject of the request;*

- (e) A copy of any document required to be filed with the Secretary of State, if applicable;*
- (f) A copy of any document required to be revised as a result of the proposed transfer relating to a fictitious name, if applicable;*
- (g) An updated description of all shares issued in the marijuana establishment and the shares issued per owner as a result of the proposed transfer, if applicable;*
- (h) A copy of a business license issued to the marijuana establishment by a locality which is revised to reflect the proposed transfer, if applicable; and*
- (i) Proof satisfactory to the Department that no monopoly will be created.*

12. The owners of a marijuana establishment may request the transfer of any portion or the entirety of the ownership interest in the marijuana establishment to any natural person, regardless of whether the natural person holds an ownership interest in another marijuana establishment, or any person whose ownership interest is not entirely held by natural persons who hold an ownership interest in another marijuana establishment by submitting to the Department:

- (a) A completed Transfer of Interest Form prescribed by the Department;*
- (b) All contracts or other agreements which describe the ownership transaction;*
- (c) A complete set of the fingerprints of each natural person who will receive an ownership interest and written permission of each such person authorizing the Department to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report;*
- (d) Proof that a completed application for a marijuana establishment agent registration card has been submitted for each person who will receive an ownership interest;*

- (e) A proposed organizational chart for the marijuana establishment;*
- (f) A copy of any document required to be filed with the Secretary of State, if applicable;*
- (g) A copy of any document required to be revised as a result of the proposed transfer relating to a fictitious name, if applicable;*
- (h) An updated description of all shares issued in the marijuana establishment and the shares issued per owner as a result of the proposed transfer, if applicable;*
- (i) A copy of a business license issued to the marijuana establishment by a locality which is revised to reflect the proposed transfer, if applicable; and*
- (j) Proof satisfactory to the Department that no monopoly will be created.*

13. The Department will conduct such investigation of a request submitted pursuant to subsection 10, 11 or 12 and of each person proposed to receive an ownership interest in a marijuana establishment as a result of such a request as the Department determines is necessary. If the Department, as a result of such an investigation, determines additional information is necessary to complete the investigation, the marijuana establishment shall submit such information to the Department in a timely fashion. Upon completion of the investigation, the Department will:

(a) If the requested change in ownership does not violate any provision of this chapter or chapter 453D of NRS or any other relevant law or regulation:

- (1) Notify the marijuana establishment in writing that the request has been approved;*
- (2) Update its records to reflect the new ownership of the marijuana establishment; and*
- (3) Notify the locality in which the marijuana establishment is located of the change in ownership of the marijuana establishment.*

(b) If the requested change in ownership violates any provision of this chapter, chapter 453D of NRS or any other relevant law or regulation, notify the marijuana establishment in writing that the request has been denied and state the reason for denial.

Sec. 93. 1. *If an applicant for a license for a retail marijuana store wishes to know the score assigned to its application after review by the Department to establish a ranking pursuant to subsection 1 of section 80 of this regulation, the applicant may submit a request for its application score in writing to the Department. Upon receipt of such a request, the Department will provide the score to the applicant in a timely manner.*

2. If an applicant who receives an application score from the Department pursuant to subsection 1 wishes to review the scores assigned to each criterion in the application to generate the application score, the applicant may submit to the Department a request to review scoring information. Such a request must include the name of the owner, operator or board member of the applicant who will review scoring information on behalf of the applicant.

3. Upon receipt of a request to review scoring information pursuant to subsection 2, the Department will designate an employee of the Department to respond to the request and schedule and conduct the review of scoring information. Before conducting the review, the employee designated by the Department shall confirm that the identity of the person attending the review matches the person named in the request and make a copy of a document confirming the identity of the person. During the review, the employee designated by the Department shall allow the person attending the review to review the scores assigned to each criterion in the application of the applicant and a copy of the application for a license for a retail marijuana store submitted by the applicant for a period of not more than 30 minutes.

The person attending the review may take notes on the information provided, but shall not photocopy, scan, record, photograph or otherwise duplicate the information. The employee designated by the Department to conduct the review shall not discuss or comment on the scores, the review of the application by the Department or any other application submitted to the Department.

4. Upon completion of a review of scoring information pursuant to subsection 3, the Department will maintain in the file of the applicant a copy of:

- (a) The scoring information provided during the review;*
- (b) The documentation of identity provided to the employee designated by the Department to conduct the review; and*
- (c) Information establishing the date and time of the review.*

Sec. 94. 1. To obtain or renew a marijuana establishment agent registration card, for a person employed by or contracted with a marijuana establishment or a person who volunteers at a marijuana establishment other than a consultant who performs professional services for the marijuana establishment, the marijuana establishment shall submit to the Department:

- (a) A copy of any valid government-issued identification card of the person which includes a photograph, the current address and the date of birth of the person.*
- (b) A statement signed by the person pledging not to dispense or otherwise divert marijuana to any person who is not authorized to possess marijuana in accordance with the provisions of this chapter and chapter 453D of NRS.*

(c) A statement signed by the person asserting that he or she has not previously had a medical marijuana establishment agent registration card or marijuana establishment agent registration card revoked.

(d) An attestation signed and dated by the person that the person has not been convicted of an excluded felony offense.

(e) A complete set of the person's fingerprints and written permission of the person authorizing the Department to forward the fingerprints to the Central Repository for Nevada Records of Criminal History for submission to the Federal Bureau of Investigation for its report.

(f) Authorization for the Department to obtain any other information necessary to complete a background check of the person.

(g) An application fee of \$75.

(h) Such other information as the Department may require.

2. A person who:

(a) Has been convicted of an excluded felony offense; or

(b) Is less than 21 years of age,

☞ shall not serve as a marijuana establishment agent.

3. If an applicant for registration as a marijuana establishment agent satisfies the requirements of this section and is not disqualified from serving as such an agent pursuant to this section or any other applicable law or regulation, the Department will issue to the person a marijuana establishment agent registration card.

4. *An applicant for registration or renewal of registration as a marijuana establishment agent is deemed temporarily registered as a marijuana establishment agent on the date on which a complete application for registration or renewal of registration is submitted to the Department. A temporary registration as a marijuana establishment agent expires 30 days after the date upon which the application is received. The Department will provide verification of temporary registration to an applicant at the time the Department receives the application.*

5. *Each officer or board member of a marijuana establishment, and each person who holds more than 5 percent of the ownership interest in a marijuana establishment, shall obtain a marijuana establishment agent registration card.*

Sec. 95. 1. *The Department will issue marijuana establishment agent registration cards for each of the following categories:*

- (a) A marijuana cultivation facility;*
- (b) A marijuana distributor;*
- (c) A marijuana product manufacturing facility;*
- (d) A marijuana testing facility;*
- (e) A retail marijuana store; or*
- (f) An independent contractor who provides labor to a marijuana establishment or an employee of such an independent contractor.*

2. *Each marijuana establishment agent registration card issued pursuant to section 94 of this regulation must indicate the applicable category. A person who is employed by or volunteers at a marijuana establishment and to whom a marijuana establishment agent registration card is issued may only be employed by or volunteer at the type of marijuana*

establishment for which he or she is registered. Such a person may hold more than one category of marijuana establishment agent registration card and may volunteer or work at any marijuana establishment in this State for which the category of the marijuana establishment agent registration card authorizes the person to volunteer or work.

3. A marijuana establishment agent registration card issued pursuant to section 94 of this regulation to an independent contractor or an employee of an independent contractor authorizes the independent contractor or employee to provide labor to any marijuana establishment in this State.

4. If a marijuana establishment agent also holds a valid medical marijuana establishment agent registration card, the marijuana establishment agent is authorized to work in any marijuana establishment or dual licensee for which the category of the marijuana establishment agent registration card and medical marijuana establishment agent registration card authorizes the person to volunteer or work.

Sec. 96. 1. A marijuana establishment shall ensure that training is provided to a marijuana establishment agent before that person begins to work or volunteer at or provide labor as a marijuana establishment agent at the marijuana establishment. Such training must include, without limitation:

- (a) The proper use of security measures and controls that have been adopted by the marijuana establishment for the prevention of diversion, theft or loss of marijuana;*
- (b) Procedures and instructions for responding to an emergency; and*
- (c) State and federal statutes and regulations related to the use of marijuana.*

2. In addition to the training set forth in subsection 1, a retail marijuana store shall ensure that instruction is provided to a marijuana establishment agent before that person begins to work or volunteer at or provide labor as a marijuana establishment agent to the retail marijuana store. Such instruction must include, without limitation:

- (a) The different strains of marijuana;*
- (b) The different methods of using marijuana and marijuana products;*
- (c) Learning to recognize signs of marijuana abuse, impairment or instability in the use of marijuana by a consumer;*
- (d) Clinical effects of marijuana on the human body and how THC affects the consumer;*
- (e) Required warnings and literature which must be supplied to the consumer;*
- (f) Methods of refusing entry or sales to prohibited persons, including, without limitation:*
 - (1) Verifying identification and using age verification devices;*
 - (2) Education on the effects of marijuana on persons under 21 years of age; and*
 - (3) Recognition of false or altered identification;*
- (g) Understanding the role of law enforcement in confirming compliance with laws and regulations relating to marijuana;*
- (h) Applicable state and local laws and regulations regarding marijuana;*
- (i) Preventing unlawful consumption of marijuana, including, without limitation, information regarding laws which prohibit open or public consumption of marijuana;*
- (j) Preventing the use of marijuana by persons under the age of 21 years, including, without limitation, laws which prohibit such use and the penalties for the violation of such laws;*

(k) How to prevent and address disturbances; and

(l) The responsibility of the marijuana establishment agent to put into effect strategies adopted by the marijuana establishment to prevent the diversion of marijuana.

3. In addition to the training set forth in subsection 1, a marijuana testing facility shall ensure that instruction is provided to a marijuana establishment agent before that person begins to work or volunteer at or provide labor as a marijuana establishment agent to the marijuana testing facility. Such instruction must include, without limitation:

(a) The good laboratory practices adopted by the marijuana testing facility; and

(b) The standard operating procedures and the quality control and quality assurance programs of the marijuana testing facility.

4. In addition to the training set forth in subsection 1, a marijuana cultivation facility shall ensure that instruction is provided to a marijuana establishment agent before that person begins to work or volunteer at or provide labor as a marijuana establishment agent to the marijuana cultivation facility. Such instruction must include, without limitation:

(a) The methods of cultivation used by the marijuana cultivation facility;

(b) The methods of fertilization used by the marijuana cultivation facility;

(c) Methods for recognizing the signs of insect infestation, pathogens and disease in marijuana plants, and the procedures for eradication and the safe disposal of plants so affected;

(d) The nutritional requirements of marijuana plants at various growth stages, including, without limitation, proper mixing and dispersal of fertilizer, flushing procedures and procedures for postharvest trimming, drying and curing; and

(e) The safe handling of equipment, including, without limitation, high-intensity discharge lamps, electrical ballasts, pumps, fans, cutting implements and other equipment for cultivation.

5. In addition to the training set forth in subsection 1, a marijuana product manufacturing facility shall ensure that instruction is provided to a marijuana establishment agent before that person begins to work or volunteer at or provide labor as a marijuana establishment agent to the marijuana product manufacturing facility. Such instruction must include, without limitation:

(a) Understanding the difference between concentrated marijuana, topical products and marijuana products, as applicable to the operations of the marijuana product manufacturing facility;

(b) The procedures used by the marijuana product manufacturing facility to create concentrated marijuana and marijuana products; and

(c) The proper procedures for handling concentrated marijuana and marijuana products, including, without limitation, the procedures used to prepare, produce, package and store such products as required by the provisions of this chapter and chapter 453D of NRS.

6. In addition to the training set forth in subsection 1, a marijuana distributor shall ensure that instruction is provided to a marijuana establishment agent before that person begins to work or volunteer at or provide labor as a marijuana establishment agent to the marijuana distributor. Such instruction must include, without limitation:

(a) Procedures for the proper handling of marijuana plants, usable marijuana, concentrated marijuana and marijuana products;

(b) Procedures for the proper transportation and storage of marijuana plants, usable marijuana, concentrated marijuana and marijuana products; and

(c) Information regarding the type of driver's license which must be maintained for the loads expected to be transported.

Sec. 97. *An applicant submitting an application for a marijuana establishment agent registration card pursuant to section 94 of this regulation or renewing, amending, changing or replacing a marijuana establishment agent registration card shall submit the application electronically in the format prescribed by the Department.*

Sec. 98. *To make a change to the name or address on a marijuana establishment agent registration card, the marijuana establishment agent must submit to the Department a request for the change, which must include:*

- 1. The name on and the number of the current marijuana establishment agent registration card of the cardholder;*
- 2. The new name or address of the cardholder;*
- 3. The effective date of the new name or address of the cardholder;*
- 4. For a change of the address of the cardholder, the county and state in which the new address is located; and*
- 5. For a change of the name of the cardholder, a copy of any valid government-issued identification card of the cardholder which includes a photograph of the person and the new name and address of the cardholder and documentation of the reason for the change.*

Sec. 99. *To request a replacement marijuana establishment agent registration card that has been lost, stolen or destroyed, the marijuana establishment agent must submit to the*

Department, within 3 working days after the card was lost, stolen or destroyed, a request for a replacement card which must include:

- 1. The name and date of birth of the cardholder;*
- 2. If known, the number of the lost, stolen or destroyed marijuana establishment agent registration card; and*
- 3. If the cardholder cannot provide the number of the lost, stolen or destroyed marijuana establishment agent registration card, a copy of:*
 - (a) Any valid government-issued identification card of the cardholder which includes a photograph of the person; or*
 - (b) A marijuana establishment agent registration card previously issued to the person.*

Sec. 100. *If the Department issues a marijuana establishment agent registration card based on a request pursuant to section 98 or 99 of this regulation, the new marijuana establishment agent registration card must have the same expiration date as the marijuana establishment registration agent card being changed or replaced.*

Sec. 101. 1. *The Department will deny an application for or an application to renew a marijuana establishment agent registration card if the applicant:*

- (a) Does not meet the requirements set forth in section 94 of this regulation; or*
- (b) Previously has had a marijuana establishment agent registration card or a medical marijuana establishment agent registration card revoked.*

2. The Department may deny an application for or an application to renew a marijuana establishment agent registration card if the applicant provides false or misleading information to the Department.

3. *The Department may revoke a marijuana establishment agent registration card if the marijuana establishment agent:*

(a) Sells or otherwise diverts marijuana to a person who is not authorized by law to possess marijuana in accordance with the provisions of this chapter and chapter 453D of NRS;

(b) Has been convicted of an excluded felony offense; or

(c) Engages in a category I violation pursuant to section 120 of this regulation.

4. *The Department may revoke a marijuana establishment agent registration card if the marijuana establishment agent knowingly violates any provision of this chapter or chapter 453D of NRS.*

5. *If the Department denies an application for or an application to renew a marijuana establishment agent registration card or revokes a marijuana establishment agent registration card, the Department will provide notice to the applicant or marijuana establishment agent that includes, without limitation, the specific reasons for the denial or revocation.*

Sec. 102. 1. *Except as otherwise provided in subsection 1 of NRS 453D.230, the Department will charge and collect the following fees:*

For the initial issuance of a license for a retail marijuana store..... \$20,000

For the renewal of a license for a retail marijuana store..... 6,600

For the initial issuance of a license for a marijuana cultivation facility..... 30,000

For the renewal of a license for a marijuana cultivation facility..... 10,000

For the initial issuance of a license for a marijuana product 10,000

<i>manufacturing facility.....</i>	
<i>For the renewal of a license for a marijuana product manufacturing facility.....</i>	<i>3,300</i>
<i>For the initial issuance of a license for a marijuana testing facility</i>	<i>15,000</i>
<i>For the renewal of a license for a marijuana testing facility</i>	<i>5,000</i>
<i>For the initial issuance of a license for a marijuana distributor</i>	<i>15,000</i>
<i>For the renewal of a license for a marijuana distributor</i>	<i>5,000</i>

2. Each marijuana establishment shall submit the fee required by subsection 1 to the Department annually.

3. For the ongoing activities of the Department relating to the oversight of marijuana establishments, not related to processing an application by a marijuana establishment, the Department will collect an assessment from each marijuana establishment for the time and effort attributed to the oversight of the marijuana establishment that is based upon the hourly rate established by the Department.

4. As used in this section, "license" includes a conditional license.

Sec. 103. *A marijuana establishment shall post its license for a marijuana establishment, business license and any other authorization to conduct business in a conspicuous place within the marijuana establishment.*

Sec. 104. *A marijuana establishment shall not sell or transfer a lot of usable marijuana, concentrated marijuana or marijuana products until all required quality assurance testing has been completed.*

Sec. 105. 1. Except as otherwise provided in this section, the only persons who may be on the premises of a retail marijuana store are:

- (a) A marijuana establishment agent;**
- (b) A patient who holds a valid registry identification card or letter of approval;**
- (c) The designated primary caregiver of a patient who holds a valid registry identification card or letter of approval;**
- (d) A person who is not a resident of this State but is deemed to hold a valid registry identification card pursuant to NRS 453A.364;**
- (e) A person inspecting the marijuana establishment, including, without limitation, a local government authority, pursuant to this chapter or chapter 453D of NRS; or**
- (f) Any person not listed in paragraph (a) to (e), inclusive, who is at least 21 years of age.**

2. The only persons who may be on the premises of a marijuana establishment other than a retail marijuana store are:

- (a) A marijuana establishment agent; or**
- (b) A person inspecting the marijuana establishment, including, without limitation, a local government authority, pursuant to this chapter or chapter 453D of NRS.**

3. Any person other than a person authorized to be on the premises of a marijuana establishment pursuant to subsection 1 or 2 must obtain a visitor identification badge from a marijuana establishment agent before entering the premises of the marijuana establishment.

4. A person who obtains a visitor identification badge pursuant to subsection 3, including, without limitation, an outside vendor or contractor:

(a) Must be escorted and monitored by a marijuana establishment agent at all times he or she is on the premises of the marijuana establishment;

(b) Must visibly display his or her visitor identification badge at all times he or she is on the premises of the marijuana establishment;

(c) Must not handle any marijuana or money whatsoever; and

(d) Must return the visitor identification badge to a marijuana establishment agent upon leaving the premises of the marijuana establishment.

5. Each marijuana establishment shall maintain a visitor log which includes the name of the visitor and the date, time and purpose of each visit by a person other than a person authorized to be on the premises of the marijuana establishment pursuant to subsection 1 or 2. The marijuana establishment shall make its visitor log available to the Department upon request.

6. Each regular, seasonal or temporary employee of or volunteer or person who provides labor as a marijuana establishment agent at a marijuana establishment must obtain a marijuana establishment agent registration card pursuant to the provisions of this chapter and may not be authorized to be on the premises of the marijuana establishment by obtaining a visitor identification badge pursuant to the provisions of this section.

Sec. 106. A marijuana establishment shall:

1. Develop, document and implement policies and procedures regarding:

(a) Job descriptions and employment contracts, including, without limitation:

(1) The duties, authority, responsibilities and qualifications of personnel;

(2) Supervision of personnel;

- (3) Training in and adherence to confidentiality requirements;*
- (4) Periodic performance evaluations; and*
- (5) Disciplinary actions.*
- (b) 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.*
- (c) Inventory control, including, without limitation:*
 - (1) Tracking;*
 - (2) Packaging;*
 - (3) Acquiring marijuana from other marijuana establishments;*
 - (4) Disposing of unusable marijuana; and*
 - (5) Returning for a refund marijuana or marijuana products to the marijuana establishment from which the marijuana or marijuana products were acquired.*
- (d) Consumer education and support, including, without limitation:*
 - (1) The availability of different strains of marijuana and the purported effects of the different strains;*
 - (2) Information about the purported effectiveness of various methods, forms and routes of administering marijuana;*
 - (3) The prohibition on the smoking of marijuana in public places, places open to the public and places exposed to public view and on federal lands;*

(4) Education on how marijuana impairs a person's ability to operate a moving vehicle and that driving, operating or being in actual physical control of a vehicle while under the influence of marijuana or while impaired by marijuana is unlawful; and

(5) That possession of marijuana exceeding a certain quantity remains a felony with various legal consequences.

2. Maintain copies of the policies and procedures developed pursuant to subsection 1 at the marijuana establishment and provide copies to the Department for review upon request.

Sec. 107. *A marijuana establishment shall:*

1. Ensure that each marijuana establishment agent has his or her marijuana establishment agent registration card or temporary authorization in his or her immediate possession when the marijuana establishment agent:

(a) Is employed by or volunteering at or providing labor as a marijuana establishment agent at the marijuana establishment;

(b) Is transporting marijuana or marijuana products for the marijuana establishment, regardless of the type of license held by the marijuana establishment; or

(c) Is delivering marijuana or marijuana products for a retail marijuana store.

2. Not allow a person who does not possess a marijuana establishment agent registration card which is valid at the marijuana establishment to:

(a) Serve as an officer or board member for the marijuana establishment or hold an ownership interest of more than 5 percent in the marijuana establishment;

(b) Be employed by or have a contract to provide services for the marijuana establishment;

(c) Volunteer at or on behalf of the marijuana establishment; or

(d) Contract to provide labor at or be employed by an independent contractor to provide labor at the marijuana establishment.

3. Provide written notice to the Department, including the date of the event, within 10 working days after the date on which a marijuana establishment agent begins:

(a) Service as an officer or board member for the marijuana establishment;

(b) Employment by the marijuana establishment or providing services for the marijuana establishment pursuant to a contract;

(c) Volunteering at or on behalf of the marijuana establishment; or

(d) Providing labor at or beginning employment by an independent contractor to provide labor at a marijuana establishment pursuant to a contract.

4. Provide written notice to the Department, including the date of and reason for the event, within 10 working days after the date on which a marijuana establishment agent no longer:

(a) Serves as an officer or board member for the marijuana establishment;

(b) Is employed by or has a contract to provide services for the marijuana establishment;

(c) Volunteers at or on behalf of the marijuana establishment; or

(d) Contracts to provide labor at or is employed by an independent contractor to provide labor at a marijuana establishment.

5. Provide written notice to the Department, including the date of the event, within 10 working days after the date on which the person designated by the marijuana establishment to provide written notice to the Department relating to marijuana establishment agents ceases to serve in that capacity at the marijuana establishment.

Sec. 108. 1. Each marijuana establishment shall designate in writing a marijuana establishment agent who has oversight of the inventory control system of the marijuana establishment.

2. Except as otherwise provided in subsection 3, a marijuana establishment shall only acquire marijuana or marijuana products from:

(a) Another marijuana establishment, including, without limitation, a marijuana cultivation facility, a marijuana product manufacturing facility or a retail marijuana store; or

(b) A medical marijuana establishment which is registered pursuant to chapter 453A of NRS.

3. A marijuana cultivation facility may acquire seeds for the cultivation of marijuana from any person if the acquisition of the seeds does not violate the provisions of chapter 453D of NRS.

4. A marijuana establishment shall not acquire concentrated marijuana or products containing concentrated marijuana from another marijuana establishment, except that a retail marijuana store or a marijuana product manufacturing facility may acquire concentrated marijuana or products containing concentrated marijuana from a marijuana product manufacturing facility. A marijuana cultivation facility may sell crude collected resins to a retail marijuana store if the crude collected resins are:

(a) From a single batch;

(b) Unprocessed; and

(c) Not combined.

5. Each marijuana establishment shall establish and implement an inventory control system that documents:

(a) Each day's beginning inventory, acquisitions, harvests, sales, disbursements, disposal of unusable marijuana and ending inventory, including, without limitation, the:

- (1) Number of plants and cuttings;***
- (2) Weight of flowers, measured in grams;***
- (3) Weight of trim, measured in grams;***
- (4) Quantity of THC, measured in milligrams; and***
- (5) Weight of seeds, measured in grams.***

(b) When acquiring marijuana from another marijuana establishment:

(1) A description of the marijuana acquired, including the amount, strain and batch number, lot number and production run number, or any combination thereof;

(2) The name and identification number of the license of the marijuana establishment providing the marijuana;

(3) The name and the number of the marijuana establishment agent registration card of the marijuana establishment agent providing the marijuana;

(4) The name and the number of the marijuana establishment agent registration card of the marijuana establishment agent receiving the marijuana on behalf of the marijuana establishment; and

(5) The date of acquisition.

(c) When acquiring marijuana from a medical marijuana establishment registered pursuant to chapter 453A of NRS:

- (1) A description of the marijuana acquired, including the amount, strain and batch number, lot number and production run number, or any combination thereof;*
 - (2) The name and identification number of the medical marijuana establishment registration certificate of the medical marijuana establishment providing the marijuana;*
 - (3) The name and the number of the medical marijuana establishment agent registration card of the medical marijuana establishment agent providing the marijuana;*
 - (4) The name and the number of the marijuana establishment agent registration card of the marijuana establishment agent receiving the marijuana on behalf of the marijuana establishment; and*
 - (5) The date of acquisition.*
- (d) For each batch of marijuana cultivated:*
- (1) The batch number, lot number and production run number, as applicable.*
 - (2) Whether the batch originated from marijuana seeds or marijuana cuttings.*
 - (3) The strain of the marijuana seeds or marijuana cuttings planted.*
 - (4) The number of marijuana seeds or marijuana cuttings planted.*
 - (5) The date on which the marijuana seeds or cuttings were planted.*
 - (6) A list of all chemical additives used in the cultivation, including, without limitation, nonorganic pesticides, herbicides and fertilizers.*
 - (7) The number of marijuana plants grown to maturity.*
 - (8) Harvest information, including, without limitation:*
 - (I) The date of harvest;*
 - (II) The final yield weight of processed usable marijuana, in grams; and*

(III) The name and the number of the marijuana establishment agent registration card of the marijuana establishment agent responsible for the harvest.

(9) The disposal of marijuana that is not usable marijuana, including:

(I) A description of and reason for the marijuana being disposed of, including, if applicable, the number of failed or other unusable marijuana plants;

(II) The date of disposal;

(III) Confirmation that the marijuana was rendered unusable before disposal;

(IV) The method of disposal; and

(V) The name and the number of the marijuana establishment agent registration card of the marijuana establishment agent responsible for the disposal.

(e) When providing marijuana to another marijuana establishment:

(1) The amount, strain, batch number, lot number and production run number, as applicable, of marijuana provided to the marijuana establishment;

(2) The name and license number of the other marijuana establishment;

(3) The name and the number of the marijuana establishment agent registration card of the marijuana establishment agent who received the marijuana on behalf of the other marijuana establishment; and

(4) The date on which the marijuana was provided to the marijuana establishment.

(f) When receiving edible marijuana products from another marijuana establishment:

(1) A description of the edible marijuana products received from the marijuana establishment, including the total weight of each edible marijuana product and the amount of

THC, measured in milligrams, and the production run number of the marijuana in each edible marijuana product.

(2) The total amount and production run number of marijuana in the edible marijuana products.

(3) The name and:

(I) License number of the marijuana establishment providing the edible marijuana products to the receiving marijuana establishment;

(II) The number of the marijuana establishment agent registration card of the marijuana establishment agent providing the edible marijuana products to the receiving marijuana establishment; and

(III) The number of the marijuana establishment agent registration card of the marijuana establishment agent receiving the edible marijuana products on behalf of the receiving marijuana establishment.

(4) The date on which the edible marijuana products were provided to the marijuana establishment.

(g) When receiving marijuana products from another marijuana establishment:

(1) A description of the marijuana products received from the marijuana establishment, including the total weight of each marijuana product and the amount of THC, measured in milligrams, and production run number of the marijuana in each marijuana product.

(2) The total amount and production run number of marijuana in the marijuana products.

(3) The name and:

(I) License number of the marijuana establishment providing the marijuana products to the receiving marijuana establishment;

(II) The number of the marijuana establishment agent registration card of the marijuana establishment agent providing the marijuana products to the receiving marijuana establishment; and

(III) The number of the marijuana establishment agent registration card of the marijuana establishment agent receiving the marijuana products on behalf of the receiving marijuana establishment.

(4) The date on which the marijuana products were provided to the marijuana establishment.

(h) When receiving concentrated marijuana or products containing concentrated marijuana from a marijuana product manufacturing facility:

(1) A description of the concentrated marijuana or products containing concentrated marijuana received from the marijuana product manufacturing facility, including the total weight of each product, the amount of THC, measured in milligrams, and the production run number for each product;

(2) The name and:

(I) License number of the marijuana establishment providing the concentrated marijuana or products containing concentrated marijuana to the receiving marijuana establishment;

(II) The number of the marijuana establishment agent registration card of the marijuana establishment agent providing the concentrated marijuana or products containing concentrated marijuana to the receiving marijuana establishment; and

(III) The number of the marijuana establishment agent registration card of the marijuana establishment agent receiving the concentrated marijuana or products containing concentrated marijuana on behalf of the receiving marijuana establishment.

(3) The date on which the concentrated marijuana or products containing concentrated marijuana were provided to the marijuana establishment.

6. Each marijuana establishment shall:

(a) Establish and maintain a seed-to-sale inventory system which adequately documents the flow of materials through the manufacturing process.

(b) Establish procedures which reconcile the raw material used to the finished product on the basis of each job. Significant variances must be documented, investigated by management personnel and immediately reported to the Department and to the marijuana establishment that ordered the concentrated marijuana or marijuana product.

(c) Provide for quarterly physical inventory counts to be performed by persons independent of the manufacturing process which are reconciled to the perpetual inventory records. Significant variances must be documented, investigated by management personnel and immediately reported to the Department.

7. If a marijuana establishment identifies a reduction in the amount of marijuana in the inventory of the marijuana establishment which is not due to documented causes, the marijuana establishment shall determine where the loss has occurred and take and document

corrective action. If the reduction in the amount of marijuana in the inventory of the marijuana establishment is due to suspected criminal activity by a marijuana establishment agent, the marijuana establishment shall report the marijuana establishment agent to the Department and to the appropriate law enforcement agencies within 24 hours. The Department may require the marijuana establishment to provide additional information as it determines necessary to conduct an investigation.

8. A marijuana establishment shall:

(a) Maintain the documentation required by subsections 5, 6 and 7 at the marijuana establishment for at least 5 years after the date on the document; and

(b) Provide the documentation required by subsections 5, 6 and 7 to the Department for review upon request.

Sec. 109. *A marijuana establishment shall:*

1. Use the seed-to-sale tracking system managed by the independent contractor selected by the Department;

2. Connect to the seed-to-sale tracking system using the independent contractor's application programming interface; and

3. Pay any fees assessed by the independent contractor for using the seed-to-sale tracking system, including, without limitation, user fees or application programming interface fees.

Sec. 110. *A marijuana establishment shall:*

1. Document and report any loss or theft of marijuana from the marijuana establishment to the appropriate law enforcement agency and to the Department within 24 hours after discovery of the loss or theft; and

2. Maintain copies of any documentation required pursuant to this chapter and chapter 453D of NRS for at least 5 years after the date on the documentation and provide copies of the documentation to the Department for review upon request.

Sec. 111. *1. To prevent unauthorized access to marijuana at a marijuana establishment, the marijuana establishment must have:*

(a) Security equipment to deter and prevent unauthorized entrance into limited access areas that includes, without limitation:

(1) Devices or a series of devices to detect unauthorized intrusion, which may include a signal system interconnected with a radio frequency method, such as cellular or private radio signals, or other mechanical or electronic device, and which, for a marijuana cultivation facility which engages in outdoor cultivation, covers the entirety of the cultivation area and the perimeter and exterior area of the marijuana cultivation facility;

(2) Exterior lighting to facilitate surveillance which, for a marijuana cultivation facility which engages in outdoor cultivation:

(I) When the lighting would not interfere with the growing cycle of a crop, covers the entirety of the cultivation area and the perimeter and exterior area of the marijuana cultivation facility; and

(II) When the lighting would interfere with the growing cycle of a crop, covers the perimeter and exterior area of the marijuana cultivation facility;

(3) Electronic monitoring, including, without limitation, each of the following:

(I) At least one call-up monitor that is 19 inches or more.

(II) A video printer capable of immediately producing a clear still photo from any video camera image, which photo must be provided to the Department for review upon request.

(III) Video cameras with a recording resolution of at least 1920 x 1080, or the equivalent, at a rate of at least 15 frames per second which provide coverage of all entrances and exits of the building, any room or area that holds a vault and any point-of-sale location, which record 24 hours per day, which are capable of being accessed remotely by a law enforcement agency in real time upon request and which may record motion only. A video camera providing coverage of a point-of-sale location must allow for the identification of any person purchasing marijuana.

(IV) Video cameras with a recording resolution of at least 720 x 480, or the equivalent, at a rate of at least 15 frames per second which provide coverage of all limited access areas not described in sub-subparagraph (III) and any activity in or adjacent to the establishment, which record 24 hours per day, which are capable of being accessed remotely by a law enforcement agency in real time upon request, which may record motion only and which, for a marijuana cultivation facility which engages in outdoor cultivation, cover the entirety of the cultivation area and the perimeter and exterior area of the marijuana cultivation facility.

(V) A video camera which is capable of identifying any activity occurring within the marijuana establishment in low light conditions 24 hours per day.

(VI) A method for storing video recordings from the video cameras for at least 30 calendar days in a secure on-site or off-site location or through a service or network that

provides on-demand access to the recordings and providing copies of the recordings to the Department for review upon request and at the expense of the marijuana establishment.

(VII) A failure notification system that provides an audible and visual notification of any failure in the electronic monitoring system.

(VIII) Sufficient battery backup for video cameras and recording equipment to support at least 5 minutes of recording in the event of a power outage;

(4) Immediate automatic or electronic notification to alert local law enforcement agencies of an unauthorized breach of security at the marijuana establishment in the interior of each building of the marijuana establishment; and

(5) For a marijuana cultivation facility which engages in outdoor cultivation:

(I) An alarm system and video cameras which are monitored 24 hours per day;

(II) An exterior barrier, determined to be appropriate by local law enforcement, which is located around the perimeter of the marijuana cultivation facility and which consists of a solid block wall or chain link fence with a height of at least 8 feet and an additional fence with a height of at least 8 feet located at least 10 feet and not more than 20 feet inside of the solid block wall or chain link fence; and

(III) A secure block building which is approved by the Department as suitable to dry and store marijuana and which meets the security and sanitation requirements for a marijuana cultivation facility which engages in indoor cultivation of marijuana.

(b) Policies and procedures:

(1) That restrict access to the areas of the marijuana establishment that contain marijuana to persons authorized to be in those areas only;

- (2) That provide for the identification of persons authorized to be in the areas of the marijuana establishment that contain marijuana;*
- (3) That prevent loitering;*
- (4) For conducting electronic monitoring;*
- (5) For the use of the automatic or electronic notification to alert local law enforcement agencies of an unauthorized breach of security at the marijuana establishment;*
- (6) For limiting the amount of money available in any retail areas of the marijuana establishment and for training employees on this practice;*
- (7) For notifying the public of the minimal amount of money available, which may include, without limitation, the posting of a sign;*
- (8) For maintaining communication with law enforcement agencies; and*
- (9) For providing and receiving notifications regarding burglary, attempted burglary, robbery, attempted robbery and other suspicious activity.*

2. Each video camera used pursuant to subparagraph (3) of paragraph (a) of subsection 1 must:

- (a) 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*
- (b) Be installed in a manner that will prevent the video camera from being readily obstructed, tampered with or disabled.*

3. A marijuana establishment shall make a reasonable effort to repair any malfunction of security equipment within 72 hours after the malfunction is discovered. A marijuana

establishment shall notify the Department and local law enforcement within 24 hours after a malfunction is discovered and provide a plan of correction. Failure to correct a malfunction within 72 hours after the malfunction is discovered is a violation of this section.

4. If a video camera used pursuant to subparagraph (3) of paragraph (a) of subsection 1 malfunctions, the marijuana establishment shall immediately provide alternative video camera coverage or use other security measures, such as assigning additional supervisory or security personnel, to provide for the security of the marijuana establishment. If the marijuana establishment uses other security measures, the marijuana establishment must immediately notify the Department, and the Department will determine whether the other security measures are adequate.

5. Each marijuana establishment shall maintain a log that documents each malfunction and repair of the security equipment of the marijuana establishment pursuant to subsections 3 and 4. The log must state the date, time and nature of each malfunction, the efforts taken to repair the malfunction and the date of each effort, the reason for any delay in repairing the malfunction, the date the malfunction is repaired and, if applicable, any alternative security measures that were taken. The log must also list, by date and time, all communications with the Department concerning each malfunction and corrective action. The marijuana establishment shall maintain the log for at least 1 year after the date of last entry in the log.

6. Each marijuana establishment must employ a security manager or director who must be responsible for:

(a) Conducting a semiannual audit of security measures to ensure compliance with the state procedures of the marijuana establishment and identify potential security issues;

(b) Training employees on security measures, emergency response and robbery prevention and response before hiring and on an annual basis; and

(c) Evaluating the credentials of any third party who intends to provide security to the marijuana establishment before the third party is hired by or enters into a contract with the marijuana establishment.

7. Each marijuana establishment shall ensure that the security manager or director of the marijuana establishment, at least one employee of the marijuana establishment or the employees of any third party who provides security to the marijuana establishment has completed, or will complete within a period determined by the Department to be reasonable, the following training:

(a) Training in theft prevention or a related subject;

(b) Training in emergency response or a related subject;

(c) Training in the appropriate use of force or a related subject that covers when the use of force is and is not necessary;

(d) Training in the use and administration of first aid, including cardiopulmonary resuscitation;

(e) Training in the protection of a crime scene or a related subject;

(f) Training in the control of access to protected areas of a marijuana establishment or a related subject;

(g) Not less than 8 hours of on-site training in providing security services; and

(h) Not less than 8 hours of classroom training in providing security services.

8. *A marijuana cultivation facility which engages in the outdoor cultivation of marijuana must be located in such a manner as to allow local law enforcement to respond to the marijuana cultivation facility within 15 minutes after being contacted unless the local law enforcement agency determines some other response time is acceptable.*

Sec. 112. 1. *Each marijuana establishment must ensure that each marijuana establishment agent who is employed by, volunteers at or provides labor as a marijuana establishment agent at the marijuana establishment:*

(a) Cleans his or her hands and exposed portions of his or her arms in a hand-washing sink:

(1) Immediately upon entrance to the marijuana establishment;

(2) Immediately before working with marijuana plants;

(3) Immediately before preparing concentrated marijuana or marijuana products, including, without limitation, working with exposed marijuana products, clean equipment and utensils or unwrapped single-service and single-use articles;

(4) 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;

(5) After using the toilet facilities;

(6) After coughing, sneezing, using a handkerchief or disposable tissue, using tobacco, eating or drinking;

(7) After handling soiled equipment or utensils;

(8) During preparation or extraction of concentrated marijuana or marijuana products, as often as necessary to remove soil and contamination and to prevent cross-contamination when changing tasks;

(9) When switching between working with unprocessed marijuana products or uncooked food products and working with finished concentrated marijuana or marijuana products;

(10) Before donning gloves for working with marijuana products; and

(11) After engaging in other activities that contaminate the hands.

(b) If working directly in the preparation of concentrated marijuana or marijuana products:

(1) Keeps his or her fingernails trimmed, filed and maintained so that the edges and surfaces are cleanable;

(2) Unless wearing intact gloves in good repair, does not have fingernail polish or artificial fingernails on his or her fingernails; and

(3) Wears a hair net.

(c) Wears clean clothing appropriate to the tasks assigned to him or her.

2. If the person designated by a marijuana establishment to address health conditions at the marijuana establishment determines that a marijuana establishment agent who is employed by or volunteers at or provides labor as a marijuana establishment agent at the marijuana establishment has a health condition that may adversely affect the safety or quality of the concentrated marijuana or marijuana products at the marijuana establishment, that marijuana establishment agent is prohibited from having direct contact with any marijuana or

equipment or materials for processing concentrated marijuana or marijuana products until the designated person determines that the health condition of the marijuana establishment agent will not adversely affect the concentrated marijuana or marijuana products.

3. A marijuana establishment agent shall not work directly with concentrated marijuana or marijuana products if the marijuana establishment agent has:

(a) A symptom of gastrointestinal infection, including, without limitation, diarrhea, vomiting or jaundice;

(b) A sore throat with fever; or

(c) A lesion that appears inflamed or contains pus, including, without limitation, a boil or infected wound that is not covered with:

(1) An impermeable cover and a single-use glove if the lesion is on a hand or wrist, both of which must be changed at any time that hand washing is required;

(2) An impermeable cover if the lesion is on an arm; or

(3) A dry, durable, tight-fitting bandage if the lesion is on another part of the body.

Sec. 113. 1. A building used as a marijuana establishment or by a dual licensee must have:

(a) At least one toilet facility which must contain:

(1) A flushable toilet;

(2) Mounted toilet tissue;

(3) A hand sink with running water which is capable of delivering hot water at a minimum temperature of 100°F (37.8°C);

(4) Soap contained in a dispenser;

(5) Disposable, single-use paper towels in a mounted dispenser; and

(6) A conveniently located trash can.

(b) Except for a marijuana distributor, at least one hand-washing sink 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.

(c) Designated storage areas for concentrated marijuana and marijuana products or materials used in direct contact with such items separate from storage areas for toxic or flammable materials.

(d) If preparation or packaging of concentrated marijuana or marijuana products is done in the building, a designated area for the preparation or packaging that:

(1) Includes work space that can be sanitized; and

(2) Is only used for the preparation or packaging of concentrated marijuana or marijuana products.

2. For any commercial weighing and measuring equipment used at a marijuana establishment, the marijuana establishment must:

(a) Ensure that the commercial device is licensed pursuant to chapter 581 of NRS;

(b) Maintain documentation of the license of the commercial device; and

(c) Provide a copy of the license of the commercial device to the Department for review upon request.

Sec. 114. 1. A marijuana establishment that prepares or sells edible marijuana products must:

(a) Before preparing an edible marijuana product, obtain written authorization from the Department to prepare edible marijuana products;

(b) If the marijuana establishment prepares edible marijuana products, ensure that the edible marijuana products are prepared according to the applicable requirements set forth in this chapter and chapter 453D of NRS and the operating procedures included in its application pursuant to section 77 or 78 of this regulation;

(c) If the edible marijuana products are not prepared at the marijuana establishment, obtain and maintain at the marijuana establishment a copy of the current written authorization to prepare edible marijuana products from the marijuana establishment that prepares the edible marijuana products;

(d) If the marijuana establishment is a marijuana product manufacturing facility, package all edible marijuana products produced by the marijuana establishment on the premises of the marijuana establishment; and

(e) If the marijuana establishment sells edible marijuana products, ensure that the edible marijuana products are sold according to the applicable requirements set forth in this chapter and chapter 453D of NRS.

2. A marijuana establishment is responsible for the content and quality of any edible marijuana product sold by the marijuana establishment.

3. A marijuana product manufacturing facility is not subject to the provisions of chapter 446 of NRS or chapter 446 of NAC.

Sec. 115. *A marijuana establishment is responsible to the State or a locality for all costs incurred by the State or locality in cleaning up, mitigating or remedying any environmental damage caused by the marijuana establishment.*

Sec. 116. *A marijuana establishment may not treat or otherwise adulterate usable marijuana with any organic or nonorganic chemical or other compound whatsoever to alter the color, appearance, weight or smell of the usable marijuana.*

Sec. 117. 1. *Except as otherwise provided in this section, a marijuana establishment shall operate according to the plans and specifications included within the application for a license for the marijuana establishment submitted pursuant to section 77 or 78 of this regulation.*

2. *A marijuana establishment 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 state and local laws, regulations and ordinances and the marijuana establishment provides the Department with a written notification of its intent to make the change which includes, without limitation:*

- (a) The name, physical address and license number of the marijuana establishment; and*
- (b) A description of the proposed change.*

3. *Upon receipt of a written notification pursuant to subsection 2, the Department will add the information to the file that the Department maintains on the marijuana establishment.*

4. *A marijuana establishment which has completed a change to its facilities shall submit documentation of the change to the Department as soon as practicable, but in no event later*

than the date of the next scheduled inspection of the marijuana establishment by the Department.

5. The Department will inspect or audit any change to the facilities of a marijuana establishment that the Department deems necessary of inspection or auditing at the next inspection of the marijuana establishment by the Department or at such other time as the Department determines to be appropriate after the date that the marijuana establishment projects for completion of the change or notifies the Department of the completion of the change, whichever is earlier.

6. A marijuana establishment shall not commence the operation of any material change to the facilities or operations of the marijuana establishment until the Department completes an inspection or audit of the change or notifies the marijuana establishment that an inspection or audit is not necessary. Material changes include, without limitation, modifications to:

(a) The infrastructure of the facilities of the marijuana establishment, including, without limitation, modifications requiring demolition or new construction of walls, plumbing, electrical infrastructure, heating, ventilation or air conditioning; and

(b) The operating capability of the marijuana establishment, including, without limitation, the implementation of a new extraction device or removal of an existing extraction device, a change to the growing method from the method previously used and inspected or a change to the lighting technology, hydroponic system, pod or other contained growing system. The addition of one or more new pods which are identical to a pod that has already been inspected is not a material change.

Sec. 118. 1. *A marijuana establishment may move to a new location under the jurisdiction of the same locality as its original location and regardless of the distance from its original location if the operation of the marijuana establishment at the new location has been approved by the locality. A locality may approve a new location pursuant to this subsection only in a public hearing for which written notice is given at least 7 working days before the hearing.*

2. *Except as otherwise provided in subsection 1, a marijuana establishment that wishes to move to a new location or commence operations at a location other than the location contained in the application of the marijuana establishment must submit a written request for relocation to the Department. The written request for relocation must include, without limitation:*

(a) The name, current physical address, proposed new physical address and license or application number of the marijuana establishment;

(b) Documentation of a public meeting in which the locality of the proposed new location considered the relocation request;

(c) Documentation of land use approval for the new location by the locality;

(d) A professional survey demonstrating that the proposed location meets the distance requirements set forth in paragraph (c) of subsection 5 of NRS 453D.210; and

(e) A signed, written attestation that the operation of the marijuana establishment at the new address will meet or exceed the merits of the location specified in the application submitted by the marijuana establishment.

3. *The Department will consider each request received pursuant to subsection 2 and, after reviewing the documentation contained in the request, determine whether the request should be approved. Upon approval, the Department will issue to the marijuana establishment a new license which is amended to reflect the new address.*

Sec. 119. 1. *A violation of any of the provisions of this chapter is grounds for disciplinary action by the Department, including, without limitation, immediate revocation of a license for a marijuana establishment pursuant to NRS 453D.200.*

2. *A violation of any of the provisions of this chapter is grounds for disciplinary action by the Department, including, without limitation, immediate revocation of a marijuana establishment agent registration card.*

Sec. 120. 1. *The Department may:*

(a) *Subject to the provisions of subsection 4, impose a civil penalty of not more than \$35,000 on any person who fails to comply with or violates any provision of this chapter or NRS 453D.300;*

(b) *Except as otherwise provided in paragraph (c), revoke or suspend for not less than 3 days and not more than 30 days the license of any marijuana establishment or the marijuana establishment agent registration card of any person who fails to comply with or violates the provisions of this chapter or chapter 453D of NRS; and*

(c) *If corrective action approved by the Department 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 marijuana establishment or the marijuana establishment*

agent registration card of a person who fails to comply with or violates the provisions of this chapter or chapter 453D of NRS.

2. To determine the amount of a civil penalty assessed pursuant to this section, the Department 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 this chapter and chapter 453D of NRS by the violator, action taken to remedy the violation, the effect of the penalty on the ability of the violator to continue in business and any other matter as justice may require.

3. The Department will determine the category of a violation of this chapter or chapter 453D of NRS as follows:

(a) Category 1 violations are violations of a severity that make a person ineligible to receive a license, including, without limitation:

- (1) Conviction of an excluded felony offense;*
- (2) Operating without all required permits, certificates and licenses;*
- (3) Making an intentionally false statement to the Department;*
- (4) Intentionally destroying or concealing evidence;*
- (5) Intentionally failing to pay taxes to the Department;*
- (6) 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 category A felony;*
- (7) Operating a marijuana establishment while the license for the marijuana establishment is suspended or revoked; or*

(8) Transporting marijuana outside of the boundaries of this State, except where authorized by an agreement between the Governor of this State and a participating tribal government.

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

(1) Making an unintentional false statement or representation of fact to the Department;

(2) Failing to promptly admit regulatory or law enforcement personnel into the premises of a marijuana establishment;

(3) Unintentionally destroying or concealing evidence;

(4) Failing to notify the Department of a change of ownership;

(5) Denying access by law enforcement or regulatory personnel to the premises of the marijuana establishment during regular business hours;

(6) 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;

(7) Allowing a person who is less than 21 years of age to work or volunteer at the marijuana establishment;

(8) Refusing to allow an inspection or obstructing a law enforcement officer from performing his or her official duties;

(9) Failing to cease operation and notify the Department during an imminent health hazard;

(10) Purchasing marijuana from an unapproved source;

(11) Purchasing or selling marijuana that has not passed the analysis required by a marijuana testing facility without written approval from the Department;

(12) Operating an unapproved extraction unit;

(13) Selling an amount of marijuana in excess of transaction limits; or

(14) Failing to maintain required security alarm and surveillance systems pursuant to section 111 of this regulation.

(c) Category II(b) violations are violations for failing to verify the age of, or selling or otherwise providing marijuana or marijuana paraphernalia to, a person who is less than 21 years of age.

(d) Category III violations are violations that create a potential threat to public health or safety, including, without limitation:

(1) Allowing a person who is less than 21 years of age to enter or remain in a marijuana establishment or transport vehicle unless the person holds a registry identification card or letter of approval;

(2) Permitting sales by a person without a marijuana establishment agent registration card unless that person is deemed to be temporarily registered pursuant to section 94 of this regulation;

(3) Allowing consumption by any person of alcohol, marijuana or other intoxicants on the premises of the marijuana establishment or in areas adjacent to the premises of the marijuana establishment which are under the licensee's control, including, without limitation, a parking lot;

(4) Failing to keep any required records, including seed-to-sale tracking requirements;

- (5) Failing to tag all plants as required;*
- (6) Failing to follow an approved security plan;*
- (7) Allowing disorderly activity;*
- (8) Allowing any activity which violates the laws of this State;*
- (9) Failing to notify the Department within 24 hours after discovery of a serious incident or criminal activity on the premises of the marijuana establishment;*
- (10) Unintentionally failing to pay taxes to the Department;*
- (11) Selling unauthorized products;*
- (12) Failing to notify the Department of a modification or expansion of the facilities of the marijuana establishment or a change in equipment or menu of the marijuana establishment;*
- (13) Violating packaging or labeling requirements;*
- (14) Storing or delivering an unapproved marijuana product;*
- (15) Failing to meet requirements for the disposal of marijuana waste;*
- (16) Using unauthorized pesticides, soil amendments, fertilizers or other crop production aids;*
- (17) Exceeding the maximum serving requirements for marijuana products;*
- (18) Exceeding a reasonable time frame for delivery without approval from the Department;*
- (19) Transporting or storing marijuana from an unlicensed source or diversion of marijuana or marijuana products;*
- (20) Picking up, unloading or delivering marijuana at an unauthorized location;*

(21) Failing to comply with requirements for hand washing and employee hygiene, including, without limitation, using a bare hand on a marijuana product;

(22) Failing to maintain proper temperature of potentially hazardous food or marijuana products;

(23) Failing to comply with requirements for water temperature;

(24) Failing to prevent backflow of plumbing; or

(25) Selling or failing to dispose of marijuana, marijuana products or food items that are spoiled or contaminated.

(e) Category IV violations are violations that create a climate which is conducive to abuses associated with the sale or production of marijuana or marijuana products, including, without limitation:

(1) Failing to display or have in the immediate possession of each marijuana establishment agent a marijuana establishment agent registration card or proof of temporary registration;

(2) Removing, altering or covering a notice of suspension of a license or any other required notice or sign;

(3) Violating advertising requirements;

(4) Displaying products in a manner visible to the general public from a public right of way;

(5) Failing to respond to an administrative notice of a violation or failing to pay fines;

(6) Violating restrictions on sampling;

(7) Failing to maintain a standardized scale as required;

- (8) Transporting marijuana in an unauthorized vehicle;*
- (9) Improper storing of marijuana, marijuana products or other foods;*
- (10) Failing to properly wash, rinse and sanitize product contact surfaces as required;*
- (11) Failing to maintain hand-washing facilities that are stocked, accessible and limited to hand washing only;*
- (12) Infestation by pests that are not multigenerational or on contact surfaces;*
- (13) Failing to properly use sanitizer as required; or*
- (14) Violating any transportation or delivery requirements not described in another category of violations.*

(f) Category V violations are violations that are inconsistent with the orderly regulation of the sale or production of marijuana or marijuana products, including, without limitation:

- (1) Failing to submit monthly tax or sales reports or payments;*
- (2) Failing to notify the Department of a temporary closure of the marijuana establishment;*
- (3) Failing to post any required signs;*
- (4) Failing to notify the Department of a change in the name of the marijuana establishment;*
- (5) Making a payment with a check returned for insufficient funds; or*
- (6) Failing to comply with any other requirements not described in another category of violations.*

4. Before consideration of the factors described in subsection 2, the Department will presume that the following are appropriate penalties for violations of this chapter or chapter 453D of NRS:

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

(1) First violation in the immediately preceding 2 years, a civil penalty of not more than \$35,000 and a suspension for not more than 30 days or revocation of a license or marijuana establishment agent registration card.

(2) Second or subsequent violation in the immediately preceding 2 years, revocation of a license or marijuana establishment agent registration card.

(b) For a category II violation which is the:

(1) First violation in the immediately preceding 2 years, a civil penalty of not more than \$10,000 and a suspension for not more than 20 days of a license or marijuana establishment agent registration card.

(2) Second violation in the immediately preceding 2 years, a civil penalty of not more than \$20,000 and a suspension for not more than 30 days of a license or marijuana establishment agent registration card.

(3) Third or subsequent violation in the immediately preceding 2 years, revocation of a license or marijuana establishment agent registration card.

(c) For a category II(b) violation which is the:

(1) First violation in the immediately preceding 2 years, a civil penalty of not more than \$5,000.

(2) Second violation in the immediately preceding 2 years, a civil penalty of not more than \$10,000 or a suspension for not more than 20 days of a license or marijuana establishment agent registration card.

(3) Third violation in the immediately preceding 2 years, a suspension for not more than 30 days of a license or marijuana establishment agent registration card.

(4) Fourth or subsequent violation in the immediately preceding 2 years, revocation of a license or marijuana establishment agent registration card.

(d) For a category III violation which is the:

(1) First violation in the immediately preceding 2 years, a civil penalty of not more than \$2,500.

(2) Second violation in the immediately preceding 2 years, a civil penalty of not more than \$5,000 or a suspension for not more than 10 days of a license or marijuana establishment agent registration card.

(3) Third violation in the immediately preceding 2 years, a civil penalty of not more than \$10,000 or a suspension for not more than 20 days of a license or marijuana establishment agent registration card.

(4) Fourth violation in the immediately preceding 2 years, a suspension for not more than 30 days of a license or marijuana establishment agent registration card.

(5) Fifth or subsequent violation in the immediately preceding 2 years, revocation of a license or marijuana establishment agent registration card.

(e) For a category IV violation which is the:

(1) First violation in the immediately preceding 2 years, a civil penalty of not more than \$1,250.

(2) Second violation in the immediately preceding 2 years, a civil penalty of not more than \$2,500 or a suspension for not more than 7 days of a license or marijuana establishment agent registration card.

(3) Third violation in the immediately preceding 2 years, a civil penalty of not more than \$5,000 or a suspension for not more than 10 days of a license or marijuana establishment agent registration card.

(4) Fourth violation in the immediately preceding 2 years, a civil penalty of not more than \$10,000 or a suspension for not more than 20 days of a license or marijuana establishment agent registration card.

(5) Fifth violation in the immediately preceding 2 years, a suspension for not more than 30 days of a license or marijuana establishment agent registration card.

(6) Sixth or subsequent violation in the immediately preceding 2 years, revocation of a license or marijuana establishment agent registration card.

(f) For a category V violation which is the:

(1) First violation in the immediately preceding 2 years, a warning.

(2) Second violation in the immediately preceding 2 years, a civil penalty of not more than \$750.

(3) Third violation in the immediately preceding 2 years, a civil penalty of not more than \$1,250 or a suspension for not more than 3 days of a license or marijuana establishment agent registration card.

(4) Fourth violation in the immediately preceding 2 years, a civil penalty of not more than \$2,500 or a suspension for not more than 7 days of a license or marijuana establishment agent registration card.

(5) Fifth violation in the immediately preceding 2 years, a civil penalty of not more than \$5,000 or a suspension for not more than 10 days of a license or marijuana establishment agent registration card.

(6) Sixth or subsequent violation in the immediately preceding 2 years, a civil penalty of not more than \$10,000 or a suspension for not more than 20 days of a license or marijuana establishment agent registration card.

5. The Department will determine whether an event is an imminent health hazard that requires immediate correction or cessation of operations to prevent injury 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:

- (a) Interruption of electrical service;*
- (b) Lack of potable water or hot water;*
- (c) Grossly unsanitary occurrences or conditions including, without limitation, pest infestation or sewage or liquid waste not being disposed of in an approved manner;*
- (d) Lack of adequate refrigeration;*
- (e) Lack of adequate toilet and hand-washing facilities for employees;*
- (f) Misuse of poisonous or toxic materials;*
- (g) A suspected outbreak of foodborne illness;*

(h) A fire or flood; or

(i) Any other condition or circumstance which endangers public health.

Sec. 121. *Each marijuana cultivation facility, marijuana product manufacturing facility and retail marijuana store shall submit the report required pursuant to section 65.95 of Assembly Bill No. 422, chapter 540, Statutes of Nevada 2017, at page 3723, to the Department on or before the 15th day of each January, April, July and October containing information concerning the 3 months immediately preceding the date of the report. Each marijuana cultivation facility, marijuana product manufacturing facility and retail marijuana store shall submit such a report regardless of whether any purchases or sales have occurred.*

Sec. 122. *The Department will make appropriate investigations:*

- 1. To determine whether there has been any violation of this chapter or chapter 453D of NRS.*
- 2. To determine any facts, conditions, practices or matters which it may deem necessary or proper to aid in the enforcement of any such law or regulation.*
- 3. To aid in adopting regulations.*
- 4. To secure information as a basis for recommending legislation relating to chapter 453D of NRS.*

Sec. 123. *1. Pursuant to subsection 3 of NRS 233B.127, if the Department finds that the public health, safety or welfare imperatively requires emergency action, the Department may issue an order of summary suspension of the license of a marijuana establishment or a marijuana establishment agent registration card pending proceedings for revocation or other action. An order of summary suspension issued by the Department must contain findings of*

the exigent circumstances which warrant the issuance of the order of summary suspension, and a suspension under such an order is effective immediately.

2. The Department will give notice to a person that is subject to an order of summary suspension of the facts or conduct that warrant the order and the deficiencies that must be corrected to lift the order. A person that is subject to an order of summary suspension shall not operate until the Department has confirmed that the deficiencies identified in the order have been corrected.

3. A person that is subject to an order of summary suspension may request a hearing regarding the order within 10 business days after the order is issued.

Sec. 124. *1. The Department will notify a person on whom disciplinary action or a civil penalty is imposed pursuant to section 120 of this regulation. The notice must contain the following information:*

(a) The date of the violation or, if the date of the violation is unknown, the date that the violation was identified;

(b) The address or description of the location where the violation occurred;

(c) The section of this chapter or chapter 453D of NRS that was violated and a description of the violation;

(d) The amount of the civil penalty or a description of the action taken for the violation;

(e) 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;

(f) An order prohibiting the continuation or repeated occurrence of the violation described in the notice;

(g) A description of the appeals process, including, without limitation, the time within which the disciplinary action or civil penalty may be contested and the place to which an appeal must be made; and

(h) The name and signature of the enforcement officer who issued the citation for the violation.

2. If the Department determines that a disciplinary action or civil penalty has been inappropriately issued, the Department may rescind the disciplinary action or civil penalty.

3. A person that receives a notice pursuant to subsection 1 may request a hearing within 30 days after the notice is issued.

Sec. 125. *1. The hearing officer shall send a notice to set a hearing to the last known mailing address of a person who requests a hearing.*

2. The hearing officer shall conduct an administrative hearing pursuant to section 123 or 124 of this regulation within 15 days after receiving a request for a hearing. The hearing officer may continue such a hearing for good cause shown.

3. Notice of an administrative hearing conducted pursuant to this section must be served by mail at least 10 days before the date of the hearing to any person who requests a hearing.

4. Notice of a hearing served pursuant to subsection 3 must specify:

(a) The purpose of the hearing; and

(b) The date, time and location of the hearing.

5. Hearings must be held at the offices of the Department in Carson City or at such other place in the State as may be designated in the notice of hearing.

6. A hearing date may be scheduled with less than 10 days' notice if all parties to the hearing agree in writing.

7. After a hearing held pursuant to this section, the hearing officer shall prepare written findings of fact, conclusions of law and his or her decision on the issues presented at the hearing. The hearing officer shall serve a copy of his or her findings of fact, conclusions of law and decision upon all parties to the hearing within 20 days after the date of the hearing.

8. In his or her written decision, the hearing officer may:

(a) Suspend or revoke a license or marijuana establishment agent registration card. If the hearing officer orders the suspension of a license or marijuana establishment agent registration card, the hearing officer shall prescribe the time period of the suspension in the written decision. If the hearing officer orders the revocation of a license or marijuana establishment agent registration card, the hearing officer shall prescribe a period of not less than 1 year and not more than 10 years during which the person may not apply for reinstatement of the license or marijuana establishment agent registration card.

(b) Impose a civil penalty upon a person who holds a license or marijuana establishment agent registration card issued pursuant to this chapter and chapter 453D of NRS not more than \$35,000 for each separate violation of this chapter or chapter 453D of NRS which is the subject of the hearing. Such a civil penalty must be paid to the State Treasurer for deposit in the State General Fund and used for the purposes set forth in NRS 453D.510.

Sec. 126. 1. *In any hearing against a person pursuant to this chapter, the person may appear on his or her own behalf or the person may be represented by:*

(a) An attorney licensed to practice law in this State; or

(b) An attorney licensed to practice law in another state who is properly associated with an attorney licensed to practice law in this State and who provides a certificate of good standing from the licensing authority of the other state.

2. An attorney representing a person shall:

(a) Ensure that his or her conduct complies with the Nevada Rules of Professional Conduct; and

(b) Conform to all standards of ethical and courteous behavior required in the courts of this State.

3. An attorney may withdraw from representing a person upon notice to the person, the Department and the hearing officer. The notice must include the reason for the requested withdrawal. The hearing officer may deny the request if there may be an unreasonable delay in the case or the substantial rights of the person may be prejudiced.

4. If the hearing officer finds that an attorney has violated any provision of this section, the hearing officer may bar the attorney from participating in the case or may impose such other sanctions as the hearing officer deems appropriate.

5. A person subject to a hearing pursuant to this chapter is responsible for all costs related to the presentation of his or her defense.

Sec. 127. 1. *After being served with a notice or order of summary suspension, a person may, but is not required to, file an answer to the notice or order of summary suspension. The person may file such an answer not later than 10 days after the date of service of the notice or order of summary suspension.*

2. The Department may amend the notice or order of summary suspension at any time before the hearing. If the Department amends the notice or order of summary suspension before the hearing, the Department will:

- (a) File the amended notice or order of summary suspension with the hearing officer; and*
- (b) Serve the person with the amended notice or order of summary suspension.*

3. After being served with an amended notice or order of summary suspension, the person may do any or all of the following:

(a) File an answer to the amended notice or order of summary suspension. The person may file such an answer not later than 10 days after the date of service of the amended notice or order of summary suspension or not later than the date of the hearing, whichever date is earlier.

(b) Move for a continuance of the hearing. The hearing officer shall grant the continuance if the person demonstrates that:

(1) The amendment materially alters the allegations in the notice or order of summary suspension; and

(2) The person does not have a reasonable opportunity to prepare a defense against the amended notice or order of summary suspension before the date of the hearing.

4. The Department may amend the notice or order of summary suspension at the time of the hearing if the amendment is not considered material and the substantial rights of the person would not be prejudiced by the amendment.

5. The notice or order of summary suspension, any amended notice or order of summary suspension and any answer filed by the person must be made part of the record at the hearing.

Sec. 128. 1. *At any time after being served with a notice or order of summary suspension, the person may file with the hearing officer a written discovery request for a copy of all documents and other evidence intended to be presented by the Department in support of the case and a list of proposed witnesses.*

2. *The investigative file for a case is not discoverable unless the Department 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.*

3. *A party may not serve any interrogatories on another party or take any depositions relating to the case.*

Sec. 129. *A party to a hearing shall not communicate either directly or indirectly with the hearing officer about any issue of fact or law related to the case unless the communication:*

1. *Is part of a pleading, motion or other document that is properly filed and served on all parties; or*

2. *Occurs while all parties are present or occurs during a meeting or hearing for which all parties have been given proper notice, whether or not all parties are present at that meeting or hearing.*

Sec. 130. 1. *The hearing officer may, upon his or her own motion or the motion of a party, hold a prehearing conference for the purpose of formulating or simplifying the issues, obtaining admissions of fact or documents which will avoid unnecessary proof, arranging for the exchange of proposed exhibits or prepared expert testimony, limiting the number of*

witnesses, any procedure for the hearing and any other matters which may expedite orderly conduct and the disposition of the proceedings or settlements thereof.

2. The action taken at a prehearing conference and the agreements, admissions or stipulations made by the parties concerned must be made a part of the record and must be approved by the parties. When approved, such an action will control the course of subsequent proceedings, unless otherwise stipulated to by all the parties of record with the consent of the hearing officer.

3. In any proceeding the hearing officer may, in his or her discretion, call all of the parties together for a conference before the taking of testimony. The hearing officer shall state on the record the results of the conference.

Sec. 131. The hearing officer may, in his or her discretion, either before or during a hearing, grant continuances or recesses.

Sec. 132. At the time and place set for the hearing, if a party fails to appear, the hearing officer may, in his or her discretion, dismiss the proceeding with or without prejudice or may recess the hearing for a period of time to be set by the hearing officer to enable the party to attend. If the hearing officer finds that all parties received proper notice, the hearing officer may accept testimony and exhibits from the parties who appear and, thereafter, issue a decision.

Sec. 133. 1. The Department has the burden of proof, and the standard of proof is a preponderance of the evidence as defined in NRS 233B.0375.

2. Evidence may be received in any manner ordered by the hearing officer, but will ordinarily be received from the parties in the order described in section 138 of this regulation.

3. *If requested by any party, the hearing or any portion of the hearing must be transcribed. The party making the request shall pay all costs for the transcription.*

Sec. 134. 1. *Except as otherwise provided in this subsection, the Department may issue a subpoena requiring the production of books and papers or the attendance of a witness from any place in the State to the place designated for a hearing for the purpose of taking testimony before the hearing officer. Such a subpoena must not compel the production of books or papers that contain individually identifiable health information.*

2. *A party desiring the Department to issue a subpoena must submit an application in writing to the hearing officer stating the reasons why a subpoena is requested.*

3. *The hearing officer may require that a subpoena requested by a party for the production of books, waybills, papers, accounts or other documents be issued only after the submission of an application in writing, which specifies as clearly as may be, the books, waybills, papers, accounts or other documents desired.*

4. *The hearing officer, upon receipt of an application for a subpoena, shall:*

(a) Grant the application and issue the subpoena;

(b) Deny the application; or

(c) Schedule a hearing to decide whether to grant or deny the application.

5. *All costs incident to a subpoena issued at the request of a person that was served a notice or order of summary suspension must be paid by the person, and the hearing officer may demand payment of the costs before the issuance of a subpoena.*

Sec. 135. 1. *The hearing will not be conducted according to the technical rules of evidence. Any relevant evidence may be admitted, except where precluded by law, if it is of a*

type commonly relied upon by reasonable and prudent persons in the conduct of their affairs, even though the evidence might be subject to objection in civil actions.

2. Hearsay evidence, as that term is used in civil actions, may be admitted for the purpose of supplementing or explaining other evidence, but it is not sufficient to support findings of fact unless it would be admissible over objection in civil actions.

3. The rules of privilege will be applied as they are applied in civil actions.

4. Irrelevant, cumulative and unduly repetitious evidence is not admissible, nor is incompetent evidence, as that term is used in civil trials, with the exception of hearsay evidence as above provided.

5. The parties or their counsel may, by written stipulation, agree that certain specified evidence may be admitted, even though the evidence would otherwise be subject to objection.

6. The hearing officer or any party to any proceeding may cause the depositions of witnesses to be taken in the manner prescribed by law and the rules of the court for depositions in civil actions.

7. The affidavit of any person may be admitted in evidence if all the parties stipulate and consent to its admission.

Sec. 136. *The hearing officer may take official notice of the following matters:*

1. Rules, regulations, official reports, decisions and orders of the Department and any regulatory agency of the State.

2. Contents of decisions, orders, certificates and permits issued by the Department.

3. Matters of common knowledge and technical or scientific facts of established character.

4. Official documents, if pertinent, when properly introduced into the record of formal proceedings by reference if proper and definite reference to the document is made by the party offering it and it is published and generally circulated so that all of the parties of interest at the hearing have an opportunity to examine it and present rebuttal evidence.

5. Matters which may be judicially noticed by the courts of the State.

Sec. 137. 1. *In any hearing, the hearing officer may order briefs filed within such time as he or she allows.*

2. Briefs must be filed with the hearing officer and be accompanied by an acknowledgment of or an affidavit showing service on all other parties of record.

Sec. 138. 1. *Except as otherwise provided in this section, in any hearing pursuant to this chapter, the hearing must proceed as follows:*

(a) The hearing officer shall call the hearing to order.

(b) The parties and their representatives and the hearing officer must be introduced.

(c) The hearing officer shall consider any preliminary motions, stipulations or orders and shall address any administrative details regarding the hearing.

(d) The hearing officer:

(1) Shall ask the parties if they want any witness excluded from the hearing;

(2) Shall instruct any witness who is excluded from the hearing not to discuss the case during the course of the hearing;

(3) Shall allow the person who was served a notice or order of summary suspension to remain in the hearing;

(4) Shall allow any person who acts as both a representative of the Department and a witness in the hearing to remain in the hearing; and

(5) May, on its own motion, exclude any witness from the hearing.

(e) The Department may make an opening statement. After the Department has had the opportunity to make an opening statement, the person that was served a notice or order of summary suspension may make an opening statement. The hearing officer may limit equally the time of the opening statement of each party.

(f) The Department may present its case by presenting evidence and calling witnesses in the following manner:

(1) The witness must be sworn in.

(2) The Department may directly examine the witness.

(3) The person that was served a notice or order of summary suspension may cross-examine the witness.

(4) If requested, the Department may question the witness on redirect examination.

(5) If requested, the person that was served a notice or order of summary suspension may question the witness on recross-examination.

(g) After the Department has had the opportunity to present its case, the person that was served a notice or order of summary suspension may present his or her case by presenting evidence and calling witnesses in the following manner:

(1) The witness must be sworn in.

(2) The person that was served a notice or order of summary suspension may directly examine the witness.

(3) The Department may cross-examine the witness.

(4) If requested, the person that was served a notice or order of summary suspension may question the witness on redirect examination.

(5) If requested, the Department may question the witness on recross-examination.

(h) The hearing officer may question a witness at any time during the hearing. If a witness is questioned by the hearing officer, the party that called the witness may request permission to ask further questions, limited to the area addressed by the hearing officer. When that party has asked those questions, the other party may request permission to ask further questions, limited to the area addressed by the hearing officer.

(i) After the Department and person that was served a notice or order of summary suspension have presented their cases, the hearing officer may allow the Department and person that was served a notice or order of summary suspension to call rebuttal witnesses. If the Department or person that was served a notice or order of summary suspension, or both, call one or more rebuttal witnesses, each rebuttal witness must be sworn in and questioned in the same manner as provided in paragraph (f) or (g), as appropriate.

(j) The Department may make a closing argument. After the Department has had the opportunity to make a closing argument, the person that was served a notice or order of summary suspension may make a closing argument. The hearing officer may limit equally the time of the closing argument of each party. If the person that was served a notice or order of summary suspension makes a closing argument, the Department may make a final closing argument. The hearing officer may limit the time of the final closing argument.

(k) If allowed by the hearing officer, either party may recommend specific disciplinary action to the hearing officer at the appropriate time.

(l) After the close of the hearing, the hearing officer shall deliberate, reach a decision and prepare and serve findings of fact, conclusions of law and his or her final decision in accordance with section 139 of this regulation. Not later than 60 days after the close of the hearing, the hearing officer shall prepare written findings and recommendations and serve the findings and recommendations on the parties for review.

2. The hearing officer may deviate from the order of the hearing set forth in subsection 1 if the hearing officer:

(a) Upon a showing of good cause, deems it appropriate; or

(b) Deems it necessary to expedite or ensure the fairness of the hearing.

Sec. 139. *1. After the hearing of a contested case, the hearing officer shall prepare findings of fact, conclusions of law and his or her final decision on the issues presented in the hearing.*

2. The hearing officer shall serve a copy of his or her findings of fact, conclusions of law and decision upon all the parties of record within 60 days after the date of the hearing.

Sec. 140. *1. After the close of the hearing, a party may file only the following motions:*

(a) A motion requesting a rehearing.

(b) A motion requesting reconsideration of the findings of fact, conclusions of law and final decision of the hearing officer.

(c) With leave of the hearing officer, any other motion requesting appropriate action or relief after the close of the hearing.

2. *A motion requesting a rehearing or reconsideration must be filed with the hearing officer not later than 15 days after the date of service of the findings of fact, conclusions of law and final decision of the hearing officer.*

3. *A party that opposes the motion may file a response to the motion not later than 7 days after the date of service of the motion.*

4. *A motion requesting a rehearing or reconsideration may be based only on one of the following grounds:*

(a) Newly discovered or available evidence.

(b) Error in the hearing or in the findings of fact, conclusions of law or final decision that would be grounds for reversal of the findings, conclusions or decision.

(c) The need in the public interest for further consideration of the issues or evidence, or both.

5. *The hearing officer shall enter an order ruling on the motion requesting a rehearing or reconsideration not later than 25 days after the date on which the motion is filed. A copy of the order must be served on each party. The hearing officer may:*

(a) Deny the motion;

(b) Order a rehearing or partial rehearing;

(c) Order reconsideration of the findings of fact, conclusions of law or final decision of the hearing officer; or

(d) Direct other proceedings as the hearing officer deems appropriate.

6. *If the hearing officer orders a rehearing, the rehearing must be confined to the issues upon which the rehearing was ordered.*

Sec. 141. 1. *The Department, any party to a hearing or a designated representative may, within 30 days after service of the copy of the findings of fact, conclusions of law and final decision of the hearing officer, file a notice of appeal with the Nevada Tax Commission.*

2. *Within 30 days after filing a notice of appeal, the appellant shall file with the Nevada Tax Commission a:*

(a) Brief setting forth the points relied upon in the appeal and authorities in support thereof; and

(b) Designation of the parts of the record before the hearing officer that the appellant deems relevant to the appeal.

3. *An appeal from the decision of the hearing officer to the Nevada Tax Commission must be based upon one or more of the grounds set forth in subsection 3 of NRS 233B.135.*

4. *The filing of a notice of appeal does not excuse compliance with the decision of the hearing officer nor suspend the effectiveness of a decision unless otherwise ordered by the hearing officer.*

5. *After receipt of a notice of appeal, filed in compliance with subsection 1, and the documentation required by subsection 2, the Department will schedule a time for oral argument before the Nevada Tax Commission at its next meeting. The oral argument will be limited to a period of time not to exceed 20 minutes unless extended by the Nevada Tax Commission. The Nevada Tax Commission will not review evidence which was not submitted to the hearing officer unless it determines that good cause exists for a failure to submit the evidence to the hearing officer.*

6. The Nevada Tax Commission will modify, reverse or affirm the decision of the hearing officer or remand the case to the hearing officer. The Director of the Department shall issue a final written decision on behalf of the Nevada Tax Commission.

7. Any revocation, suspension or civil penalty affirmed by the Nevada Tax Commission is effective until reversed upon judicial review, except that the Nevada Tax Commission may stay its order pending a rehearing or judicial review upon such terms and conditions as it deems proper.

8. Judicial review of any such order or decision of the Nevada Tax Commission may be had in accordance with section 142 of this regulation.

Sec. 142. *1. Except as otherwise provided in the Nevada Constitution, a party may not seek any type of judicial intervention or review of a hearing until after the hearing results in a final decision of the Nevada Tax Commission.*

2. Except as otherwise provided in this section, a party may seek judicial review of a final decision of the Nevada Tax Commission in accordance with the provisions of chapter 233B of NRS that apply to a contested case.

Sec. 143. *1. If a person applies for reinstatement of a license or marijuana establishment agent registration card that has been revoked pursuant to this chapter, the person shall:*

(a) Submit an application on a form supplied by the Department.

(b) Satisfy all the current requirements for the issuance of an initial license or marijuana establishment agent registration card.

(c) Attest that, in this State or any other jurisdiction:

(1) The person has not, during the period of revocation, violated any state or federal law relating to marijuana, and no criminal or civil action involving such a violation is pending against the person; and

(2) 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.

(d) Satisfy any additional requirements for reinstatement of the license or marijuana establishment agent registration card prescribed by the Department.

2. The Department will consider each application for reinstatement of a license or marijuana establishment agent registration card submitted pursuant to this section. In determining whether to reinstate the license or marijuana establishment agent registration card, the Department will consider the following criteria:

(a) The severity of the act resulting in the revocation of the license or marijuana establishment agent registration card.

(b) The conduct of the person after the revocation of the license or marijuana establishment agent registration card.

(c) The amount of time elapsed since the revocation of the license or marijuana establishment agent registration card.

(d) The veracity of the attestations made by the person pursuant to subsection 1.

(e) The degree of compliance by the person with any additional requirements for reinstatement of the license or marijuana establishment agent registration card prescribed by the Department.

(f) The degree of rehabilitation demonstrated by the person.

3. If the Department reinstates the license or marijuana establishment agent registration card, the Department may place any conditions, limitations or restrictions on the license or marijuana establishment agent registration card as it deems necessary.

4. The Department may deny reinstatement of the license or marijuana establishment agent registration card if the person fails to comply with any provisions of this section.

Sec. 144. *Each retail marijuana store shall:*

1. Ensure that the retail marijuana store is operating and available to sell marijuana or marijuana products to consumers during, and only during, the designated hours of operation of the retail marijuana store as provided to the Department in the application for a license submitted by the retail marijuana store and the hours authorized by the locality in which the retail marijuana store is located; and

2. Post, in a place that can be viewed by persons entering the retail marijuana store, the hours of operation during which the retail marijuana store will sell marijuana or marijuana products to consumers.

Sec. 145. *Before a marijuana establishment agent sells marijuana or marijuana products to a consumer, the marijuana establishment agent shall:*

1. Verify the age of the consumer by checking a government-issued identification card containing a photograph of the consumer using an identification scanner approved by the Department to determine the validity of any government-issued identification card;

2. Offer any appropriate consumer education or support materials; and

3. Enter the following information into the inventory control system:

(a) The amount of marijuana or marijuana product sold;

- (b) The date and time at which the marijuana or marijuana product was sold;*
- (c) The number of the marijuana establishment agent registration card of the marijuana establishment agent; and*
- (d) The number of the license of the marijuana establishment.*

Sec. 146. 1. *Except as otherwise provided in this subsection, a retail marijuana store shall refuse to sell marijuana or marijuana products to any person unless the person produces a form of valid identification showing that the person is 21 years of age or older. A dual licensee may sell marijuana or marijuana products to a person who is less than 21 years of age if the sale complies with the provisions of chapter 453A of NRS or 453A of NAC.*

2. Identification presented to satisfy subsection 1 must contain a photograph and the date of birth of the person.

3. Identification presented to satisfy subsection 1 must be a valid and unexpired:

(a) Driver's license or instruction permit issued by this State or any other state or territory of the United States;

(b) Identification card issued by this State or any other state or territory of the United States for the purpose of proof of age of the holder of the card;

(c) United States military identification card;

(d) A Merchant Mariner Credential or other similar document issued by the United States Coast Guard;

(e) A passport issued by the United States Government or a permanent resident card issued by the United States Citizenship and Immigration Services of the Department of Homeland Security; or

(f) A tribal identification card issued by a tribal government, as defined in NRS 239C.105, which requires proof of the age of the holder of the card for issuance.

Sec. 147. A retail marijuana store shall not sell to any consumer an amount of marijuana or marijuana products which exceeds:

- 1. One ounce of usable marijuana other than concentrated marijuana;*
- 2. One-eighth ounce of concentrated marijuana containing not more than 3,500 milligrams of THC; and*
- 3. One-eighth ounce of concentrated marijuana or 3,500 milligrams of THC contained within one or more edible marijuana products.*

Sec. 148. 1. A retail marijuana store shall only offer for sale marijuana, marijuana products, marijuana paraphernalia, marijuana-related accessories, products containing CBD and products containing industrial hemp which are related to marijuana.

2. Each retail marijuana store shall offer for sale containers for the storage of marijuana and marijuana products which lock and are designed to prohibit children from unlocking and opening the container.

3. A retail marijuana store shall not sell any food, beverage or personal care item that does not contain marijuana.

4. A retail marijuana store shall not sell any product that contains nicotine.

5. A retail marijuana store shall not sell any product that contains alcohol if the product would require the retail marijuana store to hold a license issued pursuant to chapter 369 of NRS.

6. A retail marijuana store shall not sell marijuana or marijuana products to a consumer through the use of, or accept a sale of marijuana or marijuana products from, a third party, intermediary business, broker or any other business that does not hold a license for a retail marijuana store.

7. A retail marijuana store shall not contract with a third party or intermediary business to advertise delivery to consumers.

Sec. 149. 1. *A retail marijuana store must store all usable marijuana, concentrated marijuana and marijuana products behind a counter or other barrier to ensure a consumer does not have direct access to the marijuana, concentrated marijuana or marijuana products.*

2. Upon the request of a consumer, a retail marijuana store must disclose the name of the marijuana testing facility which performed the required quality assurance tests for the retail marijuana store and the corresponding certificate of analysis.

3. A retail marijuana store may only sell usable marijuana obtained from a marijuana cultivation facility.

4. Except as otherwise provided in subsection 6, a retail marijuana store may only sell concentrated marijuana and marijuana products obtained from a marijuana product manufacturing facility.

5. Except as otherwise provided in subsection 6, a retail marijuana store may not sell a product other than usable marijuana, concentrated marijuana or marijuana products which contain any level of THC or CBD without the approval of the Department. Each retail marijuana store shall maintain a file which contains a certificate of analysis for any such

approved product at the retail marijuana store and shall make the file available for review upon request.

6. The provisions of subsections 4 and 5 do not apply to industrial hemp, as defined in NRS 557.040, which is certified and registered with the State Department of Agriculture.

Sec. 150. *Except for a delivery made pursuant to subsection 3 of NRS 453D.110, a marijuana establishment or a third party shall not deliver marijuana or marijuana products to a consumer unless:*

1. The delivery is made by a marijuana establishment agent who holds a marijuana establishment agent registration card in the category of retail marijuana store;

2. The delivery is made by a marijuana establishment agent employed by a retail marijuana store or by an independent contractor:

(a) Which has entered into a service agreement with a retail marijuana store to perform deliveries to consumers using only marijuana establishment agents who hold a marijuana establishment agent registration card in the category of retail marijuana store; and

(b) Whose name has been disclosed to the Department before any deliveries are made;

3. The name of the retail marijuana store and all independent contractors who perform deliveries on behalf of the retail marijuana store has been published on the Internet website of the Department;

4. The Department has received confirmation from the retail marijuana store, before a person engages in the delivery process, including, without limitation, accepting an order or physically delivering marijuana or marijuana products, that the person is employed by, volunteers at or provides labor as a marijuana establishment agent at the retail marijuana

store and holds a valid marijuana establishment agent registration card in the appropriate category;

5. The marijuana establishment agent who delivers marijuana or marijuana products to a consumer obtains verification of the identity and age of the consumer by scanning a document described in section 146 of this regulation before providing the marijuana or marijuana products to the consumer;

6. The marijuana establishment agent who delivers marijuana or marijuana products to a consumer does not also deliver any other item to the consumer unless the item is marijuana paraphernalia or merchandise, packaging or a promotional item directly related to the marijuana or marijuana product;

7. The delivery is conducted only during the hours that the retail marijuana store is open for business;

8. The delivery is conducted only within the borders of this State;

9. The marijuana establishment agent who delivers marijuana or marijuana products only travels to and from the retail marijuana store and the delivery destination and does not make any unnecessary stops that are not disclosed in the trip plan and delivery manifest. If the marijuana establishment agent makes a stop for fuel, the stop must be documented in the trip plan and maintained for review by the Department; and

10. If the retail marijuana store contracts with a service that provides a digital or other platform used in conjunction with an agreement to facilitate deliveries to consumers, the digital or other platform is approved by the Department.

Sec. 151. 1. A retail marijuana store delivering marijuana or marijuana products to a consumer pursuant to section 150 of this regulation shall:

(a) Ensure that all marijuana and marijuana products are secured at all times during delivery; and

(b) Maintain a physical or electronic copy of a delivery manifest generated using the seed-to-sale tracking system that contains all the information required by this section in a format approved by the Department.

2. A retail marijuana store may deliver marijuana or marijuana products to more than one consumer in a single trip if the delivery manifest correctly reflects the specific inventory destined for each specific consumer and location.

3. Before delivering marijuana or marijuana products to a consumer, the retail marijuana store shall enter the information required to indicate that the marijuana or marijuana products will be delivered to a consumer into the seed-to-sale tracking system.

4. A retail marijuana store shall not alter the information which has been entered into the seed-to-sale tracking system pursuant to subsection 3.

5. If a marijuana establishment agent is not able to deliver marijuana or marijuana products directly to the consumer who ordered the marijuana or marijuana products, the marijuana establishment agent shall return the marijuana or marijuana products to the retail marijuana store.

6. A retail marijuana store shall provide a copy of the delivery manifest generated using the seed-to-sale tracking system to each consumer who receives a delivery of marijuana or marijuana products. The copy of a delivery manifest provided to a consumer pursuant to this

subsection must be generated separately for each consumer and not contain the information of any other consumer.

7. The delivery manifest generated using the seed-to-sale tracking system must include, without limitation:

- (a) The date and approximate time of the delivery;*
- (b) The name, location, address and license number of the retail marijuana store;*
- (c) The name, location and address of each consumer;*
- (d) The name and quantity, by weight and unit, of each item to be delivered to each consumer;*
- (e) The make, model, license plate number and number of the identification card issued pursuant to section 153 of this regulation of the vehicle used for delivery; and*
- (f) The name, number of the marijuana establishment agent registration card and signature of each marijuana establishment agent performing or accompanying the delivery of the marijuana or marijuana products.*

8. In addition to the requirements of this section, the retail marijuana store shall ensure that each delivery satisfies the requirements of sections 108 and 109 of this regulation.

9. Before marijuana or marijuana products leave the retail marijuana store for delivery, the retail marijuana store shall adjust its records to reflect the removal of the marijuana or marijuana products in a manner that reflects the information included in the delivery manifest generated using the seed-to-sale tracking system and that can be easily reconciled, by the name and quantity of the marijuana or marijuana products, with the delivery manifest.

10. After delivery of marijuana or marijuana products, the retail marijuana store shall ensure that the trip plan, including any changes to the trip plan made pursuant to subsection 9 of section 150 of this regulation, is accurate.

11. Any marijuana or marijuana product which is damaged, undeliverable to the consumer or refused by the consumer must be delivered back to the retail marijuana store and reconciled by the retail marijuana store in the seed-to-sale tracking system.

12. A retail marijuana store shall not deliver any marijuana or marijuana products unless the retail marijuana store can reconcile the delivery of marijuana or marijuana products with the seed-to-sale tracking system and all associated transaction history and order receipts.

13. A retail marijuana store must reconcile all transactions to the seed-to-sale tracking system at the close of business each day.

14. A retail marijuana store shall ensure that all information contained in a delivery manifest generated using the seed-to-sale tracking system is accurate for each delivery that is completed.

15. A retail marijuana store shall maintain all documents required by this section and provide a copy of any such document to the Department for review upon request.

Sec. 152. 1. *A retail marijuana store shall not deliver more than 5 ounces of marijuana or an equivalent amount of marijuana products to any combination of consumers within a single trip.*

2. A retail marijuana store shall not deliver marijuana or marijuana products to a consumer at any location that has been issued a gaming license, as defined in NRS 463.0159.

3. A retail marijuana store may only deliver marijuana or marijuana products to a private residence and shall not deliver more than 1 ounce of marijuana or an equivalent amount of marijuana products to any consumer.

4. A retail marijuana store shall not deliver marijuana or marijuana products to any person other than the consumer who ordered the marijuana or marijuana products. Before delivering marijuana or marijuana products to a consumer, the marijuana establishment agent delivering the marijuana or marijuana products for a retail marijuana store shall:

(a) Confirm by telephone that the consumer ordered the marijuana or marijuana products and verify the identity of the consumer; and

(b) Enter the details of such a confirmation in a log which must be made available for inspection by an appropriate law enforcement agency and the Department.

5. A retail marijuana store shall not allow a marijuana establishment agent to deliver marijuana or marijuana products unless the marijuana or marijuana products are:

(a) Stored in a lockbox or locked cargo area within the vehicle being used for delivery;

(b) Not visible from outside the vehicle; and

(c) Contained in sealed packages and containers which remain unopened during delivery.

↪ For the purpose of this subsection, the trunk of a vehicle is not considered to be a lockbox or locked cargo area unless the trunk cannot be accessed from within the vehicle and can only be accessed using a key which is different from the key used to access and operate the vehicle.

6. A retail marijuana store shall ensure that a marijuana establishment agent delivering marijuana or marijuana products for the retail marijuana store has a means of communicating with the retail marijuana store while he or she provides delivery.

7. A person shall not be present within any vehicle while it is being used for the delivery of marijuana or marijuana products unless the person is a marijuana establishment agent for the retail marijuana store providing delivery of the marijuana or marijuana products or an independent contractor retained by the retail marijuana store to provide delivery.

8. Each marijuana establishment agent delivering marijuana or marijuana products must:

(a) Report to a person designated by the marijuana establishment to receive such reports any motor vehicle crash that occurs during the delivery within 2 hours after the crash occurs;

(b) Report to the Department any unauthorized stop that lasts longer than 2 hours; and

(c) Report to a person designated by the marijuana establishment to receive such reports any loss or theft of marijuana or marijuana products that occurs during the delivery immediately after the marijuana establishment agent becomes aware of the loss or theft. A retail marijuana store that receives a report of loss or theft pursuant to this paragraph must immediately report the loss or theft to the appropriate law enforcement agency and to the Department.

Sec. 153. 1. *A retail marijuana store may use any motor vehicle that can legally be operated on the highways of this State and that meets the requirements of this section to deliver marijuana and marijuana products.*

2. Before using a motor vehicle to deliver marijuana or marijuana products, a retail marijuana store must obtain the approval of the Department for the use of the motor vehicle. Upon approving a motor vehicle for use to deliver marijuana or marijuana products, the

Department will issue an identification card containing such information as the Department determines to be necessary, which must be kept inside the motor vehicle at all times.

3. A retail marijuana store shall ensure that each motor vehicle used to deliver marijuana or marijuana products:

- (a) Has no advertising, signage or other markings relating to marijuana; and*
- (b) Is equipped with an audible car alarm.*

4. A retail marijuana store shall provide adequate care for perishable marijuana products including, without limitation, refrigeration during delivery, if required. Any method for temperature control used during delivery must be approved by the Department before use. If a potentially hazardous marijuana product is being delivered, the potentially hazardous marijuana product must be maintained at a temperature of less than 41°F (5°C) throughout delivery.

5. The Department may inspect each motor vehicle used for delivery of marijuana or marijuana products by a retail marijuana store pursuant to section 85 or 86 of this regulation.

Sec. 154. *1. A marijuana cultivation facility must disclose in writing with each lot of usable marijuana provided to a retail marijuana store:*

- (a) All soil amendments, fertilizers and other crop production aids applied to the growing medium or marijuana plant included in the lot; and*
- (b) The name of the marijuana testing facility which performed the required quality assurance tests and the certificate of analysis for the lot.*

2. A marijuana cultivation facility may provide a retail marijuana store free samples of usable marijuana packaged in a sample jar protected by a plastic or metal mesh screen to

allow consumers to smell the product before purchase. A sample jar may not contain more than 3 1/2 grams of usable marijuana. The sample jar must not be left unattended and must be sealed shut. The sample jar and the usable marijuana within may not be sold to a consumer and must be either returned to the marijuana cultivation facility which provided the usable marijuana and sample jar or destroyed by the retail marijuana store after use and documented by the retail marijuana store using its inventory control system pursuant to section 108 of this regulation.

3. The provisions of chapters 372A and 453D of NRS and chapter 372A of NAC regarding the excise tax on marijuana apply to free samples of usable marijuana provided pursuant to subsection 2.

Sec. 155. 1. Except as otherwise provided in subsection 2, a marijuana cultivation facility must ensure that access to the enclosed, locked facility where marijuana is cultivated is limited to the officers, board members and authorized marijuana establishment agents of the marijuana cultivation facility.

2. Each marijuana cultivation facility shall ensure that an authorized marijuana establishment agent accompanies any person other than another marijuana establishment agent associated with the marijuana establishment when the person is present in the enclosed, locked facility where marijuana is cultivated or produced by the marijuana cultivation facility.

3. Each marijuana cultivation facility shall ensure that any marijuana growing at the marijuana cultivation facility:

(a) Cannot be observed from outside the marijuana cultivation facility and is not visible from a public place by normal, unaided vision; and

(b) Unless the marijuana cultivation facility cultivates marijuana outdoors, does not emit an odor that is detectable from outside the marijuana cultivation facility.

Sec. 156. 1. *A marijuana cultivation facility or a marijuana product manufacturing facility may conduct operations and request limited laboratory testing by a marijuana testing facility for research and development purposes.*

2. A marijuana cultivation facility or marijuana product manufacturing facility described in subsection 1 shall:

(a) Notify the Department of its intent to conduct research and development on a form prescribed by the Department by electronic mail before sending a sample to a marijuana testing facility;

(b) Quarantine each batch, lot or production run in a separate quarantine area and label each batch, lot or production run with a distinctive label containing "R&D QUARANTINE" as a header and footer in 20-point white font and a red background;

(c) Account for all marijuana subject to quarantine pursuant to paragraph (b) in its inventory control system;

(d) Limit all research and development operations to clearly segregated and designated areas or rooms marked "R&D CULTIVATION AREA" or "R&D PRODUCTION AREA" on 8 1/2 by 11 inch signs with a red background and white lettering, posted at the entrance to the area or room and along the walls of the area or room, with a minimum of one sign for every 300 square feet of the area or room; and

(e) Perform research and development operations in a grow room only if the plants used for such operations are designated and separated from other plants.

3. A marijuana cultivation facility or marijuana product manufacturing facility operating as described in subsection 1 may request limited testing protocols from a marijuana testing facility for research and development purposes.

4. A marijuana testing facility that performs testing for a marijuana cultivation facility or marijuana product manufacturing facility described in subsection 1 shall report the results of the testing to the marijuana establishment and to the Department by electronic mail. The marijuana testing facility shall clearly mark the test results with "R&D TESTING ONLY -- NOT FOR RESALE" on the header and footer of the report in 20-point white font and a red background.

5. A batch, lot or production run produced for research and development purposes pursuant to this section which fails quality assurance testing need not be destroyed.

6. A batch, lot or production run originally produced for research and development purposes pursuant to this section may not be sold to a retail marijuana store until the batch, lot or production run has undergone and passed all testing required by section 104 of this regulation.

Sec. 157. 1. *If an applicant for a license for a marijuana cultivation facility wishes to engage in the cultivation of marijuana outdoors or if a marijuana cultivation facility wishes to begin to cultivate marijuana outdoors, the applicant or marijuana cultivation facility must, before engaging in any outdoor cultivation, submit a verification issued by the State Department of Agriculture that the outdoor cultivation will be adequately isolated from all other outdoor marijuana and industrial hemp cultivation locations to prevent the cross-pollination of cannabis crops.*

2. A request for verification of adequate isolation described in subsection 1 must be submitted to the State Department of Agriculture and:

(a) Be on a form prescribed by the State Department of Agriculture;

(b) Include documentation that verifies that the applicant or marijuana cultivation facility has obtained:

(1) Appropriate licensing;

(2) Approved zoning; and

(3) Any other approvals required by the locality;

(c) Include a map or GPS coordinates that demonstrate the proposed location of outdoor cultivation by the applicant or marijuana cultivation facility; and

(d) Include any other information that the State Department of Agriculture determines to be necessary.

3. The applicant or marijuana cultivation facility shall not begin outdoor cultivation until the State Department of Agriculture provides verification of adequate isolation described in subsection 1, the applicant or marijuana cultivation facility transmits the verification of adequate isolation to the Department of Taxation and the Department of Taxation issues a license for a marijuana cultivation facility to the applicant or approves the modification of operations of the marijuana cultivation facility to begin outdoor cultivation.

Sec. 158. Based on the risks inherent to the operation of a marijuana product manufacturing facility, the persons responsible for managing each such facility shall demonstrate to the Department knowledge of disease prevention, and the requirements of this chapter and chapter 453D of NRS, by:

1. Complying with the provisions of this chapter and chapter 453D of NRS and having no category I, II, II(b) or III violations pursuant to section 120 of this regulation during inspections.

2. Ensuring that at least one employee of the marijuana product manufacturing facility is a certified food protection manager who has shown proficiency in the required information through passing a test that is part of a program which certifies a person to be a food protection manager and which:

(a) Has been evaluated and listed by an accrediting agency as conforming to national standards for organizations that certify persons as food protection managers; or

(b) Provides to such persons other training acceptable to the Department.

3. Responding correctly to the questions of an inspector of marijuana establishments regarding:

(a) The relationship between the prevention of disease and the personal hygiene of a marijuana establishment agent engaged in the extraction of concentrated marijuana or production of marijuana products.

(b) The prevention of the transmission of disease by a marijuana establishment agent engaged in the extraction of concentrated marijuana or production of marijuana products who has a disease or medical condition that may transmit disease.

(c) The symptoms associated with the diseases that are transmissible through marijuana products and ingredients.

(d) The significance of the relationship between maintaining the temperature for a certain amount of time for potentially hazardous marijuana products and ingredients and the prevention of illness transmission.

(e) The hazards involved in the consumption of raw or undercooked meat, poultry and eggs.

(f) The required temperatures and times for safe cooking of potentially hazardous marijuana products and ingredients, including, without limitation, meat, poultry and eggs.

(g) The required temperatures and times for the safe refrigerated storage, hot holding, cooling and reheating of potentially hazardous marijuana products and ingredients.

(h) The relationship between the prevention of illness transmission and the management and control of:

(1) Cross contamination;

(2) Hand contact with finished marijuana products and ingredients;

(3) Hand washing; and

(4) Maintaining the establishment in a clean condition and in good repair.

(i) The correct procedures for cleaning and sanitizing utensils and the surfaces of equipment that have direct contact with marijuana products and ingredients.

(j) The identification of poisonous or toxic materials in the facility and the procedures necessary to ensure that those materials are safely stored, dispensed, used and disposed of according to applicable state and federal laws and regulations.

Sec. 159. *Each marijuana establishment agent engaged in the extraction of concentrated marijuana or production of marijuana products shall keep his or her hands and the exposed portions of his or her arms clean.*

Sec. 160. 1. *Each marijuana establishment agent shall, when required pursuant to section 161 of this regulation, 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.*

2. *Each marijuana establishment agent shall use the following cleaning procedure in the order stated to clean his or her hands and the exposed portions of his or her arms, including, without limitation, surrogate prosthetic devices for hands and arms:*

(a) Rinse under clean, running warm water at a minimum temperature of 100°F (37.8°C).
(b) Apply an amount of cleaning compound recommended by the manufacturer of the cleaning compound.

(c) Rub together vigorously for at least 15 seconds while:
(1) Paying particular attention to removing soil from underneath the fingernails during the cleaning procedure; and

(2) Creating friction on the surfaces of the hands and arms, fingertips and areas between the fingers.

(d) Thoroughly rinse under clean, running warm water at a minimum temperature of 100°F (37.8°C).

(e) Immediately follow the cleaning procedure with thorough drying using a clean paper towel.

Sec. 161. *Each marijuana establishment agent shall clean his or her hands and exposed portions of his or her arms in the manner set forth in section 160 of this regulation:*

- 1. Immediately upon entrance to any area containing marijuana or marijuana products;*
- 2. Immediately before working with marijuana plants;*
- 3. Immediately before engaging in preparation for the extraction of concentrated marijuana or production of marijuana products, including, without limitation, working with exposed marijuana products, clean equipment and utensils and unwrapped single-service and single-use articles;*
- 4. After touching bare human body parts other than clean hands and exposed portions of arms, including, without limitation, surrogate prosthetic devices for hands and arms;*
- 5. After using the toilet room;*
- 6. After coughing, sneezing, using a handkerchief or disposable tissue, using tobacco, eating or drinking;*
- 7. After handling soiled equipment or utensils;*
- 8. During preparation for the extraction of concentrated marijuana or production of marijuana products, as often as necessary to remove soil and contamination and to prevent cross-contamination when changing tasks;*
- 9. When switching between working with unprocessed marijuana products or uncooked food products and working with finished concentrated marijuana or marijuana products;*
- 10. Before donning gloves for working with marijuana products; and*
- 11. After engaging in other activities that contaminate the hands.*

Sec. 162. 1. *A marijuana establishment agent engaged in the extraction of concentrated marijuana or production of marijuana products shall not have contact with exposed, finished marijuana products with his or her bare hands and shall use suitable utensils, including, without limitation, deli tissue, spatulas, tongs, single-use gloves or dispensing equipment when handling exposed, finished concentrated marijuana or marijuana products.*

2. *A marijuana establishment agent engaged in the extraction of concentrated marijuana or production of marijuana products shall minimize bare hand and arm contact with exposed marijuana products that are not in a finished form.*

Sec. 163. 1. *Each marijuana product manufacturing facility shall ensure that it obtains nonmarijuana ingredients for marijuana products from sources that comply with the requirements of federal and state law and regulations and are approved by the Department, including, without limitation, commercial and retail businesses.*

2. *A marijuana product manufacturing facility shall not use or prepare nonmarijuana ingredients prepared or stored in a private home.*

Sec. 164. 1. *Except as otherwise provided in subsection 2, each marijuana product manufacturing facility shall ensure that marijuana products and ingredients are protected from cross-contamination by:*

(a) Separating raw animal ingredients during storage, preparation, holding and display from raw marijuana products, or other raw finished ingredients such as fruits and vegetables, and from concentrated marijuana and cooked or baked and finished marijuana products which are ready to eat or otherwise use.

(b) Except when combined as ingredients, separating types of raw animal ingredients from each, including, without limitation, meat, poultry and eggs, during storage, preparation, holding and display by preparing each type of raw animal ingredient at a different time or in a different area and:

- (1) Using separate equipment for each type of raw animal ingredient; or*
- (2) Arranging each type of raw animal ingredient in equipment so that cross-contamination of one type of raw animal ingredient with another is prevented.*

(c) Preparing each type of raw animal ingredient at different times or in separate areas.

- 2. The provisions of subsection 1 do not apply to items stored frozen in a freezer.*
- 3. Marijuana products must be protected from contamination by storing the product in a clean, dry location:*

- (a) Where the products are not exposed to splashes, dust or other contamination; and*
- (b) Fifteen centimeters or more above the floor.*

4. Marijuana products and direct contact surfaces of equipment and utensils must be stored and handled in a manner that prevents any biological, chemical or physical contamination at all times.

5. Chemical sanitizer must be available for immediate use at the proper concentration during all hours of operation in a location other than a three-compartment sink.

Sec. 165. *Each marijuana product manufacturing facility shall ensure that:*

- 1. Pasteurized eggs or egg products are substituted for raw eggs in the preparation of marijuana products.*
- 2. Marijuana products and ingredients only have contact with the surfaces of:*

- (a) Equipment and utensils that are cleaned and sanitized; or*
- (b) Single-service and single-use articles that have not previously been used.*
- 3. Ingredients such as eggs, meat, poultry and marijuana containing these raw animal ingredients are cooked to heat all parts of the marijuana product to a temperature and for a time that complies with one of the following methods based on the product that is being cooked:*
 - (a) At 145°F (63°C) or above for 15 seconds for meat, including, without limitation, commercially raised game animals.*
 - (b) At 155°F (68°C) or above for 15 seconds for:*
 - (1) Mechanically tenderized and injected meats; and*
 - (2) Meat and commercially raised game animals if it is comminuted.*
 - (c) At 165°F (74°C) or above for 15 seconds for poultry, stuffed meat, stuffed pasta, stuffed poultry or stuffing containing meat or poultry.*
- 4. Except during preparation, cooking or cooling, potentially hazardous marijuana products and ingredients are maintained:*
 - (a) At 135°F (57°C) or above; or*
 - (b) At 41°F (5°C) or less.*
- 5. During the thawing process, potentially hazardous marijuana products and ingredients are:*
 - (a) Maintained at 41°F (5°C) or less; and*
 - (b) Thawed:*
 - (1) Under refrigeration;*

- (2) Under cool running water;*
- (3) As part of the cooking process; or*
- (4) In a microwave only if the potentially hazardous marijuana products and ingredients will be cooked immediately thereafter.*

Sec. 166. 1. *Each marijuana product manufacturing facility shall ensure that:*

- (a) Potentially hazardous marijuana products and ingredients prepared and held by the facility for more than 24 hours are clearly marked to indicate the date or day by which the item must be consumed on the premises, sold or discarded when held at a temperature of 41°F (5°C) or less for a maximum of 7 days or, if the item is frozen, when the item is subsequently thawed and held at a temperature of 41°F (5°C) or less for a maximum of 7 days; and*
- (b) Potentially hazardous marijuana products and ingredients that are prepared and packaged by a commercial processing plant are clearly marked at the time that the original container is opened and, if the item is held for more than 24 hours, indicate the date or day by which the item must be consumed, sold or discarded, based on the temperature and time combination set forth in paragraph (a). The day on which the original container is opened in the marijuana establishment must be counted as “day 1.” The day or date marked by the marijuana product manufacturing facility may not exceed a use-by date of the manufacturer if the manufacturer determined the use-by date.*

2. *If a marijuana product manufacturing facility produces a marijuana product which is perishable, the expiration date for the marijuana product must:*

- (a) Be determined as a result of shelf-life testing pursuant to subsection 3; or*

(b) Not exceed 7 days, including the date of preparation of the marijuana product, if the marijuana product is refrigerated.

3. A marijuana product manufacturing facility shall perform testing, as specified by the Department, to determine the shelf life of each marijuana product which is perishable for the first production run of each such marijuana product. The Department will determine which marijuana products require testing to determine shelf life during the review and approval of each marijuana product. New testing pursuant to this subsection must be performed for any change in the recipe, production run size or equipment used to produce a marijuana product.

Sec. 167. 1. Each marijuana product manufacturing facility shall contract with a marijuana testing facility to perform testing to ensure the homogeneity of the potency of the product on each edible marijuana product produced by the facility. A marijuana product manufacturing facility shall not sell an edible marijuana product unless the Department has preapproved the production of the edible marijuana product and a marijuana testing facility has verified the homogeneity of the potency of the product as described in section 199 of this regulation.

2. A marijuana product manufacturing facility shall not sell an edible marijuana product other than a multiple-serving edible marijuana product or a single-serving edible marijuana product. An edible marijuana product sold as a multiple-serving edible marijuana product must not contain more than 100 milligrams of THC. An edible marijuana product sold as a single-serving edible marijuana product must not contain more than 10 milligrams of THC.

3. A marijuana product manufacturing facility shall not sell an edible marijuana product unless the Department has approved that:

(a) The recipe and production procedures for the edible marijuana product will ensure consistent concentration of THC for the edible marijuana product; and

(b) The marijuana product manufacturing facility has demonstrated that its process for producing the edible marijuana product produces a homogenous product.

4. Any change in the recipe, production run size or equipment used to produce an edible marijuana product must be approved by the Department. The Department may require new approval or testing pursuant to this section for such a change.

Sec. 168. *Each marijuana product manufacturing facility shall ensure that the materials that are used in the construction of utensils and the contact surfaces of equipment:*

1. Do not allow the migration of deleterious substances or impart colors, odors or tastes to marijuana products; and

2. Under normal use conditions are:

(a) Safe;

(b) Durable, corrosion-resistant and nonabsorbent;

(c) Sufficient in weight and thickness to withstand repeated warewashing;

(d) Finished to have a smooth, easily cleanable surface; and

(e) Resistant to pitting, chipping, crazing, scratching, scoring, distortion and decomposition.

Sec. 169. *1. Each marijuana product manufacturing facility shall ensure that it provides:*

(a) A sink with at least three compartments for manually washing, rinsing and sanitizing equipment and utensils;

(b) Sink compartments that are large enough to accommodate immersion of the largest equipment and utensils; and

(c) Running water that reaches a minimum temperature of 120°F (49°C).

2. If equipment or utensils are too large for the warewashing sink, a marijuana product manufacturing facility must use a warewashing machine or alternative equipment.

Sec. 170. *Each marijuana product manufacturing facility shall ensure that its ventilation hood systems and devices are sufficient in number and capacity to prevent grease or condensation from collecting on walls and ceilings.*

Sec. 171. *Each marijuana product manufacturing facility shall ensure that:*

1. In a mechanical operation, the temperature of the fresh hot water sanitizing rinse as it enters the manifold is not more than 194°F (90°C) or less than 180°F (82°C).

2. A chemical sanitizer used in a sanitizing solution for a manual or mechanical operation at contact times is used in accordance with the manufacturer's label use instructions that are approved by the Environmental Protection Agency, and as follows:

(a) A chlorine solution must have a concentration between 50 parts per million and 100 parts per million or be otherwise prepared in accordance with the manufacturer's label.

(b) An iodine solution must have a concentration between 12.5 parts per million and 25 parts per million or be otherwise prepared in accordance with the manufacturer's label.

(c) A quaternary ammonium compound solution must have a concentration between 150 parts per million and 400 parts per million or be otherwise prepared in accordance with the manufacturer's label.

3. If a chemical sanitizer other than chlorine, iodine or a quaternary ammonium compound is used, it is applied in accordance with the manufacturer's label use instructions that are approved by the Environmental Protection Agency and the use of the chemical sanitizer is approved by the Department.

4. A sanitizer bucket or spray bottle is readily available during all hours of operation and kept at the proper concentration.

5. Test strips which are appropriate for the type of chemical sanitizer in use are available and used properly.

Sec. 172. *Each marijuana product manufacturing facility shall ensure that:*

1. The surfaces of equipment and utensils that have direct contact with marijuana products are clean to sight and touch;

2. The surfaces of cooking equipment and pans that have direct contact with marijuana products are kept free of encrusted grease deposits and other soil accumulations; and

3. The surfaces of equipment that do not have direct contact with marijuana products are kept free of an accumulation of dust, dirt, residue and other debris.

Sec. 173. *Each marijuana product manufacturing facility shall ensure that:*

1. The surfaces of equipment and utensils that have direct contact with marijuana products are cleaned:

(a) Before each use with a different type of raw animal ingredient, including, without limitation, beef, pork or poultry;

(b) Each time there is a change from working with raw marijuana products to working with finished marijuana products;

(c) Between uses with raw fruits and vegetables and with potentially hazardous marijuana products and ingredients, using the appropriate time and temperature controls to ensure the safety of the marijuana products; and

(d) At any time during operation when contamination may have occurred.

2. If the surfaces of equipment or utensils come into contact with potentially hazardous marijuana products and ingredients, the surfaces and utensils are cleaned throughout the day at least once every 4 hours.

3. The surfaces of utensils and equipment that have direct contact with marijuana products and ingredients that are not potentially hazardous are cleaned:

(a) At any time when contamination may have occurred; and

(b) In equipment, including, without limitation, ice bins and beverage dispensing nozzles, and enclosed components of equipment, such as ice makers, cooking oil storage tanks and distribution lines, beverage and syrup dispensing lines or tubes, coffee bean grinders and water vending equipment:

(1) At a frequency specified by the manufacturer; or

(2) If the manufacturer does not specify a frequency, at a frequency necessary to prevent the accumulation of soil or mold.

Sec. 174. *Each marijuana product manufacturing facility shall ensure that:*

1. The surfaces and utensils that have direct contact with marijuana products are adequately washed, rinsed and sanitized.

2. After being cleaned, surfaces of equipment and utensils that have direct contact with marijuana products are sanitized in:

(a) Hot water manual operations by immersion for at least 30 seconds with a temperature of 170°F (77°C) or above;

(b) Hot water mechanical operations by being cycled through equipment that is set up and achieving a utensil surface temperature of 160°F (71°C) as measured by an irreversible registering temperature indicator; or

(c) Chemical manual or mechanical operations, including, without limitation, the application of sanitizing chemicals by immersion, manual swabbing, brushing or pressure spraying methods using a solution as specified on the manufacturer's label use instructions that are approved by the Environmental Protection Agency, by providing an exposure time of at least 30 seconds unless the manufacturer's label use instructions provide otherwise.

Sec. 175. *Each marijuana product manufacturing facility shall ensure that:*

1. The surfaces of cooking and baking equipment that have direct contact with marijuana products are cleaned at least once every 24 hours; and

2. The cavities and door seals of microwave ovens are cleaned at least once every 24 hours by using the recommended cleaning procedure of the manufacturer.

Sec. 176. *Each marijuana product manufacturing facility shall ensure that the light intensity in the facility is:*

1. At least 20 foot candles (215 lux):

(a) At a distance of 30 inches (75 cm) above the floor in walk-in refrigeration units and areas for storage of dry marijuana products and in other areas and rooms during periods of cleaning;

(b) Inside equipment such as reach-in and under-counter refrigerators; and

(c) At a distance of 30 inches (75 cm) above the floor in areas used for hand washing, warewashing and equipment and utensil storage and in toilet rooms.

2. At least 50 foot candles (540 lux) at a surface where a marijuana establishment agent engaged in the extraction of concentrated marijuana or production of marijuana products is working with marijuana products or working with utensils or equipment, including, without limitation, knives, slicers, grinders or saws where employee safety is a factor.

Sec. 177. Each marijuana product manufacturing facility shall ensure that it provides mechanical ventilation of sufficient capacity as necessary to keep rooms free of excessive heat, steam, condensation, vapors, obnoxious odors, smoke and fumes.

Sec. 178. 1. Each marijuana product manufacturing facility shall ensure that filters for liquid filtration used in the extraction of concentrated marijuana or manufacture, processing or packaging of marijuana products intended for human use do not release fibers into such products.

2. A marijuana product manufacturing facility shall not use an asbestos-containing filter.

Sec. 179. 1. A marijuana product manufacturing facility may only use the methods, equipment, solvents, gases and mediums set forth in this section when creating marijuana extracts.

2. A marijuana product manufacturing facility may use the hydrocarbons N-butane, isobutane, propane, heptane or other solvents or gases exhibiting low to minimal potential human health-related toxicity approved by the Department. These solvents must be of at least 99 percent purity and a marijuana product manufacturing facility must, when using such solvents:

- (a) Use the solvents in a professional grade, closed-loop extraction system designed to recover the solvents;*
 - (b) Work in a spark-free environment with proper ventilation; and*
 - (c) Follow all applicable local fire, safety and building codes in the processing and storage of the solvents.*
- 3. A marijuana product manufacturing facility may use a professional grade, closed-loop CO2 gas extraction system where every vessel is rated to a minimum of 900 pounds per square inch and it follows all applicable local fire, safety and building codes in the processing and the storage of the solvents. The CO2 must be of at least 99 percent purity.*
- 4. A marijuana product manufacturing facility may use heat, screens, presses, steam distillation, ice water and other methods without employing solvents or gases to create kief, hashish, bubble hash, infused dairy butter, or oils or fats derived from natural sources, and other extracts.*
- 5. A marijuana product manufacturing facility may use food grade glycerin, ethanol and propylene glycol solvents to create marijuana extracts.*
- 6. A marijuana product manufacturing facility which creates marijuana extracts must develop standard operating procedures, good manufacturing practices and a training plan before producing marijuana extracts for the marketplace. Any person using solvents or gases in a closed-looped system to create marijuana extracts must be fully trained on how to use the system, have direct access to applicable material safety data sheets and safely handle and store the solvents and gases.*

7. The acceptable parts per million for 1 gram of finished extract of residual solvent or gas will be determined by the Independent Laboratory Advisory Committee established pursuant to NAC 453A.666.

Sec. 180. Sections 180 to 194, inclusive, of this regulation set forth the minimum good manufacturing practices for the cultivation and preparation of marijuana and marijuana products for administration to humans.

Sec. 181. 1. Each marijuana cultivation facility, marijuana product manufacturing facility and retail marijuana store shall have a quality control unit that:

(a) Has the responsibility and authority to approve or reject all components, product containers, closures, in-process materials, packaging materials, labeling and marijuana or marijuana products;

(b) Has the authority to review production records to assure that no errors have occurred or, if errors have occurred, that the errors have been fully investigated and resolved;

(c) Is responsible for approving or rejecting marijuana or marijuana products manufactured, processed, packaged or held under contract by another marijuana establishment; and

(d) Is responsible for approving or rejecting all procedures or specifications which may impact the identity, strength, quality and purity of the marijuana or marijuana products.

2. Each marijuana cultivation facility, marijuana product manufacturing facility and retail marijuana store shall:

(a) Set forth the responsibilities and procedures applicable to the quality control unit in writing; and

(b) Follow the written responsibilities and procedures set forth pursuant to paragraph (a).

Sec. 182. *Each marijuana cultivation facility, marijuana product manufacturing facility, marijuana distributor and retail marijuana store shall ensure that:*

1. Each marijuana establishment agent who is employed by or volunteers at the marijuana establishment and who is engaged in cultivating, manufacturing, processing, packaging or holding marijuana or marijuana products wears clean clothing appropriate for the duties he or she performs;

2. Protective apparel, such as head, face, hand and arm coverings, are worn as necessary to protect marijuana or marijuana products from contamination; and

3. Each marijuana establishment agent who is employed by or volunteers at the marijuana establishment practices good sanitation and health habits.

Sec. 183. *1. Each marijuana establishment shall ensure that any building used to manufacture, process, package or hold marijuana or marijuana products:*

(a) Is of suitable size, construction and location to facilitate cleaning, maintenance and proper operations;

(b) Has adequate space for the orderly placement of equipment and materials to prevent miscalculation or misuse of any component in any step of the manufacture, control, packaging, labeling or distribution of marijuana or marijuana products between different components, product containers, closures, labels, in-process materials and marijuana or marijuana products and to prevent contamination; and

(c) Contains interior surfaces which are not constructed of bare, painted or coated wood or wood product unless:

(1) The bare, painted or coated wood is within a building used only as a retail marijuana store and all marijuana or marijuana products are packaged or protected at all times; or

(2) 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.

2. Each marijuana establishment shall ensure that:

(a) The flow of components, product containers, closures, labels, in-process materials and marijuana and marijuana products through any building used to manufacture, process, package or hold marijuana or marijuana products is designed to prevent contamination;

(b) The operations of the marijuana establishment are performed within specifically defined areas of adequate size;

(c) All items are stored at least 6 inches (15 cm) off the floor;

(d) All access points to outside areas are sealed, including, without limitation, by use of door sweeps; and

(e) There are separate or defined areas or such other control systems for the operations of the marijuana establishment as are necessary to prevent contamination or miscalculation or misuse of any component in any step of the manufacture, control, packaging, labeling or

distribution of marijuana or marijuana products during the course of the following procedures:

(1) Receipt, identification, storage and withholding from use of components, product containers, closures and labels, pending the appropriate sampling, testing or examination by the quality control unit before release for manufacturing, processing or packaging;

(2) Holding rejected components, product containers, closures and labels before disposition;

(3) Storage of released components, product containers, closures and labels;

(4) Storage of in-process materials;

(5) Processing operations;

(6) Packaging and labeling operations;

(7) Quarantine storage before the release of marijuana or marijuana products;

(8) Storage of marijuana or marijuana products after release;

(9) Control and marijuana testing facility operations; and

(10) Sanitary processing, which includes as appropriate:

(I) Floors, walls and ceilings made of smooth, hard surfaces that are easily cleanable;

(II) Temperature and humidity controls;

(III) An air supply filtered through high-efficiency particulate air filters under positive pressure;

(IV) A system for monitoring environmental conditions;

(V) A system for cleaning and sanitizing rooms and equipment; and