

## **NEW JERSEY CANNABIS REGULATORY COMMISSION**

### **Personal Use Cannabis Rules**

Special Adopted New Rules: N.J.A.C. 17:30

Adopted: August 19, 2021 by New Jersey Cannabis Regulatory Commission, Dianna Houenou, Chair.

Filed: August 19, 2021

Authority: N.J.S.A. 24:6I-31 et seq.

Effective Date: August 19, 2021

Expiration Date: August 19, 2022

This rule may be viewed or downloaded from the Commission's website at [nj.gov/cannabis](http://nj.gov/cannabis).

These rules are adopted pursuant to N.J.S.A. 24:6I-34(d)1a of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, N.J.S.A. 24:6I-31 et seq., and became effective upon acceptance for filing by the Office of Administrative Law. The specially adopted new rules shall be effective for a period not to exceed one year from the date of filing of the new rules, that is, until August 19, 2022. The Commission has provided this special adoption to the Attorney General, State Treasurer, Commissioner of Health, and Commissioner of Banking and Insurance for a consultation period, after which the Commission anticipates filing a proposal to readopt these rules with amendments reflecting the results of that consultation. In accordance with N.J.S.A. 24:6I-34(d)1b the rules, as readopted, will become effective upon acceptance for filing by the Office of Administrative Law if filed on or before the expiration date of the rules published herein. The adopted amendments will be effective upon publication in the New Jersey Register.

### **Federal Standards Analysis**

The Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act obliges the Cannabis Regulatory Commission to promulgate rules necessary or proper to enable it to carry out the Commission's duties, functions, and powers with respect to overseeing the development, regulation, and enforcement of activities associated with the personal use of cannabis pursuant to P.L.2021, c.16. These duties include the regulation of the purchase, sale, cultivation, production, manufacturing, transportation, and delivery of cannabis or cannabis items in accordance with the provisions of the Act. Therefore, the Act requires the Commission to promulgate rules governing the regulated community's cultivation, possession, manufacture, sale, distribution, and use of cannabis.

The Controlled Substances Act, 21 U.S.C. §§ 801 et seq., prohibits the cultivation, distribution, and possession of marijuana, for any reason, regardless of state law. 21 U.S.C. §§ 841 et seq. The new rules, effective upon filing, anticipate that members of the regulated community would cultivate, distribute, and possess marijuana, and may engage in certain financial activities that are ancillary to cultivation, distribution, and

possession of marijuana. These ancillary financial activities may constitute prohibited conduct under other Federal criminal and civil laws, such as the money laundering statutes, the unlicensed money transmitter statute, and the Bank Secrecy Act (BSA). 18 U.S.C. §§ 1956 through 1957, and 1960; and 31 U.S.C. § 5318.

Therefore, the new rules, effective upon filing with the Office of Administrative Law, will conflict with Federal law. Members of the regulated community who engage in activities contemplated by the Act might incur Federal civil and criminal liability. N.J.S.A. 24:6I-2.d notes that “States are not required to enforce [Federal] law or prosecute people for engaging in activities prohibited by [Federal] law; therefore, compliance with [the Act] does not put the State of New Jersey in violation of [Federal] law,” and N.J.S.A. 24:6I-54 further directs law enforcement in New Jersey to not cooperate with federal agencies enforcing The Controlled Substances Act for activities solely authorized by the Act.

Between October 2009 and late October 2014, the United States Department of Justice (Justice Department) issued a series of formal memoranda to United States Attorneys to guide their exercise of investigative and prosecutorial discretion in states enacting laws authorizing the cultivation, distribution, and possession of marijuana, for medicinal and/or recreational purposes. David W. Ogden, Deputy Attorney Gen., Memorandum for Selected United States Attorneys: Investigations and Prosecutions in States Authorizing the Medical Use of Marijuana (October 19, 2009); James M. Cole, Deputy Attorney Gen., Memorandum for United States Attorneys: Guidance Regarding the Ogden Memo in Jurisdictions Seeking to Authorize Marijuana for Medical Use (June 29, 2011); James M. Cole, Deputy Attorney Gen., Memorandum for All United States Attorneys: Guidance Regarding Marijuana Enforcement (August 29, 2013); James M. Cole, Deputy Attorney Gen., Memorandum for All United States Attorneys: Guidance Regarding 32 Marijuana[-]Related Financial Crimes (February 14, 2014); and Monty Wilkinson, Director of the Executive Office for United States Attorney’s, Policy Statement Regarding Marijuana Issues in Indian Country (Oct. 28, 2014). While noting the Justice Department’s commitment to enforcing the Controlled Substances Act, these guidance memoranda instructed United States Attorneys to focus on the following eight enforcement interests in prioritizing the prosecution of Federal laws criminalizing marijuana-related activity in states that have enacted laws authorizing marijuana-related conduct:

1. Preventing the distribution of marijuana to minors;
2. Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
3. Preventing the diversion of marijuana from states where it is legal in some form under state law to other states;
4. Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;
5. Preventing violence and the use of firearms in the cultivation and distribution of marijuana;
6. Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;

7. Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and
8. Preventing marijuana possession or use on federal property. Cole (August 29, 2013), *Id.*, at 1-2.

The memoranda encouraged United States Attorneys to continue to rely on states that have enacted laws authorizing marijuana-related conduct to address marijuana-related activity through enforcement of state narcotics laws, if those states “provide the necessary resources and demonstrate the willingness to enforce their laws and regulations in a manner that ensures they do not undermine” the eight Federal enforcement priorities, *Id.* at 2-3, and “implement clear, strong and effective regulatory and enforcement systems in order to minimize the threat posed” to the eight Federal enforcement priorities. Cole (February 14, 2014), *Id.*, at 3. The memoranda noted that persons and entities engaged in marijuana-related activities “are more likely to risk entanglement with conduct that implicates the eight [Federal] enforcement priorities” in states that lack “clear and robust” regulatory schemes and enforcement systems. *Ibid.*

In guidance issued concurrently with Deputy United States Attorney General Cole’s February 14, 2014, memorandum on marijuana-related financial crime enforcement priorities, *Id.*, the Financial Crimes Enforcement Network (FinCEN) of the United States Department of the Treasury (Treasury Department) issued a companion guidance document that “clarifies how financial institutions can provide services to marijuana-related businesses consistent with their Bank Secrecy Act (BSA) obligations, and aligns the information provided by financial institutions in BSA reports with [Federal] and state law enforcement priorities. This FinCEN guidance should enhance the availability of financial services for, and the financial transparency of, marijuana-related businesses.” FinCEN, United States Department of the Treasury, Guidance FIN-2014-G001: BSA 34 Expectations Regarding Marijuana-Related Businesses (February 14, 2014) (FinCEN Guidance).

The FinCEN guidance emphasizes that financial institutions’ exercise of thorough due diligence is critical to their assessment of the risk of providing services to marijuana-related businesses, and specifies tasks financial institutions should perform as part of their due diligence, noting that as “part of its customer due diligence, a financial institution should consider whether a marijuana-related business implicates one of the [eight Federal enforcement] priorities or violates state law.” *Id.* at 2-3. The FinCEN Guidance identifies the types of required “Suspicious Activity Report” and “Currency Transaction Report” filings that financial institutions are to make attendant to their engagement with marijuana-related businesses, and provides a non-exhaustive list of “red flags” or indicia that could give rise to a financial institution’s suspicion, or actual or constructive knowledge, “that a marijuana-related business may be engaged in activity that implicates one of the [eight Federal enforcement] priorities or violates state law,” thereby triggering the financial institution’s obligations to perform additional due diligence investigation and/or file a “Marijuana Priority” Suspicious Activity Report. *Id.* at 3-7.

On January 4, 2018, the Justice Department issued a memorandum to all United States Attorneys, instructing them that, in “deciding which marijuana activities to prosecute under [applicable Federal] laws with the [Justice] Department’s finite resources, [ to follow the well-established principles that govern all [Federal] prosecutions as reflected in the United States Attorneys’ Manual. These principles require [Federal] prosecutors deciding which cases to prosecute to weigh all relevant considerations, including [Federal] law enforcement priorities set by the Attorney General, the seriousness of the crime, the deterrent effect of criminal prosecution, and the cumulative impact of particular crimes on the community. Given the Department’s well-established general principles, previous nationwide guidance specific to marijuana enforcement is unnecessary and is rescinded, effective immediately.” Jefferson B. Sessions, III, Attorney Gen., Memorandum for All United States Attorneys: Marijuana Enforcement (January 4, 2018) (Sessions Memorandum) (specifically listing, at n.1, the 2009 through 2014 Justice Department Memoranda, discussed above, as rescinded). The Sessions Memorandum neither identified the “law enforcement priorities set by the Attorney General” that United States Attorneys were to consider instead of the eight Federal enforcement priorities announced in the rescinded Justice Department Memoranda, nor did it explain whether and how those sets of priorities might differ. However, the press release accompanying its issuance characterized the Sessions Memorandum as, “announcing a return to the rule of law,” and quoted Attorney General Sessions as saying that the Sessions Memorandum, “simply directs all [United States] Attorneys to use previously established prosecutorial principles that provide them all the necessary tools to disrupt criminal organizations, tackle the growing drug crisis, and thwart violent crime across our country.” Office of Public Affairs, Justice Department, Press Release No. 18-8: Justice Department Issues Memo on Marijuana Enforcement (January 4, 2018).

The Treasury Department did not issue guidance, concurrent with the issuance of the Sessions Memoranda or thereafter, rescinding its FinCEN Guidance. Therefore, the FinCEN Guidance appears to remain extant. Despite the Sessions Memoranda guidance, existing Federal statutes protect and safeguard state-administered legal medicinal marijuana programs.

The Rohrabacher-Blumenauer amendment (previously known as the Rohrabacher-Farr amendment), most recently sponsored by United States Representatives Dana Rohrabacher (R-CA) and Earl Blumenauer (D-OR), prevents the Justice Department from using Federal funds to prosecute state-compliant medical marijuana operators in states that have legal cannabis programs. It was first approved in 2014, approved or renewed by Congress more than 11 times since, and most recently renewed on December 27, 2020, as part of the most recent omnibus spending bill, the Consolidated Appropriations Act (Pub. L. 116-260), which is in effect through September 30, 2021.

Attorney General Merrick Garland, appointed by President Biden, has not officially re-adopted the Cole memo; however, he did indicate in his confirmation hearings that utilizing federal resources to combat marijuana use in states with legal frameworks was not a priority.

The new rule, effective upon filing with the Office of Administrative Law, addresses the potential federal-state conflict as it pertains to cannabis by adhering to the standards outlined in the Cole memo. The rule requires strict inventory tracking, sets stringent security standards for cannabis businesses, and further enforces the Act's prohibition on the sale of cannabis to anyone under the age of 21. Furthermore, the new rule, at N.J.A.C. 17-30 (c), references similar standards to those outlined in the Cole Memo in the Cannabis Regulatory Commission's rules for determining who is qualified to hold a license and engage in activity authorized by the Act.

### **Racial and Ethnic Community Criminal Justice and Public Safety Impact**

The full impacts the initial rules will have on racial and ethnic community criminal justice and public safety are indeterminate and warrant further analysis at a future date. Because the initial rules predominately concern the processes for owning and operating a regulated cannabis business, their direct impact on pretrial detention, sentencing, probation, or parole policies is expected to be minimal. However, enactment of P.L. 2021, c.16; P.L. 2021, c.25; and P.L. 2021, c.38, legislation concerning the legalization and regulation of cannabis and reforms to law enforcement practices with respect to cannabis and marijuana, are expected to dramatically reduce the number of adults and juveniles detained, convicted, or adjudicated for cannabis- or marijuana-related offenses.

The initial rules are expected to offer some economic benefit to people from communities that have historically been excluded from economic opportunities, particularly those with prior criminal convictions, people of color, and disabled veterans. Under these rules, individuals with prior criminal convictions can qualify for a cannabis business license. The initial rules also prioritize applications submitted by woman-owned, minority-owned, and disabled veteran-owned businesses. However, the extent of such economic benefits under the initial rules depends heavily on the population of individuals who apply for and are awarded licensure.

Because the Commission has, at the time of this filing, been in existence for approximately four months and the initial rules are only the first set of rules promulgated by the Commission, more analysis is needed at a future date to identify if there are any discernable impacts on racial and ethnic minority communities.

Full text of the special adoption follows:

## SUBCHAPTER 1. GENERAL PROVISIONS

### § 17:30-1.1 PURPOSE AND SCOPE

(a) This chapter implements the Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act, P.L.2021, c.16 (C.24:6I-31 et seq).

(b) This chapter is applicable to the development, expansion, regulation, and enforcement of all activities associated with the personal use of cannabis pursuant to the Act.

(c) This chapter applies to any person, entity, organization, or business possessing, buying, selling, cultivating, producing, manufacturing, transporting, or delivering any cannabis or cannabis items within this State or engages in any other activity associated with the personal use of cannabis pursuant to the Act.

### § 17:30-1.2 DEFINITIONS

All definitions contained in the “Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act,” P.L.2021, c.16 (C.24:6I-31 et al.) are incorporated herein by reference. The following words and terms, as used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise, or another subchapter defines one of the following words or terms differently for the purposes of that subchapter:

“Accreditation body” means an impartial, non-profit organization that:

1. Is a signatory to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement for Testing and is recognized by ILAC;
2. Determines a laboratory’s compliance with and conformance to the International Organization for Standardization (ISO) 17025 standards and provides accreditation for compliant laboratories; and
3. Is not affiliated with any laboratory seeking accreditation.

“Act” means the “Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act,” P.L.2021, c.16 (C.24:6I-31 et al.).

“Acts” means the “Jake Honig Compassionate Use Medical Cannabis Act,” P.L.2009, c.307 (C.24:6I-1 et al.) and the “Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act,” P.L.2021, c.16 (C.24:6I-31 et al.).

“Advertisement” means any calculated attempt to directly or indirectly induce sales of cannabis items, including but not limited to any commercial written or verbal statement or communication of any other means. The term shall not include:

1. Noncommercial speech;



2. A label on a cannabis item pursuant to N.J.A.C. 17:30-13.3 and its accompanying supplemental information, pursuant to paragraphs (i) and (j) of N.J.A.C. 17:30-12.3;
3. Information provided by a cannabis business to another cannabis business listing its products for sale; and
4. "Adopt-a-Highway" signs erected under a current valid sponsorship with the New Jersey Department of Transportation.

"Adverse event" means any health-related event in a person, which is associated with the use of a cannabis item, that is undesirable and is unexpected or unusual.

"Aggregate ownership interest" means the total ownership interest held by an owner that is a person and by the spouse, domestic partner, civil union partner, child, sibling, or parent of the person.

"Alternative treatment center" or "ATC" means a medical cannabis cultivator, a medical cannabis manufacturer, and/or a medical cannabis dispensary that has been issued a permit to cultivate, manufacture, dispense or engage in other activities related to medical cannabis and related paraphernalia pursuant to P.L. 2019, c. 153 and N.J.A.C. 8:64.

"Batch" means a specific quantity of usable cannabis propagated from the same seed or plant stock at the same time, cultivated in the same cultivation area under similar conditions, and harvested together during a specific time interval.

"Board Member" means, where a cannabis business or testing laboratory license applicant or license-holder is governed by a governing body such as a board of directors, a member of that governing body

"Business day" means any day other than Saturday, Sunday, or a State-recognized holiday.

"Billboard" means a large outdoor off-premises sign, with a minimum size of five feet in height by eleven feet in width, used for the display of a commercial message.

"Bona fide labor organization" has the same meaning as in paragraph (c) of N.J.S.A. 24:6I-36.

"Cannabidiol" or "CBD" means a non-psychoactive constituent of cannabis, C<sub>21</sub>H<sub>30</sub>O<sub>2</sub>.

"Cannabis" means all parts of the plant *Cannabis sativa* L. within the plant family Cannabaceae, whether growing or not, the seeds thereof, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds, except those containing resin extracted from the plant; which are cultivated and, when applicable, manufactured for use in cannabis products, in accordance with the Act and this chapter.

"Cannabis business" means a cannabis cultivator, a cannabis manufacturer, a cannabis retailer, cannabis wholesaler, cannabis distributor, or cannabis delivery service.

1. “Cannabis business” includes an “expanded ATC” as defined in this chapter.

“Cannabis business delivery personnel” means cannabis business personnel possessing a Cannabis Business Identification Card who deliver cannabis items on behalf of a cannabis business to a consumer at that person’s home address.

“Cannabis Business Identification Card” means a document issued by the Commission pursuant to paragraph (a) of N.J.A.C. 17:30-8.1 that identifies a person as an owner, principal, management services contractor, employee, volunteer, or vendor-contractor acting on behalf of a cannabis business or testing laboratory, including a cannabis handler pursuant to paragraph (a) of N.J.S.A. 24:6I-44.

“Cannabis concentrate” or “cannabis resin” means a product manufactured by a cannabis manufacturer, either in solid form or in liquid form as oil, including cannabis extracts and resin extracted using non-chemical processes, that contains only the resin, cannabinoids, terpenes, and other substances extracted from any part of the cannabis plant.

“Cannabis cultivator” means a business or organization owned and controlled by a license-holder that holds a Class 1 Cannabis Cultivator license issued by the Commission.

“Cannabis delivery service” means a business or organization owned and controlled by a license-holder that holds a Class 6 Cannabis Delivery license issued by the Commission.

“Cannabis distributor” means a business or organization owned and controlled by a license-holder that holds a Class 4 Cannabis Distributor license issued by the Commission.

“Cannabis establishment” means a cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, or a cannabis retailer.

“Cannabis extract” means a substance obtained by separating resins from cannabis by:

1. A chemical extraction process using a hydrocarbon-based solvent, such as butane, hexane, or propane;
2. A chemical extraction process using the hydrocarbon-based solvent carbon dioxide, if the process uses high heat or pressure; or
3. Any other process identified by the Cannabis Regulatory Commission by rule or regulation.

“Cannabis flower” means the flower of the cannabis plant.

“Cannabis item” means any usable cannabis or cannabis product which is cultivated, produced, manufactured, or consumed in accordance with the Act.

“Cannabis leaf” means the leaf of the cannabis plant.



“Cannabis manufacturer” means a business or organization owned and controlled by a license-holder that holds a Class 2 Cannabis Manufacturer license issued from the Commission.

“Cannabis paraphernalia” means any equipment, products, or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, composting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, vaporizing, or containing cannabis, or for ingesting, inhaling, or otherwise introducing a cannabis item into the human body.

“Cannabis plant” means the plant *Cannabis sativa* L. within the plant family Cannabaceae:

1. In the seedling, vegetative, or flowering stages, with readily observable roots and leaves with serrated edges; but
2. Does not include a germinated seed, cutting, or clone without readily observable roots and leaves with serrated edges.

“Cannabis product” means a cannabis concentrate or a cannabis-infused product, that a cannabis manufacturer manufactures, produces, or creates from usable cannabis or cannabis concentrate.

“Cannabis retailer” means a business or organization owned and controlled by a license-holder who holds a Class 5 Cannabis Retailer license issued by the Commission.

“Cannabis-infused product” means a product manufactured by a cannabis manufacturer in an authorized form that contains usable cannabis or cannabis concentrate, in solid or liquid form, and one or more ingredients intended for human consumption or use, including an ingestible product, inhalable product, or dermal product.

“Commission” means the Cannabis Regulatory Commission established pursuant to section 31 of P.L.2019, c.153 (C.24:6I-24):

1. Which is responsible for the administration and implementation of activities related to the Act; and
2. Which has a mailing address of P.O. Box 216, Trenton, NJ 08625-0216.

“Common ownership or control” has the same meaning as in N.J.S.A. 24:6I-3.

“Conditional license” means a temporary cannabis business license which is issued pursuant to paragraph (1) of subsection (b) of N.J.S.A. 24:6I-36.

“Consumer” means a person 21 years of age or older who purchases, directly or through a cannabis delivery service, acquires, owns, holds, or uses cannabis items for personal use by a person 21 years of age or older. The term does not include a person who acquires, owns, holds, uses or has any other involvement in cannabis items for resale to others.

“Consumption” means the act of ingesting, inhaling, or otherwise introducing cannabis items into the human body.

“Curbside retail sale” means when a cannabis retailer sells a cannabis item to a consumer inside a car that is on the exterior of the facility on the cannabis retailer premises, which includes any parking lot and adjacent sidewalk that are located at the physical address listed on the cannabis business license, pursuant to N.J.A.C. 17:30-12.4.

“Cultivate” means the propagation, germination, planting, growing, harvesting, drying, curing, and processing of cannabis.

“Delivery vehicle” means the vehicle used for the transport of cannabis items or related supplies between cannabis businesses and for the delivery of cannabis items to consumers.

“Dermal products” means oil; topical formulation; and transdermal form intended for dermal application.

“Diversely Owned Business” means a license applicant or license-holder where the entity has been certified, pursuant to the criteria in N.J.A.C. 17:30-6.4, as:

1. A minority business pursuant to N.J.S.A. 52:27H-21.18 et seq.;
2. A women’s business pursuant to N.J.S.A. 52:27H-21.18 et seq.;
3. A disabled-veterans’ business, as defined in N.J.S.A. 52:32-31.2; or
4. Any combination of one through three above.

“Economically Disadvantaged Area” means a zip code that meets all of the following socioeconomic criteria:

1. Has a median income that is 80% or less of the average median household income in the State, as determined annually by the U.S. Census Bureau; and
2. Has a health uninsured rate that is at least 150% of the health uninsured rate in the State, as determined annually by the U.S. Census Bureau.

“Electronic smoking device” means a pre-filled, tamper-resistant, non-refillable, disposable “all-in-one” e-cigarette or pre-filled, tamper-resistant, non-refillable cartridge and separate battery used to heat and aerosolize or vaporize a cannabis product for inhalation.

“Employee” means a person who is not an owner, principal, or vendor-contractor that works for a cannabis business or testing laboratory and who receives remuneration or other tangible benefit from the cannabis business or testing laboratory for services performed for the benefit of the cannabis business or testing laboratory regarding the possession, cultivation, manufacture, transport, delivery, selling, or testing of or other conduct associated with cannabis pursuant to the Act and this chapter.

1. “Employee” includes managers, and non-managerial employees.

"Entity" means an organization formed by one or more persons to conduct business, engage in a trade or partake in similar activities.

"Executive Director" means the Executive Director of the Cannabis Regulatory Commission.

"Expanded ATC" means a permitted ATC pursuant to P.L. 2019, c. 153 and N.J.A.C. 8:64 that is authorized to operate a cannabis business or businesses pursuant to the Act and this chapter in addition to its ATC operations.

"Financial consideration" means any thing of value that is given or received either directly or indirectly through sales, barter, trade, fees, charges, dues, contributions, or donations.

"Financial Source" means a person or entity that is not an owner, passive investor, or principal of a cannabis business license applicant or license-holder that lends any amount of capital to a cannabis business license applicant or license-holder pursuant to a secured or unsecured financing agreement and that does not receive an ownership interest.

"Financial Source Agreement" means any agreement, contract, arrangement, or other type of formal understanding between a financial source and a cannabis business license applicant or license-holder where the financial source lends capital to the cannabis business license applicant or license-holder pursuant to a secured or unsecured financing agreement and does not receive ownership interest, in accordance with N.J.A.C. 17:30-6.10.

"Finished cannabis product" means a cannabis product, packaged in its finished state including any accompanying device and ready for sale to a consumer.

"Finished usable cannabis" means usable cannabis, packaged in its finished state including any accompanying wrapping such as a pre-roll, and ready for sale to a consumer.

"Immature cannabis plant" means a cannabis plant that is not flowering.

"Immediate family" means the spouse, domestic partner, civil union partner, child, sibling, or parent of a person, and shall include the siblings, parents, and children of the person's spouse, domestic partner, or civil union partner, and the parents, spouses, domestic partners, or civil union partners of the person's parents, siblings, and children.

"Impact zone" has the same meaning as it is defined in N.J.S.A. 24:6I-33.

"Impact Zone Business license applicant" or "Impact Zone Business license-holder" means a license applicant or license-holder that meets the criteria in N.J.A.C. 17:30-6.5 and subparagraph (e) of N.J.S.A. 24:6I-36.

"Ingestible products" means cannabis product forms intended for oral administration and ingestion, including oil and sublabial, sublingual, buccal, and enteral forms.

"Inhalable products" means usable cannabis; solid cannabis concentrate; and vaporized formulation intended for inhalation.

“License” means an authorization or approval issued by the Commission under this chapter and pursuant to the Act that authorizes a license-holder to possess, transport, cultivate, manufacture, sell, test, deliver, or engage in other conduct in accordance with the Act and this chapter.

“License applicant” means a person or entity that is applying for a conditional or annual cannabis business license or a testing laboratory license.

“License-holder” means a person or entity registered to do business in New Jersey that holds a conditional or annual cannabis business license or a testing laboratory license.

“License-holder representative” or “licensee representative” means an owner, principal, employee, agent, or representative of a cannabis business or testing facility license applicant or license-holder, to the extent that the person acts in a representative capacity.

“Lot” means a specific quantity of cannabis product manufactured from the same usable cannabis during a specific time interval under similar conditions, using the same methods, equipment, and ingredients.

“Management Services Agreement” means any agreement, contract, arrangement, or other type of formal understanding between an management services contractor and a cannabis business license applicant or license-holder where the management services contractor provides professional staffing, such as, administrative, operational, advisory, and management services to a cannabis business license applicant or license-holder in exchange for remuneration, but not an ownership interest, in accordance with N.J.A.C. 17:30-6.9.

“Management Services Contractor” means a third-party vendor-contractor entity supervised by the principals and owners of the cannabis business license applicant or license-holder, that provides professional staffing, administrative, operational, advisory, or management services to a cannabis business license applicant or license-holder in exchange for remuneration pursuant to a management services agreement, in accordance with N.J.A.C. 17:30-6.9.

“Manager” means a person who is an employee or volunteer that participates in control or decision-making authority over the direction, management, operations, or policies of a cannabis business or testing laboratory that is supervised by the principals and owners of the cannabis business or testing laboratory license applicant or license-holder.

“Manufacture” means preparing, compounding, mixing, or converting usable cannabis to produce, make, or otherwise create a cannabis product.

“Manufacturing Record” means documentation of each unique manufacturing event and shall include the name and strength of the cannabis product, the master formulation record reference for the preparation, and the sources and lot numbers of ingredients.

“Manufacturing Supervisor” means a qualified individual who, by possession of a recognized degree, certificate, or professional standing, or by extensive knowledge, training and experience, will be responsible for ensuring compliance with manufacturing requirements.

“Master Formulation Record” means the unique formulation record of individually manufactured cannabis products.

“Mature cannabis plant” means a harvestable female cannabis plant that is flowering.

“Medical cannabis” means cannabis in various forms dispensed to registered qualifying patients and designated caregivers pursuant to the “Jake Honig Compassionate Use Medical Cannabis Act,” P.L. 2019, c.153.

“Microbusiness” has the same meaning as it is defined in N.J.S.A. 24:6I-33 and operated in accordance with N.J.A.C. 17:30-6.7.

"Military veteran" means a person who served in any branch of the active or reserve component of the United State military and/or the National Guard of any state military service and who was discharged or released under conditions other than dishonorable.

"Minor" means a person who is under 18 years of age and who has not been married or previously declared by a court or an administrative agency to be emancipated.

“Noncommercial” means not dependent or conditioned upon the provision or receipt of financial consideration.

"Nonprofit entity" means a corporation, association, or organization that is:

1. Not conducted for pecuniary profit of any private shareholder or individual;
2. Established, organized or chartered without capital stock under:
  - i. the provisions of Titles 15, 15A, 16 or 17 of the Revised Statutes;
  - ii. A special charter; or
  - iii. Any similar general or special law of this or any other state;
3. Exempt from the tax imposed by the Corporation Business Tax Act, as set forth at N.J.S.A. 54:10A-3(e); and
4. That is not required to be a tax-exempt organization under 26 U.S.C. § 501(c)(3).

"Oil" means a cannabis concentrate, in viscous liquid form containing only cannabinoids, such as THC and cannabidiol, terpenes, and other substances which are extracted from the cannabis plant.

“Officer” means a person who is an officer of a cannabis business or testing laboratory license applicant or license-holder pursuant to the entity’s formation documents or bylaws, and who participates in managing the cannabis business or testing laboratory license applicant, license-holder, and license applicant’s or license-holder’s cannabis business or testing laboratory.

"Onsite assessment" means an inspection of any site that has receive a permit as an alternative treatment center or a license as a cannabis business. The inspection shall be by an employee of the Commission to ensure compliance with the Act.

"Oral Lozenge" means a solid oral cannabis-infused product that is designed to dissolve or disintegrate slowly in the mouth.

"Organic" means the organic program standards as defined at N.J.A.C. 2:78.

"Owner," means:

1. Any person or entity that holds at least a 5% aggregate ownership interest in a cannabis business or testing laboratory license applicant or license-holder;
2. Where an entity, including a parent company, holds at least a 5% ownership interest in a cannabis business or testing laboratory license applicant or license-holder, any person or entity that holds at least 10% aggregate ownership interest in or is a member of the executive team of such entity; or
3. A significantly involved person of a cannabis business license applicant or license-holder.

"Ownership interest" means a right to ownership or equity interest in an entity.

"Parties of Interest" means any person or entity holding an interest, whether financial or otherwise, in a cannabis business license applicant or license-holder.

"Passive Investor" means a person or entity that:

1. Holds an aggregate ownership interest that is greater than 0% but less than 5% in a cannabis business or testing laboratory license applicant or license-holder; and
2. Does not have control or decision-making authority over the management, operations, or policies of such license applicant's or license-holder's cannabis business or testing laboratory.

"Person" means natural person.

"Personal use" or "personal use of cannabis" means:

1. The purchase, acquisition, holding, possession, or use of cannabis or cannabis items by a person 21 years of age or older; and
2. Does not include resale to other persons or entities.

"Physical plant" means the spaces, equipment and infrastructure directly utilized by a cannabis business, within the premises, for activities authorized by the Act and this chapter.

"Premises" includes the following areas of a location licensed pursuant to the Act and this chapter:

1. All public and private enclosed areas at the location that are used in the business operated at the location, including but not limited to offices, kitchens, rest rooms, and storerooms;



2. Any areas outside a building that the Commission has specifically licensed for the cultivation, manufacturing, wholesaling, distributing, retail sale, or delivery of cannabis items; and
3. For a location that the Commission has specifically licensed for the cultivation of cannabis outside a building, the entire lot or parcel that the license-holder owns, leases, or has a right to occupy.

“Pressurized metered dose inhaler” means a device with pressurized propellant that administers a dose of aerosolized oil for inhalation.

“Principal” means a person or entity, including an officer or a board member, that participates in control or decision-making authority over the direction, management, operations, or policies of a cannabis business or testing laboratory license applicant, license-holder, or license applicant’s or license-holder’s cannabis business or testing laboratory.

1. A principal of a cannabis business or testing laboratory license applicant or license-holder does not include a manager or a management services contractor.

“Private capital fund” means:

1. A United States investment company, which includes but is not limited to a venture capital fund, a hedge fund, or a private equity fund;
2. That is advised or managed by an investment adviser registered under 15 U.S.C. §§ 80b-1, *et. seq.*; and
3. Does not include a qualified institutional investor.

“Project Labor Agreement” means a form of pre-hire collective bargaining agreement covering terms and conditions of a specific project, including labor issues and worker grievances associated with that project.

“Proof of New Jersey residency” means one or more of the following current, unexpired documents:

1. A New Jersey driver’s license that is in effect and good standing;
2. A Federal, State, or local government-issued identification card that shows the applicant’s name and New Jersey address;
3. A utility bill issued within the 90 days preceding the application date that shows the applicant’s name and New Jersey address;
4. Correspondence from the Internal Revenue Service or the New Jersey Division of Taxation issued within the year preceding the application date that shows the applicant’s name and New Jersey address;
5. A non-driver identification card issued by the New Jersey Motor Vehicle Commission that is in effect and good standing;

6. Federal, State, or local government correspondence issued to the applicant within the 90 days preceding the application date that shows the applicant's name and New Jersey address;
7. Bank statements or credit card bills issued within each of the three months preceding the application date that show the applicant's name and New Jersey address;
8. Residential lease or rental agreements with name of applicant as lessee or renter;
9. A deed or title to real residential property; or
10. Pay stubs from the prior three months that show the applicant's name and New Jersey address.

“Public place” means a place as defined in N.J.S.A. 24:6I-33

“Qualified institutional investor” means a United States purchaser of securities that has special status under financial regulation laws, specifically:

1. A bank as defined in Section 3(a)(6) of the Federal Securities Exchange Act of 1934, as amended;
2. A bank holding company as defined in the Federal Bank Holding Company Act of 1956, as amended;
3. An insurance company as defined in Section 2(a) (17) of the Investment Company Act of 1940, as amended;
4. An investment company registered under Section 8 of the Investment Company Act of 1940, as amended;
5. An employee benefit plan or pension fund subject to the Federal Employee Retirement Income Security Act of 1974, excluding an employee benefit plan or pension fund sponsored by a license applicant or license-holder or any of its owners;
6. A state or federal government pension plan; or
7. A group comprised entirely of entities specified in paragraphs 1 through 6 of this definition.

“Quality control” means a planned and systematic operation or procedure for ensuring the strength, quality, and purity of a cannabis product.

“Radio” means a system for transmitting sound without visual images, and includes broadcast, cable, on-demand, satellite, or Internet programming; and includes any audio programming downloaded or streamed via the Internet.

“Residual solvent” means a volatile organic chemical used in some methods of manufacturing cannabis concentrates that is not completely removed by a cannabis business's quality control standard operating procedures.

"Security alarm system" means any device or series of devices, including, but not limited to, a signal system interconnected with a radio frequency method, such as cellular, private radio signals or other mechanical or electronic device, used to detect an unauthorized intrusion.

"Serving" or "dose" means the measured quantity of a usable cannabis or cannabis product to be taken at one time.

"Signature" or "electronic signature" means either the name of one written by oneself or an electronic code, sound, symbol or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

"Significantly involved person" has the same meaning as in N.J.S.A. 24:6I-33.

"Social Equity Business" or "social equity business" means a license applicant or license-holder that meets the requirements of N.J.A.C. 17:30-6.6.

"State or local economic incentive" means a financial incentive:

1. Awarded by the State, any political subdivision of the State, or any agency or instrumentality of the State or political subdivision of the State, to any non-governmental person, association, for-profit or non-profit corporation, joint venture, limited liability company, partnership, sole proprietorship, or other form of business organization or entity; or
2. Agreed to between the State, any political subdivision of the State, or any agency or instrumentality of the State or political subdivision of the State and non-governmental parties; and
3. Is for the purpose of stimulating economic development or redevelopment in New Jersey.

"Television" means a system for transmitting visual images and sound that are reproduced on screens, and includes broadcast, cable, on-demand, satellite, or Internet programming. "Television" includes any video programming downloaded or streamed via the Internet.

"Testing laboratory" means an independent, third-party laboratory that is:

1. A "cannabis testing facility" that is licensed by the Commission pursuant to subchapter 15 of this chapter to perform testing services, including analysis and certification of compliance with applicable health, safety, and potency standards, on usable cannabis for personal use and cannabis products pursuant to Subchapter 16 of this chapter; and
2. A "medical cannabis testing laboratory" that is licensed by the Commission pursuant to N.J.S.A. 24:6I-18 to perform testing services, including analysis and certification of compliance with applicable health, safety, and potency standards, on usable cannabis for medical use and medical cannabis products pursuant to N.J.S.A. 24:6I-17.

“THC” means delta-9-tetrahydrocannabinol and its precursor, tetrahydrocannabinolic acid, the main psychoactive chemicals contained in the cannabis plant.

"Topical formulation" means a transcutaneous therapeutic cannabis-infused product in liquid form intended to be applied to the skin or hair, including an ointment, gel, cream, or lotion, comprised of oil, water, short carbon chains, alcohol, dimethylsulfoxide, polyethylene glycol, polypropylene glycol, glycerin, mineral and mixtures thereof.

"Unusable cannabis" means cannabis seeds, stems, stalks, roots, or any part of the immature cannabis plant.

"Usable cannabis" means:

1. The dried leaves and flowers of the mature cannabis plant; but
2. Does not include the cannabis seeds, seedlings, stems, stalks, roots, or any part of the immature cannabis plant.

“Vaporized formulation” means oil or oil and one or more inactive ingredients in an electronic smoking device that is meant to be heated, aerosolized, and inhaled.

“Vendor-Contractor” means a third-party person or entity that is separate from the cannabis business license applicant or license-holder that provides goods, services, or intellectual property to a cannabis business license applicant or license-holder in exchange for remuneration, but not ownership interest, pursuant to a contract or agreement.

“Visitor” means a person who does not possess a Cannabis Business Identification Card.

“Volunteer” means a person who is not an owner, principal, or vendor-contractor that works for a cannabis business, including an unpaid intern, who does not receive remuneration from the cannabis business for services performed for the benefit of the cannabis business regarding the possession, cultivation, manufacture, transport, delivery, selling of or other conduct associated with cannabis pursuant to the Act and this chapter.

“Written report” means the report prepared by the testing laboratory about the analytical testing it performed and the results it obtained.

### § 17:30-1.3 CONSTRUCTION AND AMENDMENTS

(a) This chapter shall be construed in accordance with generally accepted principles of statutory construction, including those set forth in N.J.S.A. 1:1-1.1 et seq.

(b) This chapter shall be liberally construed to permit the Commission to effectively carry out its statutory functions and to secure a just and expeditious determination of issues properly presented to the Commission.

(c) Nothing contained in this chapter shall be construed as to conflict with any provision of the Jake Honig Compassionate Use Medical Cannabis Act and the Cannabis

Regulatory, Enforcement Assistance, and Marketplace Modernization Act, or any other applicable statute.

(d) Whenever any provision of this chapter requires that an act or event occur on a specified day or date, and such day or date falls upon a Saturday, Sunday, or legal holiday, or upon a day in which the State is closed as the result of a declared state of emergency, such provision shall be construed to refer to the next business day immediately following such day or date.

#### § 17:30-1.4 SEVERABILITY AND PREEMPTION

If any part, section, clause, paragraph, sentence, or provision, section of P.L.2009, c.307 (C.24:6I-1 et al.), P.L.2015, c.158 (C.18A:40-12.22 et al.), P.L.2019, c.153 (C.24:6I-5.1 et al.), or P.L.2021, c.16 (C.24:6I-31 et al.) or its application to any person or circumstance shall be adjudged by any court of competent jurisdiction to be unconstitutional or otherwise invalid, that judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the section, clause, paragraph, sentence, or provision thereof directly involved in the controversy in which the judgment shall have been rendered.

#### § 17:30-1.5 PRACTICE WHERE REGULATIONS DO NOT GOVERN

In any matter not governed by this chapter, the Commission shall exercise its discretion, so as to carry out the purposes of the Act.

### SUBCHAPTER 2. CONSUMER AND LICENSE-HOLDER PROTECTIONS; CONSUMER PROHIBITIONS

#### § 17:30-2.1 CONSUMER AND LICENSE-HOLDER CRIMINAL PROTECTIONS

(a) Pursuant to N.J.S.A. 24:6I-51.a., persons and licensed cannabis businesses and testing laboratories shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, solely for conduct permitted under P.L.2021, c.16 (C.24:6I-31 et al.).

1. Nothing in this subchapter shall be construed to limit the authority of an agency or subdivision of any agency of this State to cooperate with or assist the government of the United States or any agency thereof, or the government of another state or agency thereof, in matters pertaining to illegal interstate trafficking of marijuana, hashish, cannabis, or cannabis items; and
2. Licensed cannabis businesses and testing laboratories and personnel remain subject to criminal prosecution for activities not authorized by the Act, this chapter, or the cannabis business or testing laboratory license.

(b) It is not unlawful, pursuant to N.J.S.A. 2C:35-10a:

1. For a consumer to possess, display, purchase, transport, transfer without remuneration for non-promotional, non-business purposes, where the cannabis item is obtained directly from a licensed cannabis retailer:
  - i. Up to one ounce of usable cannabis; or
  - ii. Up to the equivalent of one ounce of usable cannabis as a cannabis product in solid, liquid, or concentrate form.
2. For a consumer to take delivery of or consume a lawfully possessed cannabis item in a place where it is not prohibited to do so; and
3. For another person to assist a consumer in engaging in any of the acts described in subparagraphs (1) and (2) of this paragraph, provided that the assistance being provided is without remuneration.

(c) It is not unlawful and shall not be a criminal offense, in accordance with N.J.S.A. 2C:35-10b, for cannabis business or testing laboratory personnel, as applicable, to act within the scope of authority provided by a license issued pursuant to the Act and this chapter.

(d) It is not unlawful, in accordance with N.J.S.A. 2C:35-10b, for a property owner that is at least 21 years of age acting within the scope of authority provided by a license, to lease or otherwise allow the use of property for the operation of a cannabis business.

(e) Notwithstanding the provisions of N.J.S.A. 24:6I-52, until such time that the Commission, in consultation with the Police Training Commission established pursuant to N.J.S.A. 52:17B-70, develops standards for a Workplace Impairment Recognition Expert certification, no physical evaluation of an employee being drug tested in accordance with N.J.S.A. 24:6I-52 shall be required.

#### § 17:30-2.2 CONSUMER AND LICENSE-HOLDER CIVIL PROTECTIONS

(a) Pursuant to N.J.S.A. 24:6I-51.a., persons and licensed cannabis businesses and testing laboratories shall not be subject to penalty in any manner, or denied any right or privilege, including but not limited to civil liability or disciplinary action by a business, occupational, or professional licensing board or bureau, solely for conduct permitted under the Act.

1. Licensed cannabis businesses and testing laboratories and personnel remain subject to civil or criminal penalties for their activities not authorized under the Act, this chapter, or the cannabis business or testing laboratory license.

(b) Nothing in the Act shall be construed to limit any privileges or rights of a registered qualifying patient, designated caregiver, institutional caregiver, or alternative treatment center as provided in the “Jake Honig Compassionate Use Medical Cannabis Act,” P.L.2009, c.307 (C.24:6I-1 et al.), or P.L.2015, c.158 (C.18A:40-12.22 et al.) concerning the use of medical cannabis and medical cannabis products.



(c) Pursuant to N.J.S.A. 24:6I-49, a financial institution shall not engage in discriminatory activities with respect to the banking activities of a cannabis business or a person associated with a cannabis business.

(d) Pursuant to N.J.S.A. 24:6I-53, no contract shall be unenforceable on the basis that manufacturing, distributing, selling, dispensing, possessing, or using any cannabis item is prohibited by federal law.

### § 17:30-2.3 CONSUMER AND UNDER-AGE PERSON PROHIBITIONS

(a) Pursuant to N.J.S.A. 24:6I-52, nothing in the Act is intended to allow driving under the influence of cannabis items or driving while impaired by cannabis items or to supersede laws related to driving under the influence of marijuana or cannabis items or driving while impaired by marijuana or cannabis items.

(b) Pursuant to N.J.S.A. 24:6I-52, nothing in the Act is intended to permit the transfer of cannabis items, with or without remuneration, to a person under 21 years of age or to allow a person under 21 years of age to purchase, possess, use, transport, grow, or consume cannabis items.

(c) Pursuant to N.J.S.A. 24:6I-52, nothing in the Act shall prohibit a landlord from prohibiting or otherwise regulating the consumption, use, display, transfer, distribution, sale, or transportation of cannabis items on or in that property, or portion thereof.

(d) Pursuant to N.J.S.A. 24:6I-52, nothing in the Act is intended to permit any person to possess, consume, use, display, transfer, distribute, sell, transport, or grow or manufacture cannabis or cannabis items in a school, hospital, detention facility, adult correctional facility, or youth correctional facility.

(e) Pursuant to N.J.S.A. 24:6I-52, nothing in the Act is intended to permit the smoking, vaping, or aerosolizing of cannabis items in any place that any other law prohibits the smoking of tobacco.

(f) Pursuant to N.J.S.A. 2C:35-10d, a person under 21 years of age shall not purchase, acquire, accept, or consume a cannabis item or attempt to do so.

1. A person under 21 years of age shall not enter or attempt to enter a cannabis business premises, unless accompanied by and supervised by a parent or legal guardian or otherwise permitted by law.

## SUBCHAPTER 3. ORGANIZATION AND OPERATION OF THE COMMISSION

### § 17:30-3.1 POWERS, DUTIES, AND RESPONSIBILITIES

(a) The Commission shall assume all powers, duties, and functions with regard to the regulation and oversight of activities authorized pursuant to the Act.

(b) The Commission shall exercise all powers incidental, convenient, or necessary to enable the Commission to administer or carry out the provisions of the Act, or any other law of this State that charges the Commission with a duty, function, or power related to personal use cannabis. Powers include, but are not limited to:

1. Issuing subpoenas;
2. Compelling attendance of witnesses;
3. Administering oaths;
4. Certifying official acts;
5. Taking depositions as provided by law;
6. Compelling the production of books, payrolls, accounts, papers, records, documents, testimony, products, equipment, devices, supplies, and waste;
7. Requesting information from cannabis businesses and testing laboratories in order to assess the impact and effectiveness of the Act; and
8. Establishing fees in addition to the application, licensing, and renewal fees, provided that any fee established by the Commission is reasonably calculated not to exceed the cost of the activity for which the fee is charged.

(c) The Commission may exercise the power to purchase, seize, possess, and dispose of cannabis and cannabis items as is necessary to ensure compliance with and enforcement of the provisions of the Act, and any rule adopted pursuant thereto.

(d) The Commission may sue and be sued in any court and employ legal counsel to represent the Commission in any proceeding to which it is a party and render legal advice to the Commission upon its request.

(e) The Commission may contract for the services of professional, technical, and operational personnel and consultants as may be necessary to the performance of its responsibilities.

#### § 17:30-3.2 EXPENSES, GRANTS, CONTRIBUTIONS, USE OF FEES

(a) The Commission may incur additional expenses within the limits of funds available to it in order to carry out its duties, functions, and powers under the Act.

(b) The Commission may accept from any governmental department or agency, public or private body or any other source grants or contributions to be used in carrying out the purposes of P.L.2009, c.307 (C.24:6I-1 et al.).

(c) All fees collected pursuant to P.L.2009, c.307 (C.24:6I-1 et al.), including those from qualifying patients, designated and institutional caregivers, and initial, modification and renewal applications for ATCs shall be used to offset the cost of the Commission's administration of the provisions of P.L.2009, c.307 (C.24:6I-1 et al.).

### § 17:30-3.3 COMMISSION ACTIVITIES ASSOCIATED WITH THE PERSONAL USE OF CANNABIS

The Commission shall:

- (a) Regulate the purchase, sale, cultivation, production, manufacturing, transportation, and delivery of cannabis or cannabis items;
- (b) Grant, refuse, suspend, revoke, cancel, or take actions otherwise limiting licenses or conditional licenses for the sale, cultivation, production, or manufacturing of cannabis items, or other licenses in regard to cannabis items, and to permit, in the Commission's discretion, the transfer of a license between persons or entities;
- (c) Investigate and aid in the prosecution of every violation of the statutory laws of this State relating to cannabis and cannabis items and cooperate in the prosecution of offenders before any State court of competent jurisdiction;
- (d) Adopt, amend, or repeal regulations as necessary to carry out the intent and provisions of the Act;
- (e) Adopt rules regulating and prohibiting the advertising of cannabis items in a manner that is appealing to minors; that promotes excessive use; that promotes illegal activity; or that otherwise presents a significant risk to public health and safety; and
- (f) Regulate the use of cannabis and cannabis items for scientific, pharmaceutical, manufacturing, mechanical, industrial, and other purposes.

### § 17:30-3.4 SOCIAL EQUITY EXCISE FEE

(a) In accordance with N.J.S.A. 54:47F-1, the Commission may impose a Social Equity Excise Fee on the sale or transfer of usable cannabis by a cannabis cultivator to any other cannabis establishment other than another cannabis cultivator.

1. Such fee shall be implemented in consultation with, and collected by, the Division of Taxation in the Department of the Treasury.

(b) The Commission shall set the amount of any imposed Social Equity Excise Fee by providing notice of the fee in the New Jersey Register by November 1, to be effective on January 1 of the next calendar year.

(c) Immediately following the adoption of the Commission's initial rules and regulations, an imposed Social Equity Excise Fee may be 1/3 of 1% of the Statewide average retail price of an ounce of usable cannabis for consumer purchase, as determined by the Commission, during the calendar year the fee may be imposed. Beginning nine months following the first sale or transfer of usable cannabis subject to such excise fee by a cannabis cultivator that is not part of an expanded ATC, such excise fee may be adjusted annually based upon the Statewide average retail price of an ounce of usable cannabis

for consumer purchase, to be effective in the calendar year next preceding the year in which the adjusted fee would be imposed, as follows:

1. Up to \$10 per ounce, if the average retail price of an ounce of usable cannabis was \$350 or more;
2. Up to \$30 per ounce, if the average retail price of an ounce of usable cannabis was at least \$250 but less than \$350;
3. Up to \$40 per ounce, if the average retail price of an ounce of usable cannabis was at least \$200 but less than \$250; and
4. Up to \$60 per ounce, if the average retail price of an ounce of usable cannabis was less than \$200.
5. The Commission may set different fees for different types of usable cannabis.

(d) Such excise fee shall be per ounce of usable cannabis sold or transferred by a cannabis cultivator, and any fractional portion of an ounce sold or transferred shall be subject to the fee on a proportional basis.

(e) Such excise fee shall not apply to sales to transfers of usable cannabis by a cannabis cultivator to a licensed ATC for use in cannabis dispensing pursuant to the “Jake Honig Compassionate Use Cannabis Act,” P.L.2009, c.307 (C.24:6I-1 et al.) or P.L.2015, c.158 (C.18A:40-12.22 et al.).

#### § 17:30-3.5 CANNABIS REGULATORY, ENFORCEMENT ASSISTANCE, AND MARKETPLACE MODERNIZATION FUND

(a) Pursuant to the Act, all fees and penalties collected by the Commission, all tax revenues of retail sales of cannabis items, all tax revenues collected pursuant to the provisions of the “Jake Honig Compassionate Use Medical Cannabis Act,” P.L.2009, c.307 (C.24:6I-1 et al.), and all revenues collected for the Social Equity Excise Fee shall be deposited in a special non-lapsing fund which shall be known as the “Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Fund” (“the Fund”), with 15 percent of the monies deposited being placed into an account within the fund to be known as the “Underage Deterrence and Prevention Account.”

(b) Monies in the Fund shall be appropriated in accordance with N.J.S.A. 24:6I-50.

#### § 17:30-3.6 DESIGNATED INVENTORY TRACKING SYSTEM

(a) The Commission has the authority to require all ATCs and cannabis businesses to use the inventory tracking system designated by the Commission to track the cultivation, manufacturing, distribution, storage, transportation, and retail sale of medical cannabis and cannabis items pursuant to paragraph (c) of N.J.S.A. 24:6I-22.

(b) An ATC or a cannabis business shall:

1. Use plant tags and labels compatible with the Commission-designated system; and
2. Be responsible for any costs associated with the acquisition of such compatible plant tags and for any costs associated with additional software or hardware that ensures compatibility with the Commission-designated system.

#### § 17:30-3.7 WAIVER

The Commission, in accordance with the general purposes and intent of the Act and this chapter, may waive a regulatory requirement regarding the operations of a cannabis business, to the extent such waiver does not conflict with any other State law, if in the Commission's determination, such a waiver:

1. Is necessary to achieve the purpose of the Act;
2. Is necessary to provide access to cannabis items to consumers; and
3. Does not create a danger to the public health, safety or welfare.

#### § 17:30-3.8 PETITIONS FOR RULEMAKING; PURPOSE AND SCOPE

(a) Unless otherwise provided in Chapter 30 of Title 17 of the New Jersey Administrative Code, this subchapter shall constitute the Cannabis Regulatory Commission's rules regarding the disposition of all requests for rulemaking pursuant to N.J.S.A. 52:14B-4(f).

(b) As used in this subchapter, "initiate a rulemaking proceeding" means the submission of a notice of proposal to the Office of Administrative Law for publication in the next available issue of the New Jersey Register.

#### § 17:30-3.9 PETITIONS FOR RULEMAKING; PROCEDURE

(a) Any interested person may petition the Cannabis Regulatory Commission to promulgate, amend, or repeal any rule of the Commission. Such petition must be in writing, signed by the petitioner, and must state clearly and concisely:

1. The full name and address of the petitioner;
2. The reasons for the request;
3. A description of the substance or nature of the rulemaking which is requested and a draft text of the proposed rule or rules;
4. A complete disclosure of petitioner's interest in the request, including without limitation, any relevant organizational affiliation or economic interest and the financial effect upon petitioner if the request were brought into effect; and

5. The statutory authority under which the Cannabis Regulatory Commission may take the requested action; and

6. Existing Federal or State statutes and rules which the petitioner believes may be pertinent to the request.

(b) Petitions for the promulgation, amendment or repeal of a rule by the Cannabis Regulatory Commission shall be captioned "Petition for Rulemaking Action" be sent by e-mail to [CRC.Info@crc.nj.gov](mailto:CRC.Info@crc.nj.gov) or in hard copy addressed to:

Cannabis Regulatory Commission  
Office of the Executive Director  
P.O. Box 216  
Trenton, New Jersey 08625-0216

(c) Any document submitted to the Cannabis Regulatory Commission that is not in substantial compliance with this section shall not be deemed to be a petition for rulemaking requiring further agency action.

(d) Within 15 days of receipt of a petition in compliance with this section, the Commission will file a notice of petition with the Office of Administrative Law for publication in the New Jersey Register in accordance with N.J.A.C. 1:30-4.1(c). The notice will include the following:

1. The name of the petitioner;
2. The substance or nature of the rulemaking action which is requested;
3. The problem or purpose which is the subject of the request; and
4. The date the petition was received.

(e) Within 60 days following receipt of any such petition, the Commission shall:

1. Deny the petition, giving a written statement of its reasons;
2. Grant the petition and initiate a rulemaking proceeding within 90 days of granting the petition; or
3. Refer the matter for further deliberations which shall be concluded within 90 days of referring the matter for further deliberations. Upon conclusion of such further deliberations, the Commission shall either deny the petition and provide a written statement of its reasons or grant the petition and initiate a rulemaking proceeding within 90 days. The results of these further deliberations will be mailed to the petitioner and submitted to the Office of Administrative Law for publication in the Register.

(f) Within 60 calendar days of receiving the petition, the Commission shall mail to the petitioner, and file with the Office of Administrative Law for publication in the New Jersey Register, a notice of action on the petition, which will include:

1. The name of the petitioner;



2. The New Jersey Register citation for the notice of petition, if that notice appeared in a previous New Jersey Register;
3. Certification by the Executive Director and Chair of the Commission that the petition was duly considered pursuant to law;
4. The nature or substance of the Commission's action upon the petition; and
5. A brief statement of reasons for the Commission's action.

#### § 17:30-3.10 EXTENSION OF PUBLIC COMMENT PERIOD ON A PROPOSED RULE

- (a) The Commission may extend the public comment period on a proposed rule whenever it determines an extension is appropriate.
- (b) If, within 30 days of the publication of the proposed rule, sufficient public interest is demonstrated in an extension of the time for submissions, the Commission shall provide an additional 30-day period for the receipt of submissions by interested parties. No proposed rule shall be adopted until after the end of this 30-day extension.
- (c) For purposes of this section, sufficient public interest for granting an extension of the public comment period exists when:
  1. 100 or more individuals have:
    - i. Communicated the need for the extension of the public comment period in writing, legible and intelligible, to the Cannabis Regulatory Commission;
    - ii. At least 50 of the individuals shall have specified in their written communications, an objection to at least one provision of the proposed rule; and
    - iii. All written communications have been directed to the individual who has been designated, on behalf of the Cannabis Regulatory Commission, to receive comments in the notice of a rule proposal; and
  2. The Commission determines that extension of the public comment period is likely to result in the Commission receiving comments relevant to the proposed rule that raise issues or provide new information, data or findings that were not previously raised or provided during the development of the proposed rule or during the initial comment period.
- (d) For the purposes of this subchapter, a professional organization, law firm, corporation, partnership, association, or any other organization or groups of persons that submit(s) a request for an extension of the public comment period on behalf of a group of interested parties shall be considered one person.
- (e) The Commission shall not consider, in the calculation of the number of comments received pursuant to this section, those comments that relate to specific recommended changes in the rule that the Commission has agreed to make or does not have the legal authority to make.

## SUBCHAPTER 4. INDEPENDENT STUDY; COMMISSION REPORTING

### § 17:30-4.1 INDEPENDENT STUDY

(a) The Commission shall, no later than three years after the date it first organizes, contract with a public research university, as defined in section 3 of P.L.1994, c.48 (C.18A:3B-3), to conduct an independent study to review:

1. The Commission's organization;
2. The Commission's regulation and enforcement activities;
3. The overall effectiveness of the Commission as a full-time entity; and
4. Whether the regulation and oversight of medical cannabis or personal use cannabis could be more effectively and efficiently managed through a reorganization of the Commission, consolidation of the Commission within the Department of Health or another Executive Branch department, conversion to a part-time Commission, or the transfer of some or all the Commission's operations elsewhere within the Executive Branch.

(b) The Commission shall submit the findings of the independent study, along with the Commission's recommendations for appropriate executive, administrative, or legislative action, to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

### § 17:30-4.2 COMMISSION REPORTING

The Commission shall report to the Governor, and to the Legislature, information in accordance with N.J.S.A. 24:6I-12.

## SUBCHAPTER 5. MUNICIPAL AUTHORITY

### § 17:30-5.1 MUNICIPAL AUTHORITY

(a) A municipality may enact an ordinance or regulation as permitted pursuant to the particular municipality's form of government, that is not in conflict with the Act or this chapter, and may amend such ordinance or regulation:

1. That establishes a numerical limit on the number of cannabis businesses, provided that any such ordinance or regulation shall specify the maximum number of each class of license that is allowed within the municipality and for which the municipality has established a numerical limit.
2. That governs the location, manner, and times of operation of cannabis businesses, except for the times of operation of a delivery service, including an ordinance or regulation that requires a cannabis business premises to be a certain distance from the closest church, synagogue, temple, or other place used exclusively for religious worship; or from the closest school, playground, park, or child daycare facility;

3. That establishes civil penalties for a violation of such ordinance or regulation; and
4. That imposes a separate local licensing requirement

(b) A municipality may enact and amend an ordinance or regulation to prohibit the operation of any one or more classes of cannabis business within the jurisdiction of the municipality pursuant to paragraph (b) of N.J.S.A. 24:6I-45, and such prohibiting ordinance shall apply throughout the municipality.

1. Such ordinance or regulation may include the authorization or prohibition of outdoor cultivation.

(c) If a municipality does not enact a prohibiting ordinance pursuant to paragraph (b) of N.J.S.A. 24:6I-45, any class of cannabis business that is not otherwise prohibited from operating within the municipality shall be permitted:

1. The cultivation, manufacturing, and selling and reselling of usable cannabis and cannabis products;
2. The operations to transport in bulk cannabis items by a cannabis cultivator, cannabis manufacturer, cannabis wholesaler, cannabis distributor, or cannabis delivery service shall be permitted uses in all industrial zones of the municipality; and
3. The selling of cannabis items to consumers from a retail store by a cannabis retailer shall be a conditional use in all commercial zones or retail zones, subject to meeting the conditions set forth in any applicable zoning ordinance or receiving a variance from one or more of those conditions in accordance with the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.).

(d) Within 28 days of receipt of a license application from the Commission, a municipality shall inform the Commission whether such license application complies with its ordinance or regulation, as may be applicable. Failure of a municipality to respond to the Commission within the designated time period may result in the Commission deeming the license application in compliance with any pertinent ordinance or regulation.

(e) A municipality may provide input to the Commission as to the municipality's preferences for licensure pursuant to N.J.A.C. 17:30-6.3.

(f) A municipality and its governing body entrusted with zoning or the regulation of land use may provide zoning approval of a proposed location of a license applicant's cannabis business premises, which shall consist of a letter or affidavit from appropriate officials of the municipality stating that the location will conform to municipal zoning requirements allowing for activities related to the operations of the proposed cannabis business to be conducted at the location, and any variances granted concerning the operation of an cannabis business.

1. Such municipality and its governing body and appropriate officials entrusted with zoning or the regulation of land use shall consider whether a cannabis business's premises conforms to municipal zoning requirements based on the nature of the cannabis business's primary business operations.

(g) A municipality may demonstrate proof of local support for the suitability of a cannabis business's proposed location by indicating that the intended location is appropriately located or otherwise suitable for activities related to the operations of the proposed cannabis business:

1. Where the municipality has a governing body, with the adoption of a resolution by the governing body; or
2. Where the municipality has no governing body, with a written letter of support from the municipality's executive.

(h) A municipality may provide written approval for a proposed expanded ATC pursuant to N.J.S.A. 24:6I-46(a)(3)(a)(ii).

(i) A county or municipality government official shall not solicit from a cannabis business, and a cannabis business shall not offer, any thing of value in exchange for zoning approval, proof of local support, or written approval for such cannabis business, or take any other action that would violate N.J.S.A. 40A:9-22.5 of the Local Government Ethics Law.

(j) A municipality may adopt an ordinance imposing a transfer tax or user tax on the sale of any usable cannabis or cannabis products by a cannabis establishment located within the municipality pursuant to N.J.S.A. 40:48I-1 which may include: sales between cannabis establishments, sales of cannabis items to consumers, or any combination thereof:

1. The rate of a transfer tax established shall be at the discretion of the municipality, but in no case shall a rate exceed 2% of the receipts from each sale by a cannabis cultivator; 2% of the receipts from each sale by a cannabis manufacturer; 1% of the receipts from each sale by a cannabis wholesaler; or 2% of the receipts from each sale by a cannabis retailer; and
2. The chief financial officer of the municipality shall collect and administer any transfer tax or user tax imposed by ordinance pursuant to N.J.S.A. 40:48I-1, including enforcing the payment of delinquent taxes.

(k) Any State or local law enforcement or regulatory authority or agency may request that cannabis business personnel performing a transport or delivery present a Cannabis Business Identification Card or a copy of a transport order or delivery request.

(l) In no case may a municipality restrict the transportation of cannabis items through or delivery of cannabis items within the municipality by adopting an ordinance or any other measure. Any such restriction shall be deemed void and unenforceable.

(m) In accordance with N.J.S.A. 40:55D-18, fees established by a municipality for issuing zoning permits, certifications, or authorizations to cannabis business applicants must be reasonably based on the administrative costs for the issuance of such municipal permit, certificate, or authorization.

## SUBCHAPTER 6. CANNABIS BUSINESS LICENSING GENERAL TERMS

### § 17:30-6.1 CANNABIS BUSINESS LICENSING PROCESS; APPLICATION PRIORITY REVIEW AND APPROVAL

(a) The Commission shall annually evaluate whether the number of each class of cannabis business is sufficient to meet the market demands of the State and whether the price and availability of cannabis items are discouraging purchases from the illegal market.

(b) The Commission shall accept new license applications and issue additional licenses, as it deems necessary to meet the demands identified in paragraph (a), except as otherwise provided in this section and section 33 of P.L.2021, c.16 (C.24:6I-46).

1. During the 24-month period after February 22, 2021, the Commission shall not allow more than 37 licensed cannabis cultivators. This number shall include any expanded ATCs.
  - i. Microbusinesses with cannabis cultivator licenses shall not count towards this cannabis cultivator license limit of 37; and
  - ii. The Commission may accept, review, score, and process additional applications for cannabis cultivators during the 24-month period, provided that there are only 37 cannabis cultivators with licenses.
2. Following the 24-month period after February 22, 2021, the Commission shall review the limit of 37 cannabis cultivator licenses and issue new licenses to meet the market demands of the State, and may accept new applications as it deems necessary to meet those demands;
3. The Commission shall issue a sufficient number of cannabis manufacturer licenses to meet the market demands of the State and may accept new applications for additional cannabis manufacturer licenses as it deems necessary to meet those demands.
4. The Commission shall issue a sufficient number of cannabis retailer licenses to meet the market demands of the State and may accept new applications for additional cannabis retailer licenses as it deems necessary to meet those demands.
5. The Commission shall seek to ensure that cannabis retailers have adequate access to licensed sources of cannabis items to discourage purchases from the illegal market.

(c) The Commission may specify the type or class of conditional or annual cannabis business license applications or testing laboratory license applications it shall accept at any given time and when it shall accept them. The Commission may set any geographic limitations on the acceptance of license applications, provided such limitations are consistent with meeting the market demands of the State.

1. During the period of time that the Commission is accepting a specific class of conditional or annual cannabis business license applications, the Commission shall accept license applications on a continuous rolling basis, which shall be scored, reviewed, and approved pursuant to paragraph (d).
2. The Commission shall provide notice of the initial acceptance of license applications in the New Jersey Register, on the Commission website, to the Commission email list, and at a Commission public meeting. Any subsequent changes to the type or class of license applications accepted shall be noticed in the New Jersey Register, on the Commission website, to the Commission email list, and at a Commission public meeting.
3. The notice identified in paragraph (2) regarding the acceptance of license applications shall include:
  - i. The types or classes of license applications being accepted;
  - ii. The criteria for eligibility for such license applications;
  - iii. Any geographic limitations on the acceptance of licenses; and
  - iv. If the number of available licenses of a certain class is capped or limited, the number of available licenses of such class.
4. Microbusinesses shall not count towards any limitation on the number of cannabis business licenses issued by the Commission.

(d) The Commission shall review, score, and approve conditional and annual cannabis business license applications and issue licenses to applicants that receive a full score or greater, and shall have the full authority to establish the priority by which conditional and annual cannabis business license applications and applicants are reviewed, scored, approved, and issued, such that:

1. Social Equity Businesses, Diversely Owned Businesses, and Impact Zone Businesses always have priority over other license applicants;
2. Conditional license applicants always have priority over annual license applicants;
3. Microbusinesses license applicants always have priority over standard cannabis business license applicants;
4. License applicants given bonus points pursuant to N.J.S.A. 24:6I-36(d)(2) have priority over license applicants with no bonus points; and
5. The priority of the review, scoring, and approval of license applications and issuance of licenses is consistent with meeting the market demands of the State, with the Act, and this chapter.

#### § 17:30-6.2 CANNABIS BUSINESS LICENSING LOTTERY

(a) Where the number of applicants with the same number of points in a cannabis business license class or group is greater than the remaining number of licenses available from the Commission, the Commission may conduct a public lottery among the eligible license applicants in such class or group pursuant to this section.

1. The Commission shall cease accepting applications for the license class(es) or group(s) to be included in the lottery at least 90 days prior to the lottery;
2. All applications for the license class(es) or group(s) to be included in the lottery shall be reviewed and scored prior to the lottery; and
3. The Commission shall provide notice of any lottery for license applications to the license applicants and at least one statewide media organization, and on the Commission website, the Commission email list, and at a Commission public meeting.

(b) When the Commission conducts a public lottery for a class or group of eligible cannabis business license applicants, the Commission shall conduct a lottery for each available license and select one license applicant to approve in each round, until there are no available licenses left.

1. The Commission shall use the lottery to select a waitlist containing the same number of license applicants as there are licenses available, but in no case shall the waitlist contain fewer than three license applicants provided there exist qualified applicants.
2. If the license applicant chosen for approval declines the license, the Commission shall offer the license to the next applicant on the waitlist;
3. If no more applicants remain on the waitlist and there are still licenses available, the remaining licenses shall be returned to the Commission and the Commission shall conduct another lottery in accordance with this section to award the remaining licenses;

(c) The Commission shall conduct a lottery that is impartial, random, and in a format selected by the Commission.

#### § 17:30-6.3 MUNICIPAL PREFERENCE

A municipality may submit its preference(s) for the issuance of licenses to cannabis businesses by writing to the Commission pursuant to the Notice required by N.J.A.C. 17:30-6.1 (c).

1. Such notice shall be received by the Commission within 28 days of receipt of an application and shall not conflict with any letter of support issued to a license applicant pursuant to (9) of N.J.A.C. 17:30-7.10.



#### § 17:30-6.4 DIVERSELY OWNED BUSINESSES

(a) Until such time that the Commission determines that it will develop its own certification process, a “Diversely Owned Business” means a license applicant or a license-holder that has been certified as a minority business, as a woman’s business, as a disabled-veterans’ business, or as any combination thereof, by the Division of Revenue and Enterprise Services in the Department of the Treasury.

1. A minority business or minority-owned business enterprise is a business that meets the requirements of N.J.S.A. 52:27H-21.18 et seq., including, but not limited to, that:
  - i. At least 51% of the ownership interest is held by persons who are minorities; and
  - ii. The management and daily business operations are controlled by one or more of the minorities who own it.
2. A women’s business or women-owned business enterprise is a business that meets the requirements of N.J.S.A. 52:27H-21.18 et seq., including, but not limited to, that:
  - i. At least 51% of the ownership interest is held by persons who are women; and
  - ii. The management and daily business operations are controlled by one or more of the women who own it.
3. A disabled-veterans’ business or disabled veteran-owned business enterprise is a business that meets the requirements of N.J.S.A. 52:32-31.2, including, but not limited to, that:
  - i. At least 51% of the ownership interest and control is held by persons who are disabled veterans; or
  - ii. The business has been officially verified by the U.S. Department of Veterans Affairs as a service-disabled veteran-owned small business.

(b) A diversely owned business shall submit, in its cannabis business license application, the certification from the Division of Revenue and Enterprise Services, Department of Treasury, pursuant to N.J.S.A. 52:27H-21.20 and N.J.S.A. 52:32-31.8.

#### § 17:30-6.5 IMPACT ZONE BUSINESSES

(a) An “Impact Zone Business” means a license applicant or license-holder:

1. That operates a cannabis business that is located, or intended to be located, within an impact zone;
2. Where more than 50% of the ownership interest is held by a current resident or residents of an impact zone who have resided there for three or more consecutive years at the time of application; or

3. That presents a plan, along with an attestation, to ensure that:
  - i. At least 25% of its employees reside in any of the State's impact zones, and
  - ii. Among the employees who reside in impact zones, at least 25% reside in the impact zone nearest to the cannabis business's location or intended location.

(b) For a license issued based on an application with an impact zone employment plan pursuant to (a)3, above, failure of an Impact Zone Business to meet the requisite percentages of employees from an impact zone within 90 days of the commencement of operations of a cannabis business may result in the suspension or revocation of a license issued.

(c) An impact zone business shall submit, in its cannabis business license application or renewal, documentation verifying its impact zone business status, including evidence and attestations from any qualifying owner, passive investor, or employee proving the qualification of the person under the criteria of (a), above.

#### § 17:30-6.6 SOCIAL EQUITY BUSINESSES

(a) "Social Equity Business" means a license applicant or license-holder that meets one of the following criteria:

1. More than 50% of the ownership interest of the license applicant or license-holder is held by one or more persons that demonstrate one of the following criteria:
  - i. At the time the initial application is submitted, have lived in an Economically Disadvantaged Area for 5 of the 10 preceding years; and
  - ii. Are, at the time the initial application is submitted and based on the preceding year's income, a member of a household that has a household income that is 80 percent or less of the average median household income in the State, as determined annually by the U.S. Census Bureau.
2. More than 50% of the ownership interest of the license applicant or license-holder is held by one or more persons who are eligible to be pronounced rehabilitated in accordance with N.J.A.C. 17:30-7.12(e), if necessary, and have been adjudicated delinquent for or convicted of, whether expunged or not, in this State, another state, or federally:
  - i. at least two marijuana- or hashish-related disorderly persons offenses, or
  - ii. at least one marijuana- or hashish-related indictable offense.

(b) A social equity business shall submit, in its cannabis business license application or renewal, documentation verifying its social equity business status, including an attestation from any qualifying owner or passive investor attesting to the qualification of the person under the criteria of paragraph (a).

#### § 17:30-6.7 MICROBUSINESSES

(a) “Microbusiness” means a license applicant’s or license-holder’s cannabis business that:

1. Has a smaller footprint than a standard cannabis business, with respect to its business operations, capacity, and quantity of product, pursuant to subsection (f) of N.J.S.A. 24:6I-36 and this section.

(b) There shall not be any cap, limit or other numerical restriction on the number of microbusinesses authorized to operate a cannabis business. This prohibition on a cap, limit or other numerical restriction shall apply to every class of license issued.

(c) A microbusiness applicant for a conditional or annual license or a microbusiness license-holder:

1. Shall pay 50% of the amount of a standard license application, renewal, or other fee;
2. Shall not be required to have an attestation signed by a bona fide labor organization stating that the license applicant has entered into a labor peace agreement with such bona fide labor organization in any license application or as an ongoing material condition of maintaining a license; and
3. Shall meet all the following requirements regarding owners, passive investors, principals, and employees:
  - i. 100% of the ownership interest in the microbusiness license applicant or license-holder shall be held by current New Jersey resident(s) who have resided in the State for at least the past two consecutive years, at the time of application;
  - ii. At least 51% of the total number of persons included in the microbusiness license applicant or license-holder, including all owners, principals, and employees, shall be residents of either the municipality in which the microbusiness is or will be located, or of a municipality directly bordering such municipality, at the time of the application; and
  - iii. The microbusiness license applicant or license-holder shall employ no more than 10 employees at one time.
4. Shall have its entire microbusiness facility occupy an area of no more than 2,500 square feet;
  - i. The microbusiness facility shall include all areas within the premises that are a part of the microbusiness physical plant.
5. A microbusiness cannabis cultivator:
  - i. shall have a total cannabis grow area that does not exceed 2,500 square feet, measured on a horizontal plane, and 24 feet, measured vertically above that plane; and

- ii. shall possess a total of no more than 1,000 cannabis plants each month.
  - 6. A microbusiness cannabis manufacturer, shall acquire no more than 1,000 pounds of usable cannabis each month; and
  - 7. A microbusiness cannabis retailer, shall acquire for retail sale no more than 1,000 pounds of usable cannabis, or the equivalent amount in any form of cannabis product, or any combination thereof, each month.
- (d) A microbusiness holding an annual license shall not sell or transfer its license; and
- (e) A microbusiness holding an annual license may submit an application to convert from a microbusiness to a standard cannabis business and expand beyond the requirements of this section, pursuant to N.J.A.C. 17:30-7.15.

§ 17:30-6.8 LIMITATIONS ON LICENSE APPLICANTS, LICENSE-HOLDERS, OWNERS, PRINCIPALS, PASSIVE INVESTORS, FINANCIAL SOURCES, MANAGEMENT SERVICES CONTRACTORS, AND VENDOR-CONTRACTORS

- (a) The license-holder is the party that has responsibility and liability for the conduct of the cannabis business(s).
- (b) A license applicant or license-holder shall not be established as a trust.
- (c) A license applicant or license-holder shall only have, at most, one open and pending cannabis business license application for each class of license at one time and may only hold cannabis business licenses in accordance with the limitations in this section.
- 1. A license applicant or license-holder may abandon a license application, by providing written notice to the Commission, in order to accept another license or submit a new license application.
- (d) During the 24-month period following February 22, 2021:
- 1. A license-holder and its owners and principals may concurrently hold one cannabis cultivator and one cannabis manufacturer license;
  - 2. A license-holder and its owners and principals may hold one cannabis retailer license and may not hold any other license concurrent with a cannabis retailer license;
  - 3. A license-holder and its owners and principals may hold one cannabis distributor license and may not hold any other license concurrent with a cannabis distributor license; or
  - 4. A license-holder and its owners and principals may hold one cannabis delivery service license and may not hold any other license concurrent with a cannabis delivery service license; and
  - 5. A license-holder and its owners and principals that have an expanded ATC license may concurrently hold a cannabis cultivator, cannabis manufacturer, a cannabis

retailer license, and additional cannabis retail licenses for each satellite dispensary.

(e) After the end of the 24-month period following February 22, 2021:

1. A license-holder and its owners and principals may concurrently hold one cannabis cultivator, one cannabis manufacturer, one cannabis retailer, and one cannabis delivery service license; or
2. A license-holder and its owners and principals may hold one cannabis distributor license and may not hold any other license concurrent with a cannabis distributor license; and
3. A license-holder and its owners and principals that have an expanded ATC license may concurrently hold a cannabis cultivator license, a cannabis manufacturer license, a cannabis retailer license, and additional cannabis retail licenses for each satellite dispensary.

(f) A license-holder holding a testing laboratory license may hold up to three testing laboratory licenses but may not hold any cannabis business licenses.

(g) A person or entity shall be an owner of only one license applicant or license-holder.

(h) A person or entity may hold ownership interest as a passive investor in more than one cannabis business or testing laboratory license applicant or license-holder.

(i) An owner, notwithstanding the amount of capital or assets that such owner contributes to a cannabis business or testing laboratory license applicant or license-holder, shall enjoy the customary incidents of ownership and shall share in the profits and losses of such cannabis business or testing laboratory license applicant or license-holder proportionate to the owner's percentage of ownership interest in such license applicant or license-holder.

(j) An ownership interest may be held directly or indirectly through an intermediary controlled by the holder, such as a shell company or holding company; the presence of such an intermediary shall not change the determination of the actual holder of the ownership interest.

1. An ownership interest may be in stock or securities or other forms;
2. An ownership interest may not include a security interest on a property, a lien, or an encumbrance; and
3. Mere receipt of a percent of revenue or profits in accordance with the terms of an agreement without a right to ownership or equity interest is not ownership interest.

(k) The majority share of the license applicant's ownership interest, including the ownership interest that qualifies it as a diversely owned business, social equity business, impact zone business, or microbusiness shall remain the same from the date of submission of a conditional license conversion application or submission of an annual license application until two years after the commencement of cannabis business operations.

1. A transfer of ownership interest as defined in this chapter, in a license applicant from a deceased owner to their heir shall not be prohibited; and
  2. a transfer of ownership interest in a license applicant from a deceased owner to their surviving spouse, domestic partner, or civil union partner, if the license was issued jointly to both the parties, shall not be prohibited.
- (l) A person or entity shall be a principal of only one license applicant or license-holder.
- (m) A principal may have control or decision-making authority over a cannabis business or testing laboratory license applicant, license-holder, cannabis business, or testing laboratory directly or indirectly through an intermediary controlled by the principal, such as a shell company or holding company; the presence of such an intermediary shall not change the determination of the actual person or entity exercising control or decision-making authority.
- (n) An employee or volunteer may work with more than one license applicant or license-holder, at any or all of its cannabis business premises.
- (o) An owner, passive investor, principal, employee, or volunteer of a cannabis business or testing laboratory license applicant or license-holder shall be at least 21 years of age.
1. except that a person less than 21 years of age who receives the transfer of ownership interest from a deceased owner or passive investor of a cannabis business or testing laboratory license applicant or license-holder as an heir may be an owner or passive investor of a cannabis business or testing laboratory license applicant or license-holder.
    - i. Such ownership interest shall be put into a trust with the heir as the beneficiary until the heir is at least 21 years of age.
- (p) A management services contractor may contract with and provide management services to up to five license applicants or license-holders.
- (q) A license applicant or license-holder or its owners or principals may not serve as a management services contractor.
- (r) A financial source may provide funding to up to seven license applicants or license-holders.
- (s) A vendor-contractor may contract with and provide services to more than one license applicant or license-holder during the licensing process and after the issuance of license(s).
- (t) vendor-contractor may include, but is not limited to:
1. A landlord that is leasing the land and/or building of a cannabis business premises to a license applicant or license-holder;
  2. A contract counterparty that is leasing equipment used in the cultivation, manufacturing, retail sale, or destruction of cannabis to a cannabis business license applicant or license-holder;

3. A vendor providing materials;
4. An architect;
5. A construction, Heating, Ventilating, Air Conditioning, and Refrigeration, plumbing, or lighting company,
6. A security company,
7. A lawyer or lobbyist,
8. An accountant, or
9. A consultant providing services, including license application preparation, and operations recommendations regarding cultivation, manufacturing, retail sale, hiring employees, accounting, recordkeeping, or destruction.

(u) Remuneration provided by a cannabis business license-holder to a management services contractor, financial source, or vendor-contractor may include either a flat fee or a percent of revenue or profits.

(v) No owner who also has decision-making authority or principal of a license-holder operating a licensed microbusiness shall hold any financial interest in another licensed cannabis business, whether or not a microbusiness.

#### § 17:30-6.9 MANAGEMENT SERVICES AGREEMENTS

(a) A license applicant or license-holder and a management services contractor may, pursuant to this section, contract to implement a management services agreement, which may include but is not limited to: management or supervision, operations, technical assistance, consulting, hiring employees, accounting, recordkeeping, leasing of equipment or real or intellectual property, and provision of goods or materials.

(b) The terms of a management services agreement, including interest rates, returns, and fees, shall be commercially reasonable and consistent with the fair market value for the terms generally applicable to agreements of a comparable nature.

1. The Commission may determine whether a term is commercially reasonable or consistent with the fair market value generally applicable to the services to be provided by comparing the amount or percentage with and relying on:
  - i. The current valuation of a similar interest, service, or product in the medical or personal use cannabis market in this State and in other states with legal cannabis markets; and
  - ii. The current valuation of a similar interest, service, or product in an industry with operations similar to the cannabis industry, including, but not limited to, horticulture or agriculture, pharmaceutical drug manufacturing, and sale of pharmaceutical drugs and alcohol in this State and in other states with such industries.



(c) A management services agreement shall be bargained for between the parties in an arms-length transaction and shall include the ability for either party to terminate the agreement with due notice.

(d) A management services agreement shall acknowledge that the management services contractor and its owners, principals, and staff who are engaged, directly or indirectly, in operating the cannabis business, are supervised in such operations by the license applicant or license-holder and its owners and principals.

(e) A management services agreement shall not grant:

1. A security interest in a cannabis business being operated or in any of the assets of the license applicant or license-holder;
2. An ownership interest or any right, including a future or contingent right, to obtain an ownership interest in the cannabis business being operated;
3. Except that a management services contractor may be granted a future right of first refusal to acquire an ownership interest in a license applicant or license-holder that would cause the management services contractor to be an owner, where a management services contractor is qualified pursuant to N.J.A.C. 17:30-6.8 and N.J.A.C. 17:30-7.11 and will cease operations as a management services contractor to become a passive investor or an owner.

(f) The term of a management services agreement shall not exceed five years without an opportunity for the parties to renegotiate the agreement at arms-length;

(g) A management services agreement shall not include any provision that provides the management services contractor with an unfair advantage over the license applicant or license-holder or that violates any provisions of this subchapter;

1. Provisions that provide an unfair advantage and are prohibited pursuant to this subsection include, but are not limited to:
  - i. Any term of the agreement that is not commercially reasonable or consistent with the fair market value generally applicable to the services to be provided;
  - ii. Where a management services contractor receives a percentage of the net profits of the cannabis business being operated, such percentage of the profits is not commercially reasonable or exceeds the percentage of the net profits received by the license applicant or license-holder;
  - iii. Where the amount of a fee or price charged by the management services contractor for a service, product, intellectual property, lease, or brand provided is not commercially reasonable;
  - iv. Where the percentage of the cannabis business's "shelf space" guaranteed for the products of the management services contractor or another entity designated by the management services contractor is not commercially reasonable and is excessive, including, but not limited to, a "shelf space" guarantee exceeding 50%;

- v. A promise by the license applicant or license-holder to buy a percentage of its products or materials from the management services contractor or an entity designated by the management services contractor where the percentage is not commercially reasonable and is excessive, including, but not limited to, a promise exceeding 50%;
  - vi. A promise by the license applicant or license-holder not to purchase cannabis, cannabis products, or other products or materials from or sell cannabis, cannabis products, or other products or materials to specifically identified license applicants or license-holders or other businesses;
  - vii. A promise by the license applicant or license-holder of non-competition with other license applicants or license-holders;
  - viii. Where a penalty upon a license applicant or license-holder for noncompliance with the agreement is not commercially reasonable and is excessive relative to the degree of and harm caused by the noncompliance, including the surrender of personal assets of the license applicant or license-holder owners or principals; or
  - ix. Where the management services contractor is granted control over the license applicant or license-holder such that it may overrule the license applicant's or license-holder's owners and principals over the most fundamental decisions of the license applicant or license-holder, including its strategic plan, and any decision regarding a transfer of ownership interest of an owner.
- (h) Prior to the execution of any management services agreement, a license applicant or license-holder shall submit to the Commission:
- 1. A copy of the management services agreement and any related agreements between the parties;
  - 2. Information detailing any remuneration paid or to be paid to the management services contractor by the license applicant or license-holder in exchange for the provision of management services; and
  - 3. All submissions required from a management services contractor pursuant to N.J.A.C. 17:30-7.10 and N.J.A.C. 17:30-7.13.
- (i) Prior to any material change to a management services agreement, a license applicant or license-holder shall:
- 1. Submit to the Commission a copy of any proposed material changes to the management services agreement and any related agreements between the parties, any proposed material changes to information detailing any remuneration paid or to be paid to the management services contractor by the license applicant or license-holder; and any proposed material changes to any previously required submissions;

(j) The Commission shall confirm whether the management services agreement and any material change comply with the Act and this chapter; and shall notify the license applicant or license-holder of the Commission's decision.

(k) The license-holder shall retain authority to audit, or use an accounting firm to audit, the management services contractor's records relating to its performance under the management services agreement.

#### § 17:30-6.10 FINANCIAL SOURCE AGREEMENTS

(a) A license applicant or license-holder and a financial source may, pursuant to this section, contract to implement a financial source agreement to provide financial assistance.

1. A financial source includes:

- i. Any creditor holding a security interest in the license-holder, the cannabis business or the premises.
- ii. Any creditor holding an outstanding bond, loan, mortgage, trust deed, note, debenture, or other form of indebtedness of the license-holder or the cannabis business;

(b) The terms of the financial source agreement, including interest rates, returns, and fees, shall be commercially reasonable and consistent with the fair market value for the terms generally applicable to agreements of a comparable nature.

1. The Commission may determine whether a term is commercially reasonable or consistent with the fair market value generally applicable to the services to be provided by comparing the amount or percentage with and relying on:

- i. The current valuation of a similar interest, loan, or product in the medical or personal use cannabis market in this State and in other states with legal cannabis markets, and
- ii. The current valuation of a similar loan, service, or product in an industry with operations similar to the cannabis industry, including, but not limited to, horticulture or agriculture, pharmaceutical drug manufacturing, and sale of pharmaceutical drugs and alcohol in this State and in other states with such industries.

(c) A financial source agreement shall be bargained for between the parties in an arms-length transaction and shall include the ability for the borrower to pay off the complete debt at any time with due notice and no penalties for pre-payment.

(d) A financial source agreement shall not grant to a financial source an ownership interest in the license applicant or license-holder.

(e) A financial source agreement may grant a future or contingent right to obtain an ownership interest in the cannabis business being operated, where a financial source is qualified pursuant to N.J.A.C. 17:30-7.11 and N.J.A.C. 17:30-6.8.

(f) A financial source agreement shall not include a provision that provides the financial source with an unfair advantage over the license applicant or license-holder or that violates any provisions of this subchapter.

1. Provisions that provide an unfair advantage and are prohibited pursuant to this subsection include, but are not limited to:

- i. Any term of the agreement that is not commercially reasonable or consistent with the fair market value generally applicable to the services to be provided;
- ii. Where a financial source receives a percentage of the net profits of the cannabis business being operated, such percentage of the profits is not commercially reasonable or exceeds the percentage of the net profits received by the license applicant or license-holder;
- iii. A loan from the financial source to the license applicant or license-holder that is not commercially reasonable and is excessive, including, but not limited to, an interest rate exceeding 20%;
- iv. Where the percentage of cannabis business's "shelf space" guaranteed for the products of the financial source or an entity designated by the financial source is not commercially reasonable and is excessive, including, but not limited to, a "shelf space" guarantee exceeding 50%;
- v. A promise by the license applicant or license-holder to buy a percentage of its products or materials from the financial source or an entity designated by the financial source where the percentage is not commercially reasonable and is excessive, including, but not limited to, a promise exceeding 50%;
- vi. A promise by the license applicant or license-holder not to purchase cannabis, cannabis products, or other products or materials from or sell cannabis, cannabis products, or other products or materials to specifically identified license applicants or license-holders or other businesses;
- vii. A promise by the license applicant or license-holder of non-competition with other license applicants or license-holders;
- viii. Where a penalty upon a license applicant or license-holder for noncompliance with the agreement is not commercially reasonable and is excessive relative to the degree of and harm caused by the noncompliance;
- ix. Where the financial source is granted control over the license applicant or license-holder such that it may overrule the license applicant's or license-holder's owners and principals over the most fundamental decisions of the license applicant or license-holder, including its strategic plan, and any decision regarding a transfer of ownership interest of an owner.

(g) Prior to any financial source agreement taking effect, a license applicant or license-holder shall submit to the Commission:

1. A copy of the financial source agreement and any related agreements between the parties;
2. Information detailing any remuneration and interest rate paid or to be paid to the financial source by the license applicant or license-holder in exchange for the bond, loan, mortgage, trust deed, note, debenture, or other form of indebtedness; and
3. All submissions required from a financial source pursuant to N.J.A.C. 17:30-7.10 and N.J.A.C. 17:30-7.13.

(h) Prior to any material change to a financial source agreement, including a change of ownership interest or control of the financial source, a license applicant or license-holder shall:

1. Submit to the Commission a copy of any proposed material changes to the financial source agreement and any related agreements between the parties, any proposed material changes to information detailing any remuneration and interest rate paid or to be paid to the financial source by the license applicant or license-holder; and any proposed material changes to any previously required submissions;
2. The Commission shall confirm whether the financial source agreement and any material change complies with the Act and this chapter; and shall notify the license applicant or license-holder of the Commission's decision.

## SUBCHAPTER 7: CANNABIS BUSINESS CONDITIONAL AND ANNUAL LICENSING PROCESS

### § 17:30-7.1 EXPANDED ALTERNATIVE TREATMENT CENTERS

(a) Pursuant to subparagraph (ii) of subparagraph (a) of paragraph (3) of subsection (a) of N.J.S.A. 24:6I-46, the Commission shall not require a full application pursuant to N.J.A.C. 17:30-7.10 from an Alternative Treatment Center in order for the ATC to begin engaging in the cultivation, manufacturing, retailing, wholesaling, distributing or delivery of cannabis items, as applicable.

(b) Notwithstanding (a) of this subchapter, an Alternative Treatment Center that wishes to engage in the cultivation, manufacturing, retailing, wholesaling, distributing or delivery of cannabis items, as applicable, shall submit to the Commission:

1. A letter of intent notifying the Commission of the licenses sought by the ATC;
2. Municipal approval for each class of license sought by the ATC, which shall include:

- i. The ordinance(s) adopted by the municipality authorizing the operation of each class of cannabis business license being sought by the ATC, or a statement explaining that there exists no municipal ordinance prohibiting the class of cannabis business license and thus all classes are allowed pursuant to N.J.S.A. 24:6I-45;
    - ii. An attestation by the ATC that, as a condition of licensure, it shall comply with all restrictions on the location, manner, and times of operation of cannabis businesses established by the municipality; and
    - iii. Zoning approval, a resolution from the municipality's governing body, or a letter from the highest-ranking municipal official, as applicable, that authorizes the ATC to engage in the cultivation, manufacturing, retailing, wholesaling, distributing or delivery of cannabis items at the ATC's current premises;
  3. A certification to the Commission that the Alternative Treatment Center has sufficient quantities of medical cannabis and medical cannabis products available to meet the reasonably anticipated needs of registered qualifying patients;
  4. A certification to the Commission that the Alternative Treatment Center shall not make operational changes that reduce access to medical cannabis for current and new registered qualifying patients in order to operate a cannabis establishment or delivery service. Such certification shall include a detailed plan for prioritizing and meeting the needs of registered qualifying patients.
  5. A list of owners, principals, management services contractors, financial sources and vendor-contractors associated with the proposed cultivation, manufacturing, retailing, wholesaling, distributing or delivery of cannabis items, as applicable.
    - i. Any new owners, principals, management services contractors, financial sources or vendor-contractors may be required to comply with the provisions of N.J.A.C. 17:30-7.11, 7.12, and 7.13.
  6. An attestation signed by a bona fide labor organization stating that the ATC has entered into a labor peace agreement with such bona fide labor organization.
  7. Any other information the Commission deems relevant in determining whether to accept the ATC's certifications.
- (c) In determining whether to accept the Alternative Treatment Center's certifications pursuant to (b), above, the Commission shall assess:
1. Total qualifying patient enrollment in the statewide medical cannabis program;
  2. Qualifying patient enrollment at the ATC;
  3. Statewide inventory and inventory of the ATC;
  4. Statewide sales of medical cannabis and medical cannabis products, and sales at the ATC;
  5. The current medical cannabis canopy of the ATC;

6. The total medical cannabis canopy needed to serve the ATC's qualifying patients on an ongoing basis;
7. The total medical cannabis canopy needed to serve the total number of qualifying patients in the medical cannabis program on an ongoing basis; and
8. The operational plans and capacity of the ATC to maintain or expand medical cannabis access for qualifying patients.

(d) The Commission shall only accept a certification from an ATC pursuant to (c), above, when an ATC has proven by clear and convincing evidence that engaging in the cultivation, manufacturing, retailing, wholesaling, distributing or delivery of cannabis items, as applicable, shall not impact access for registered qualifying medical cannabis patients and shall not impact the availability of medical cannabis or medical cannabis products.

(e) The Commission shall approve an expanded ATC in accordance with this Subchapter where:

1. An ATC has submitted complete and accurate and verifiable information, as determined by the Commission, pursuant to paragraph (b);
2. The Commission accepts the ATC's certifications, pursuant to paragraphs (b), (c), and (d); and
3. The ATC pays the conversion fee pursuant to N.J.A.C. 17:30-7.17.

(f) The Commission shall issue a written notice of its approval to an expanded ATC.

(g) After the expanded ATC has completed any necessary construction or preparation of expanded ATC, the expanded ATC shall request an onsite assessment.

(h) The Commission shall conduct an onsite assessment of the expanded ATC and determine whether its premises, operations, and procedures are consistent with its application, and compliant with the Act and this chapter.

(i) If the Commission determines compliance, it shall issue the cannabis license(s) to the expanded ATC.

(j) The Commission may deny an expanded ATC where:

1. The Commission does not accept the ATC's certifications pursuant to paragraphs (c) and (d);
2. The ATC does not meet the requirements of paragraph (b);
3. The ATC fails to provide information, documentation, and assurances as required by P.L.2021, c.16 (C.24:6I-31 et al.) or this subchapter or as requested by the Commission;
4. The ATC fails to reveal any material fact pertaining to the ATC's certifications; or
5. The ATC supplies information that is untrue or misleading as to a material fact pertaining to the qualification criteria for an expanded ATC.



(k) If an expanded ATC is denied pursuant to this subchapter, the Commission shall provide the denial to the ATC in writing, which shall include:

1. Notice of the denial of the expanded ATC and the specific reason for the denial; and
2. The opportunity to request an administrative hearing within 45 days after the date of the denial.

(l) The final decision on an expanded ATC shall be considered a final agency decision, subject to judicial review by, and of which jurisdiction and venue for such review are vested in, the Appellate Division of the Superior Court pursuant to N.J.A.C.17:30-17.9.

(m) Pursuant to N.J.A.C. 17:30-1.2, an expanded ATC is a cannabis business and subject to all provisions of this chapter that are applicable to cannabis businesses.

#### § 17:30-7.2 CONDITIONAL CANNABIS BUSINESS LICENSE APPLICATION SUBMISSION, APPROVAL, DENIAL

(a) The Commission shall provide notice in the New Jersey Register of the application requirements for conditional license applications in accordance with N.J.A.C. 17:30-6.1 and N.J.A.C. 17:30-7.3.

1. Such notice shall be compliant with this subchapter, and shall include:
  - i. Measures by which the license applicant will be scored;
  - ii. Maximum scores for each individual measure; and
  - iii. The total score required for a license applicant to be approved for a license.

(b) Within 14 days of receipt of the conditional license application, the Commission shall forward a copy of an application to the municipality in which the applicant desires to operate a proposed cannabis business.

(c) Not more than 30 days after the receipt of a conditional license application, the Commission shall make a determination on the application.

1. Such determination may include a determination that the Commission requires more time to adequately review the application.

(d) Applications shall be reviewed for completeness and then scored in accordance with the criteria included in the notice pursuant to N.J.A.C. 17:30-6.1 and N.J.A.C. 17:30-7.3.

(e) The Commission may verify the information contained in the application, by:

1. Contacting the license applicant and its owners and principals by telephone, mail or electronic mail;
2. Conducting an onsite visit;
3. Requiring a face-to-face meeting; or

4. Requiring the submission of additional materials.

(f) The Commission shall approve a conditional license applicant that:

1. Has submitted a complete conditional license application in accordance with N.J.A.C. 17:30-7.3 and the Notice of Application Acceptance pursuant to N.J.A.C. 17:30-6.1
2. Has scored sufficiently high to be issued a conditional license in accordance with the criteria included in the Notice of Application pursuant to N.J.A.C. 17:30-6.1 and N.J.A.C. 17:30-7.3
3. Is qualified to hold a conditional license pursuant to N.J.A.C. 17:30-7.4; and
4. Has submitted application fees pursuant to N.J.A.C. 17:30-7.17.

(g) A license application the Commission deems incomplete because of failure to address all applicable criteria and measures, to provide requested information, or to present truthful information in the application process shall be disqualified prior to a substantive review of the submission, and such disqualification shall be considered a final agency decision subject to judicial review pursuant to N.J.A.C. 17:30-17.9.

1. The Commission may grant a license applicant the opportunity to cure the deficiencies in a license application and resubmit it.

(h) The Commission may deny a conditional license applicant that:

1. Is not qualified to hold a conditional license pursuant to N.J.A.C. 17:30-7.4;
2. Has not scored sufficiently high to be issued a conditional license in accordance with the criteria included in the Notice of Application pursuant to N.J.A.C. 17:30-6.1 and N.J.A.C. 17:30-7.3
3. Fails to reveal any material fact pertaining to qualification under N.J.A.C. 17:30-7.4; or
4. Has been determined by the Commission, by clear and convincing evidence, to be unsuitable to hold a conditional cannabis business license.

(i) If an application is denied, the Commission shall provide the denial to the applicant in writing, which shall include:

1. Notice of the denial of the conditional license and the specific reason for the denial; and
2. The opportunity to request an administrative hearing within 45 days after the date of the denial.

(j) Such administrative hearing shall take place in the Office of Administrative Law in accordance with the "Administrative Procedure Act," N.J.S.A. 52:14B-1 et seq. and the Office of Administrative Law hearing procedures.

1. The record for review shall be the application and any attached supporting documents, C.47:1A-5 et al., or the common law concerning access to government records. Additional evidence and documentation shall not be considered.
- (k) The final decision on an application shall be considered a final agency decision, subject to judicial review by, and of which jurisdiction and venue for such review are vested in, the Appellate Division of the Superior Court, pursuant to N.J.A.C. 17:30-17.9.

### § 17:30-7.3 CONDITIONAL CANNABIS BUSINESS LICENSE APPLICATION

(a) A conditional license applicant shall submit a complete, separate application for each cannabis business license requested and for each physical address and cannabis business premises at which a license applicant seeks to operate.

(b) A license applicant shall disclose and submit, as part of the conditional license application, the following submissions for the Commission's evaluation:

1. The mailing and physical address of the license applicant's proposed cannabis business premises;
2. The federal and State tax identification numbers for the license applicant;
3. Documentation of a valid Business Registration Certificate on file with the Division of Revenue and Enterprise Services in the Department of the Treasury;
4. Information about the license applicant entity, including its legal name, any registered alternate name under which it may conduct business, and a copy of its articles of organization and bylaws;
5. The business plan and management operation profile for the proposed cannabis business;
6. The plan by which the license applicant intends to obtain appropriate liability insurance coverage for the proposed cannabis business;
7. A regulatory compliance plan, which shall detail the plan by which the license applicant shall comply with the remaining regulatory requirements to convert to an annual license.
8. An affidavit that the statements included in the application are true and correct, sworn by the license-holder representative;
9. An authorization to release all information pertaining to the license-holder as requested by the Commission, signed by the license-holder representative; and
10. A waiver of liability for any damages results to the license-holder from any disclosure or publication in any manner, other than a willfully unlawful disclosure or publication, of any information acquired during the Licensing process, signed by the license-holder representative.
11. Any applicable fees required by N.J.A.C. 17:30-7.17; and

12. Any other application requirement established by the Commission in a Notice of Acceptance of Application published in the New Jersey Register issued pursuant to N.J.A.C. 17:30-6.1.

(c) A license applicant shall disclose and submit, as part of the conditional license application, the following submissions relating to qualification, pursuant to N.J.A.C. 17:30-7.4:

1. List of all owners, principals, and employees of the license applicant, including their names, addresses, dates of birth, resumes, and a photocopy of their driver's licenses or other state or federal government-issued form of identification which may be used to prove each person is at least 21 years of age;
2. List of the owners of the license applicant who have resided in this State for at least two years as of the date of the application, and documentation of such residency;
3. List of the owners of the license applicant and the percentage of each owner's ownership interest;
4. List of any proposed management services contractors, financial sources or vendor-contractors;
5. Personal history disclosure forms for any owners, principals, financial sources or management services contractors of the license applicant, as applicable;
6. Entity disclosure forms for any owners, principals, financial sources or management services contractors of the license applicant, including entity formation documents, any proposed or signed management services or financial source agreements, and tax returns, as applicable;
7. Proof that each owner of the conditional license applicant who has decision-making authority has, for the immediately preceding taxable year, an adjusted gross income of no more than \$200,000 or no more than \$400,000 if filing jointly with another;
8. A certification that each owner of a license applicant applying for a conditional cannabis business license who has decision-making authority does not have any ownership interest in a license applicant applying for or license-holder holding an annual cannabis business license;
9. For each owner, principal, or employee of a license applicant or license-holder as well as each staff member of a license applicant's or license-holder's management services contractor that participates in the obtaining, possession, securing, cultivating, manufacturing, transporting, selling, delivering, or destroying cannabis items, written consent to be fingerprinted and to undergo a criminal history record background check and any evidence of rehabilitation pursuant to N.J.A.C. 17:30-7.12;
10. For each owner, principal, and employee of the license applicant, certification confirming the person's submission to the jurisdiction of the courts of the State and

pledging to comply with all of the requirements of the laws of the State pertaining to the Commission;

11. For a license applicant that is a diversely owned business, the certification that the license applicant is one or more of a minority business, women's business, or disabled veterans' business, as applicable;
12. For a license applicant that is an impact zone business, evidence from any qualifying owner, passive investor, or employee proving the qualification of the person under the impact zone business criteria pursuant to N.J.A.C. 17:30-6.5;
13. For a license applicant that is a social equity business, evidence from any qualifying owner or passive investor attesting to the qualification of the person under the social equity business criteria pursuant to N.J.A.C. 17:30-6.6; and
14. For a microbusiness license applicant, proof that at least 51% of the total number of persons included in the microbusiness license applicant or license-holder, including all owners, principals, and employees, are residents of either of the municipality in which the microbusiness is or will be located, or of a municipality bordering such a municipality, at the time of the application.

(d) A conditional license applicant shall provide the Commission with a complete disclosure that includes all true parties of interest.

1. The license applicant or license-holder shall not attempt to conceal or disguise ownership or other control over its operations in its submissions, and such an attempt shall be grounds for denial of an application.

(e) Application materials submitted to the Commission pursuant to N.J.S.A. 24:6I-36 and this section shall not be considered public records pursuant to N.J.S.A. 47:1A-1 to -13 or the common law concerning access to government records.

#### § 17:30-7.4 CONDITIONAL LICENSE HOLDER QUALIFICATION

(a) A license applicant or license-holder is qualified to hold a conditional license where:

1. Each owner, principal, employee, management services contractor and financial source of the license applicant or license-holder has complied with N.J.A.C. 17:30-7.12;
2. No owner, principal, employee, or volunteer of the license applicant or license-holder has a disqualifying conviction pursuant to N.J.A.C. 17:30-7.12(d) without evidence of rehabilitation pursuant to N.J.A.C. 17:30-7.12(e);
3. No staff member of a license applicant's or license-holder's management services contractor that participates in the obtaining, possession, securing, cultivating, manufacturing, transporting, selling, delivering, or destroying cannabis items of the license applicant or license-holder has a disqualifying conviction pursuant to paragraph (d) of N.J.A.C. 17:30-7.12 without evidence of rehabilitation pursuant to paragraph (e) of N.J.A.C. 17:30-7.12;

4. At least one owner of the license applicant shall have resided in this State for at least two years as of the date of the application;
5. Each owner in the conditional license applicant who also has decision-making authority has, for the immediately preceding taxable year, an adjusted gross income of no more than \$200,000 or no more than \$400,000 if filing jointly with another; and
6. Each owner and principal of the license applicant or license-holder is eligible to be an owner or principal, respectively, of the license applicant or license-holder in accordance with N.J.A.C. 17:30-6.8.

#### § 17:30-7.5 CONDITIONAL CANNABIS BUSINESS LICENSE ACCEPTANCE, ISSUANCE

- (a) If the Commission approves an applicant applying for a conditional license, the Commission shall provide the applicant with written notice of approval.
- (b) Within five business days of receiving notice of approval, a license applicant shall notify the Commission as to whether:
  1. It will accept the license; or
  2. It will abandon the license, including if accepting the license would violate N.J.A.C. 17:30-6.8 or make the license applicant otherwise ineligible or if the circumstances of the license applicant have changed.
  3. Failure of the applicant to notify the Commission of its decision to accept or abandon the license shall result in the license being deemed abandoned.
- (c) If a license applicant from a lottery declines a license, the license shall be offered to the next applicant on the waitlist, pursuant to N.J.A.C. 17:30-6.2.
- (d) If the license applicant approved for the conditional license accepts the license and provides to the Commission the conditional licensing fee pursuant to N.J.A.C. 17:30-7:17, no later than 30 days after giving notice of approval, unless the Commission finds the applicant is not in compliance with this subchapter or the Commission is notified by the relevant municipality that the applicant is not in compliance with its ordinances or regulations in effect at the time of the application, the Commission shall issue the conditional license and provide the conditional license to the license applicant.
- (e) The Commission shall provide to a denied applicant the processes available in paragraphs (i), (j), and (k) in N.J.A.C. 17:30-7.2.

#### § 17:30-7.6 CONDITIONAL CANNABIS BUSINESS LICENSE PHASE

- (a) The conditional license phase:

1. Begins on the day that the conditional license is issued to the license applicant; and
2. Expires 120 days after the day that the conditional license was issued or at the end of an extension;
  - i. A conditional license shall not be renewed but may be extended pursuant to this section or for good cause, as deemed necessary by the Commission.
  - ii. A conditional license shall also expire if replaced with an annual license or can be revoked at the discretion of the Commission.

(b) A conditional license-holder may apply for a 45-day extension of the conditional license, and the Commission may grant the extension at its discretion.

(c) The Commission shall grant an extension of the conditional license where the conditional license-holder has submitted a complete conditional license conversion application, during the time the complete conditional license conversion application is under consideration by the Commission.

(d) During the conditional licenses phase, a conditional license-holder shall:

1. Establish control of the proposed site, through lease, purchase or other means, for the cannabis business;
2. Gain municipal approval; and
3. Develop and submit a conditional license conversion application.

(e) During the conditional license phase, a conditional license-holder shall not engage in purchasing, possessing, selling, cultivating, manufacturing, or selling cannabis or cannabis products.

(f) During the conditional license phase, the conditional license-holder may obtain additional resources by adding new loans or gifts from new or existing financial sources not listed in the conditional license application.

(g) During the conditional license phase, the majority share of the ownership interest in the license-holder shall remain the same as at the time of license issuance, however:

1. An owner or passive investor of the conditional license-holder may transfer ownership interest to another qualified party; and
2. The conditional license-holder may add new qualified owners and principals.

(h) Paragraph (g) notwithstanding:

1. A diversely owned business conditional license-holder shall not make any ownership interest transfer that causes the license applicant to no longer comply with the diversely owned business criteria, pursuant to N.J.A.C. 17:30-6.4;
2. An impact zone business conditional license-holder shall not make any ownership interest transfer that causes the license applicant to no longer comply with the impact zone business criteria, pursuant to N.J.A.C. 17:30-6.5;



3. A social equity business conditional license-holder shall not make any ownership interest transfer that causes the license applicant to no longer comply with the social equity business criteria, pursuant to N.J.A.C. 17:30-6.6;
  4. A microbusiness conditional license-holder shall not make any ownership interest transfer that causes the license applicant to no longer comply with the microbusiness license criteria, pursuant to N.J.A.C. 17:30-6.7; and
  5. A conditional license-holder shall not violate the limitations on owners and principals, pursuant to N.J.A.C. 17:30-6.8.
- (i) A conditional license-holder may apply for, and the Commission may authorize a change in the location in which the license applicant was awarded conditional license approval to a different location, and such new location shall be reflected in the conditional license conversion application.
- (j) During the conditional license phase, a conditional license-holder may also notify the Commission of its intention to abandon the license and such license will be returned to the Commission.

§ 17:30-7.7 CONDITIONAL CANNABIS BUSINESS CONVERSION APPLICATION SUBMISSION; APPROVAL; DENIAL; ACCEPTANCE; INSPECTION; ISSUANCE; AND COMMENCEMENT OF CANNABIS BUSINESS OPERATIONS

(a) The Commission shall provide notice in the New Jersey Register of the application requirements for Conditional License Conversion applications in accordance with N.J.A.C. 17:30-6.1 and this subchapter.

1. Such notice shall be compliant with this subchapter, and shall include:
  - i. Measures by which the license applicant will be scored;
  - ii. Maximum scores for each individual measure; and
  - iii. The total score required for a license applicant to be approved for a license.

(b) Prior to the expiration of the conditional license phase, a conditional license-holder shall submit a conversion application to the Commission for an annual license.

(c) Applications shall be reviewed for completeness and then scored in accordance with the criteria included in the notice pursuant to N.J.A.C. 17:30-6.1 and N.J.A.C. 17:30-7.3.

(d) The Commission may verify the information contained in a conditional conversion application by:

1. Contacting the license applicant and its owners and principals by telephone, mail or electronic mail;
2. Conducting an onsite visit; and
3. Requiring a face-to-face meeting and the production of additional identification materials if proof of identity is uncertain.

(e) At its discretion, the Commission may investigate and may conduct probity review of the license applicant, its owners, principals, and related entities and their finances, ownership, and control structure as is necessary for such verification pursuant to N.J.A.C. 17:30-7.13.

1. The license applicant shall cooperate with the Commission investigation and verification and provide all information requested by Commission staff.

(f) The Commission shall approve a license applicant for conversion to an annual license where the license applicant:

1. Has submitted a complete conditional license conversion application in accordance with N.J.A.C. 17:30-7.8
2. Has scored sufficiently high to be issued an annual license in accordance with the criteria included in the Notice of Application pursuant to N.J.A.C. 17:30-6.1 and N.J.A.C. 17:30-7.8;
3. That has been deemed qualified for an annual license pursuant to N.J.A.C. 17:30-7.11;
4. Has submitted its conditional conversion application fee, as applicable, pursuant to N.J.A.C. 17:30-7.17; and
5. Has submitted sufficient information for the Commission to determine that it is implementing the plans, procedures, protocols, actions, or other measures set forth in its conditional license application and is in compliance with all applicable conditions.

(g) A license application the Commission deems incomplete because of failure to address all applicable criteria and measures, to provide requested information, or to present truthful information in the application process shall be disqualified prior to a substantive review of the submission, and such disqualification shall be considered a final agency decision subject to judicial review pursuant to N.J.A.C. 17:30-17.9.

1. The Commission may grant a license applicant the opportunity to cure the deficiencies in a license application and resubmit it.

(h) The Commission may deny a license an applicant for conversion where the applicant:

1. Is not qualified to hold a license pursuant to N.J.A.C. 17:30-7.11
2. Has not scored sufficiently high to convert a conditional license to an annual license in accordance with the criteria included in the Notice of Application pursuant to N.J.A.C. 17:30-6.1 and this subchapter;
3. Fails to reveal any material fact pertaining to qualification under N.J.A.C. 17:30-7.11; or
4. Has been determined by the Commission, by clear and convincing evidence, to be unsuitable to hold an annual cannabis business license pursuant to N.J.A.C. 17:30-7.11.

(i) If an application is denied, the Commission shall provide the denial to the applicant in writing, which shall include:

1. Notice of the denial of the annual license and the specific reason for the denial; and
2. The opportunity to request an administrative hearing within 45 days after the date of the denial.

(j) Such administrative hearing shall take place in the Office of Administrative Law in accordance with the “Administrative Procedure Act,” N.J.S.A. 52:14B-1 et seq. and the Office of Administrative Law hearing procedures.

1. The record for review shall be the application and any attached supporting documents excluding information deemed exempt pursuant to N.J.S.A. 47:1A-1 to -13 or the common law concerning access to government records. Additional evidence and documentation shall not be considered.

(j) The final denial of an application shall be considered a final agency decision, subject to judicial review by, and of which jurisdiction and venue for such review are vested in, the Appellate Division of the Superior Court, pursuant to N.J.A.C. 17:30-17.9.

(k) Acceptance and issuance of the annual license, inspection of the cannabis business premises, and commencement of cannabis business operations shall proceed in accordance with N.J.A.C. 17:30-7.14.

#### § 17:30-7.8 CONDITIONAL CANNABIS BUSINESS CONVERSION APPLICATION

(a) The conversion application shall include the following substantive requirements:

1. All information required by N.J.A.C. 17:30-7.3, including any updates;
2. For each proposed location of a license applicant’s cannabis business premises, a description of the proposed location and its surrounding area, including the following:
  - i. The mailing and physical address of the license applicant’s proposed location;
  - ii. A description of the suitability or advantages of the proposed location; and
  - iii. A site plan of the proposed location, including a floor plan, which may optionally include renderings, architectural plans, or engineering plans.
3. For each proposed location of a license applicant’s cannabis business premises, evidence of compliance with local codes and ordinances including, but not limited to:
  - i. The distance from the closest church, synagogue, temple or other place used exclusively for religious worship; or
  - ii. The distance to the closest school, playground, park or child daycare facility;

4. Zoning approval, which shall consist of a letter or affidavit from appropriate officials of the municipality that the location will conform to municipal zoning requirements allowing for activities related to the operations of the proposed cannabis cultivator, cannabis manufacturer, or cannabis retailer as will be conducted at the proposed cannabis business premises, and any variances granted concerning the operation of a cannabis business;
5. Proof of local support, which shall be demonstrated by a resolution adopted by the municipality's governing body, or where the municipality has no governing body, a written letter of support from the municipality's executive;
6. For each proposed location of a license applicant's cannabis business premises, documentation demonstrating that the license applicant will have final control of the premises upon approval of the application, including, but not limited to, a lease agreement, contract for sale, title, deed, or similar documentation;
7. An environmental impact plan, which includes consideration of sustainable alternatives to single-use plastic packaging;
8. A safety and security plan that conforms with N.J.A.C. 17:30-9.10;
9. A community impact, social responsibility, and research statement;
10. A workforce development and job creation plan, which include an optional diversity plan;
11. Standard operating procedures for:
  - i. Adverse Event Reporting;
  - ii. Quality assurance and quality control;
  - iii. Recall;
  - iv. Packaging and Labeling;
  - v. Inventory Control, Storage, Diversion Prevention;
  - vi. Recordkeeping;
  - vii. Waste Disposal, Sanitation;
  - viii. Cultivation, manufacturing, retail sale, delivery, secure transport, as applicable, based on the class of license sought;
  - ix. Accounting and tax compliance; and
  - x. The reporting of test results, as applicable, based on the class of license sought
12. An attestation signed by a bona fide labor organization stating that the license applicant has entered into a labor peace agreement with such bona fide labor organization;

- i. A conditional license-holder operating as a microbusiness is exempted from this requirement.
  - 13. For a social equity business, diversely owned business and impact zone business, evidence the license applicant is still in compliance with the requirements of the designations;
  - 14. Any other application requirement established by the Commission pursuant to the Notice of Acceptance of Application published in the New Jersey Register pursuant to N.J.A.C. 17:30-6.1.
- (b) The conversion application shall include the annual license qualification submissions required by N.J.A.C. 17:30-7.10 (d).
- (c) A conditional cannabis business conversion applicant shall provide the Commission with a complete disclosure that includes all true parties of interest.
- 1. The license applicant or license-holder shall not attempt to conceal or disguise ownership or other control over its operations in its submissions, and such an attempt shall be grounds for denial of an application.
- (d) Application materials submitted to the Commission pursuant to N.J.S.A. 24:6I-36 and this section shall not be considered public records pursuant to N.J.S.A. 47:1A-1 to -13 or the common law concerning access to government records.

#### § 17:30-7.9 ANNUAL CANNABIS BUSINESS LICENSE APPLICATION SUBMISSION, APPROVAL, DENIAL

- (a) The Commission shall provide notice of the annual cannabis business license application requirements in accordance with N.J.A.C. 17:30-6.1.
- 1. Such notice shall be compliant with this subchapter and N.J.A.C. 17:30-7.10, and shall include:
    - i. Measures by which the license applicant will be scored;
    - ii. Maximum scores for each individual measure; and
    - iii. The total score required for a license applicant to be approved for a license.
- (b) Within 14 days of receipt of an annual license application, the Commission shall forward a copy of the application to the municipality in which the applicant desires to operate a proposed cannabis business.
- (c) Not more than 90 days after the receipt of an annual license application, the Commission shall make a determination on the application.
- 1. Such determination may include a determination that the Commission requires more time to adequately review the application.
- (d) Applications shall be reviewed for completeness and then scored in accordance with the criteria included in the notice pursuant to N.J.A.C. 17:30-6.1 and N.J.A.C. 17:30-7.10.

(e) The Commission may verify the information contained in an annual license application by:

1. Contacting the license applicant and its owners and principals by telephone, mail or electronic mail;
2. Conducting an onsite visit;
3. Requiring a face-to-face meeting;
4. Requiring the production of additional materials;

(f) At its discretion, the Commission may investigate and may conduct a probity review of the license applicant, its owners, principals, and related entities and their finances, ownership, and control structure as it deems necessary.

1. The license applicant shall cooperate with the Commission investigation and verification process and shall provide all information requested by Commission staff.

(g) The Commission shall approve a license applicant for an annual license that:

1. Has submitted a complete annual license application in accordance with N.J.A.C. 17:30-7.10
2. Has scored sufficiently high to be issued an annual license in accordance with the criteria included in the Notice of Application pursuant to N.J.A.C. 17:30-6.1 and N.J.A.C. 17:30-7.10;
3. That has been deemed qualified to hold an annual license pursuant to N.J.A.C. 17:30-7.11; and
4. That has submitted its annual license application fee, pursuant to N.J.A.C. 17:30-7.17;

(h) A license application the Commission deems incomplete because of failure to address all applicable criteria and measures, to provide requested information, or to present truthful information in the application process shall be disqualified prior to a substantive review of the submission, and such disqualification shall be considered a final agency decision subject to judicial review pursuant to N.J.A.C. 17:30-17.9.

1. The Commission may grant a license applicant the opportunity to cure the deficiencies in a license application and resubmit it.

(i) The Commission may deny a license applicant for an annual license that:

1. Is not qualified to hold an annual license pursuant to N.J.A.C. 17:30-7.11
2. Has not scored sufficiently high to be issued an annual license in accordance with the criteria included in the Notice of Application pursuant to N.J.A.C. 17:30-6.1 and N.J.A.C. 17:30-7.10;
3. Fails to reveal any material fact pertaining to qualification under N.J.A.C. 17:30-7.11; or

4. Has been determined by the Commission, by clear and convincing evidence, to be unsuitable to hold an annual cannabis business license pursuant to N.J.A.C. 17:30-7.11.

(j) If an application is denied, the Commission shall provide the denial to the applicant in writing, which shall include:

1. Notice of the denial of the annual license and the specific reason for the denial; and
2. The opportunity to request an administrative hearing within 45 days after the date of the denial.

(k) Such administrative hearing shall take place in the Office of Administrative Law in accordance with the "Administrative Procedure Act," N.J.S.A. 52:14B-1 et seq. and the Office of Administrative Law hearing procedures.

1. The record for review shall be the application and any attached supporting documents excluding information deemed exempt pursuant to N.J.S.A. 47:1A-1 et seq., C.47:1A-5 et al., or the common law concerning access to government records. Additional evidence and documentation shall not be considered.

(l) The final denial of an application shall be considered a final agency decision, subject to judicial review by, and of which jurisdiction and venue for such review are vested in, the Appellate Division of the Superior Court pursuant to N.J.A.C. 17:30-17.9.

#### § 17:30-7.10 ANNUAL CANNABIS BUSINESS LICENSE APPLICATION

(a) An applicant for an annual license shall submit a complete, separate application, on forms prescribed by the Commission, for each cannabis business license requested and for each physical address and cannabis business premises at which a license applicant seeks to operate.

(b) A license applicant shall disclose and submit, as part of the annual license applications process, the following materials for the Commission's evaluation:

1. The federal and State tax identification numbers for the license applicant;
2. Documentation of a valid Business Registration Certificate on file with the Division of Revenue and Enterprise Services in the Department of the Treasury;
3. Information about the license applicant, including its legal name, and any registered alternate name under which it may conduct business;
4. A copy of the documents reflecting the formation of the license applicant entity, including, but not limited to, articles of incorporation or organization, charter, bylaws, stock issuance records, operating agreements, partnership agreements, other formation documents filed with the Secretary of State, and any other documents that govern the legal and ownership structure of the entity;



5. If applicable, documents from the federal or state government recognizing the license applicant entity's nonprofit status;
6. A description of the proposed location and its surrounding area, including the following:
  - i. The mailing and physical address of the license applicant's proposed location;
  - ii. A description of the suitability or advantages of the proposed location;
  - iii. A site plan of the proposed location, including a floor plan, which may optionally include renderings, architectural plans, or engineering plans;
7. Evidence of compliance with local codes and ordinances including, but not limited to:
  - i. The distance from the closest church, synagogue, temple or other place used exclusively for religious worship; or
  - ii. The distance to the closest school, playground, park or child daycare facility;
8. Zoning approval, which shall consist of a letter or affidavit from appropriate officials of the municipality stating that the location will conform to municipal zoning requirements allowing for activities related to the operations of the proposed cannabis cultivator, cannabis manufacturer, or cannabis retailer to be conducted at the proposed cannabis business premises, and any variances granted concerning the operation of a cannabis business;
9. Proof of local support, which shall be demonstrated by a resolution adopted by the municipality's governing body, or where the municipality has no governing body, a written letter of support from the municipality's executive;
10. Documentation demonstrating that the license applicant will have final control of the premises upon approval of the application. Documentation includes, but is not limited to, a lease agreement, contract for sale, title, deed, or similar documentation;
11. Where a license applicant will lease the premises, certification from the landlord that the landlord is aware that the tenant's use of the premises will involve activities associated with operations as a cannabis cultivator, cannabis manufacturer, or cannabis retailer;
  - i. An application for an annual license that does not include such certification shall be disqualified from consideration;
12. The plan by which the license applicant intends to obtain appropriate liability insurance coverage for the proposed cannabis business;
13. Evidence supporting any of the following bonus point categories, as applicable:
  - i. License applicants that are party to a collective bargaining agreement with a bona fide labor organization that currently represents, or is actively seeking to represent, cannabis workers in New Jersey;

- ii. License applicants that are party to a collective bargaining agreement with a bona fide labor organization that currently represents cannabis workers in another state;
  - iii. License applicants that submit a signed project labor agreement with a bona fide building trades labor organization for the construction or retrofit of the facilities associated with the license applicant;
  - iv. License applicants that submit a signed project labor agreement with a bona fide labor organization for any other applicable project associated with the license applicant; and
  - v. License applicants that include at least one owner lawfully residing in New Jersey for at least five years as of the date of the application;
14. An operating plan, including, as applicable, a cultivation, manufacturing, or retail sale operating plan pursuant to sub subparagraphs (i), (ii), and (iii) of subparagraph (b) of paragraph (1) or subsection (d) of N.J.S.A. 24:6I-36;
15. A business and financial plan;
16. An environmental impact plan, which shall, at a minimum, include consideration of sustainable alternatives to single-use plastic packaging, efforts to minimize water usage, and any other factor required by the Commission in a Notice of Application Acceptance published in the New Jersey Register issued pursuant to N.J.A.C. 17:30-6.1;
17. A safety and security plan that conforms with N.J.A.C. 17:30-9.10;
18. A community impact, social responsibility, and research statement;
19. A workforce development and job creation plan, which may include an optional diversity plan;
20. Standard operating procedures for:
- i. Adverse Event Reporting;
  - ii. Quality assurance and quality control;
  - iii. Recall;
  - iv. Packaging and Labeling;
  - v. Inventory Control, Storage, Diversion Prevention;
  - vi. Recordkeeping;
  - vii. Waste Disposal, Sanitation;
  - viii. Cultivation, manufacturing, retail sale, delivery, secure transport, as applicable, based on the class of license sought;
  - ix. Accounting and tax compliance; and

- x. The reporting of test results, as applicable, based on the class of license sought.
21. An attestation signed by a bona fide labor organization stating that the license applicant has entered into a labor peace agreement with a bona fide labor organization;
    - i. This requirement does not apply to a microbusiness applying for an annual license.
  22. If a license applicant intends to enter into or has entered into a partnership with a re-entry program for the purpose of identifying and promoting employment opportunities for currently or formerly incarcerated people at the cannabis business, the details of such partnership including:
    - i. The name of the re-entry program;
    - ii. The employment or training opportunities at the license applicant's cannabis business that will be made available to the re-entry population;
    - iii. Any other initiatives the license applicant will undertake to provide support and assistance to the re-entry population; and
    - iv. The training and support offered or provided for the advancement of the re-entry population.
  23. An affidavit that the statements included in the application are true and correct, sworn by the license-holder representative;
  24. An authorization to release all information pertaining to the license-holder as requested by the Commission, signed by the license-holder representative; and
  25. A waiver of liability for any damages results to the license-holder from any disclosure or publication in any manner, other than a willfully unlawful disclosure or publication, of any information acquired during the Licensing process, signed by the license-holder representative.
  26. Any other information the Commissions deems relevant in determining whether to grant a license to the applicant.
- (c) The cannabis retailer annual license application shall include a certification that the proposed cannabis retailer location is not in or upon any premises in which operates a grocery store, delicatessen, indoor food market, or other store engaging in retail sales of food; or any premises in which operates a store that engages in licensed retail sales of alcoholic beverages, as defined by subsection b. of N.J.S.A. 33:1-1.
- (d) A license applicant shall disclose and submit, as part of the annual license application, the following submissions relating to its qualification for an annual license, pursuant to N.J.A.C. 17:30-7.11:
1. License applicant and cannabis business organizational charts identifying ownership, control, and operational structure, including owners, principals,

management services contractors, managers, as well as all parent companies, subsidiaries, affiliates, predecessors, and successors of the license applicant.

2. List of all persons that are owners, passive investors, principals, and managers of the license applicant, including their names, addresses, dates of birth, and each owner's and passive investor's percentage of ownership interest.
3. For all persons that are owners or principals of the license applicant, a copy of their driver's license or other photo identification issued by the State, another state, or the federal government which shall be proof that the person is at least 21 years of age;
4. For all persons that are owners and principals of the license applicant, a completed Personal History Disclosure Form, including a resume;
5. List of the persons that are owners of the license applicant who have resided in this State for at least two years as of the date of the application, and documentation of such residency;
6. For each owner, principal, or employee of a license applicant or license-holder as well as for each staff member of a license applicant's or license-holder's management services contractor that participates in the obtaining, possession, securing, cultivating, manufacturing, transporting, selling, delivering, or destroying cannabis items, proof that the person has been fingerprinted and written consent to undergo a criminal history record background check pursuant to N.J.A.C. 17:30-7.12;
7. For any person seeking to become an owner, principal, or employee of a license applicant or license-holder who has a disqualifying conviction pursuant to N.J.A.C. 17:30-7.12(d), evidence of rehabilitation pursuant to N.J.A.C. 17:30-7.12(e), if any.
8. For any person seeking to become a staff member of a license applicant's or license-holder's management services contractor that participates in the obtaining, possession, securing, cultivating, manufacturing, transporting, selling, delivering, or destroying cannabis items who has a disqualifying conviction pursuant to paragraph (d) of N.J.A.C. 17:30-7.12, evidence of rehabilitation pursuant to paragraph (e) of N.J.A.C. 17:30-7.12, if any.
9. For the license applicant and each of its owners, principals, or managers, a list of any criminal charges or convictions.
10. List of entities that are owners, passive investors, principals, and management services contractors of the license applicant, including their names, addresses, and each owner's and passive investor's percentage of ownership interest.
11. For all entities that are an owner, principal, or management services contractor of a license applicant, a completed Entity Disclosure Form
12. For all persons or entities that hold at least 10% aggregate ownership interest in or are a member of the executive team of a management services contractor of a license applicant, their names, addresses, dates of birth, position held, percentage

of ownership interest in the management services contractor entity, and a completed Personal History Disclosure Form for each person;

- i. Except that for a person or entity holding ownership interest in or control over a management services contractor that is a qualified institutional investor, a completed Personal History Disclosure Form for each person is not required.

13. Any management services agreement, pursuant to N.J.A.C. 17:30-6.9.

14. List of all parent companies, subsidiaries, affiliates, predecessors, and successors of the license applicant;

15. List that describes, beginning with the formation of the license applicant entity, any and all events such as sales, mergers, business combinations, or consolidations involving the entity, including all former names of the entity.

16. List of all financial sources, including qualified institutional investors, holding debt of the license applicant;

- i. The nature, type, terms, covenants, and priorities of all outstanding debts of the license applicant, including but not limited to bonds, loans, mortgages, trust deeds, debentures, lines of credit, notes issued or executed, or to be issued or executed, or other forms of indebtedness of the license applicant or on its behalf.
- ii. A completed Entity Disclosure Form for each financial source, except a qualified institutional investor;
- iii. A completed Personal History Disclosure Form for each financial source that is a person.

17. Any proposed or executed contract, term sheet, agreement, or side letter between an owner, principal, or financial source and another party that relates to the ownership and control structure, assets, liabilities, real or intellectual property, revenue, funding or capitalization, royalties, profit or future profit of the license applicant or comparable documents that change the legal structure of the license applicant, including any financial source agreement, pursuant to N.J.A.C. 17:30-6.10.

18. A list of all vendor-contractors with whom the license applicant has contracts or agreements.

19. For the license applicant and each of its owners, principals, managers, management services companies, parent companies, subsidiaries, affiliates, predecessors, or successors:

- i. A list of any organizations that hold or previously held permits, licenses, or other authorizations to participate in the cultivation, manufacturing, sale, or distribution of medical cannabis or cannabis in any jurisdiction, including a foreign jurisdiction, where the person or entity serves or served as an owner, principal, or employee for six or more months;

20. For the license applicant and each of its parent companies, subsidiaries, affiliates, predecessors, or successors:
- i. A list of any previous violation of or judgment, order, consent decree, consent order, sanction, or penalty pertaining to any state or federal statute, regulation or code; and
  - ii. A list of all pending litigation or past litigation that concluded in the last five years, whether in the State or in another jurisdiction, in which the entity was involved.
21. A list of every financial institution at which the license applicant has had an account in the last 5 years.
22. A list of bankruptcy or insolvency proceedings by the license applicant, and each of its parent companies, subsidiaries, affiliates, predecessors, or successors, and a copy of any bankruptcy decree as a result of the same.
23. A list of any charitable contributions by the license applicant in the last 5 years.
24. A list of stocks held by the license applicant;
25. For each owner, principal, management services contractor, and employee of the license applicant, certification confirming the person's or entity's submission to the jurisdiction of the courts of the State and agreeing to comply with all of the requirements of the laws of the State pertaining to the Commission;
26. For a license applicant that is a diversely owned business, the certification that the license applicant is a minority business, women's business, or disabled veterans' business, in accordance with N.J.A.C. 17:30-6.4;
27. For a license applicant that is an impact zone business, an attestation from any qualifying owner, passive investor, or employee attesting to their qualification under the impact zone business criteria pursuant to N.J.A.C. 17:30-6.5.
28. For all license applicants, including a social equity business, an attestation from any qualifying owner or passive investor attesting to the qualification of the person under the social equity business criteria pursuant to N.J.A.C. 17:30-6.6.
29. For a microbusiness license applicant, proof that at least 51% of the total number of persons included in the microbusiness, including all owners, principals, and employees, are residents of either of the municipality in which the microbusiness is or will be located, or of a municipality directly bordering such a municipality, at the time of the application.
30. An affirmation that the license applicant exercised reasonable care to confirm its submission information and the ability of each person or entity in its submission to serve as an owner or principal without violating N.J.A.C. 17:30-6.8.
31. Any other application requirement established by the Commission in a Notice of Acceptance of Application published in the New Jersey Register issued pursuant to N.J.A.C. 17:30-6.1.

(e) A license applicant shall provide the Commission a complete disclosure pursuant to N.J.A.C. 17:30-7.10(d) that includes all true parties of interest.

1. The license applicant or license-holder shall not attempt to conceal or disguise ownership or other control over its operations in its submissions.

(f) Application materials submitted to the Commission pursuant to N.J.S.A. 24:6I-36 or this section shall not be considered public records pursuant to N.J.S.A. 47:1A-1 to -13 or the common law concerning access to government records.

#### § 17:30-7.11 QUALIFICATION FOR ANNUAL CANNABIS BUSINESS LICENSE

(a) A license applicant or license-holder is qualified to hold an annual license where:

1. Each owner, principal, employee, or volunteer of a license applicant or license-holder as well as each staff member of a license applicant's or license-holder's management services contractor that participates in the obtaining, possession, securing, cultivating, manufacturing, transporting, selling, delivering, or destroying cannabis items has submitted a criminal history background check pursuant to N.J.A.C. 17:30-7.12;
2. No owner, principal, employee, or volunteer of a license applicant or license-holder has a disqualifying conviction pursuant to paragraph (d) of N.J.A.C. 17:30-7.12 without evidence of rehabilitation pursuant to paragraph (e) of N.J.A.C. 17:30-7.12;
3. No staff member of a license applicant's or license-holder's management services contractor that participates in the obtaining, possession, securing, cultivating, manufacturing, transporting, selling, delivering, or destroying cannabis items of the license applicant or license-holder has a disqualifying conviction pursuant to N.J.A.C. 17:30-7.12(d) without evidence of rehabilitation pursuant to N.J.A.C. 17:30-7.12(e);
4. At least one owner of the license applicant has resided in this State for at least two years as of the date of the application;
5. Each owner and principal of the license applicant or license-holder is eligible to be an owner or principal, respectively, of the license applicant or license-holder in accordance with N.J.A.C. 17:30-6.8;
6. If a diversely owned business, the license applicant or license-holder fulfills all of the diversely owned business requirements pursuant to N.J.A.C. 17:30-6.4;
7. If an impact zone business, the license applicant or license-holder fulfills all of the impact zone business requirements pursuant to N.J.A.C. 17:30-6.5;
8. If a social equity business, the license applicant or license-holder fulfills all of the social equity business ownership requirements pursuant to N.J.A.C. 17:30-6.6;
9. If a microbusiness, the license applicant or license-holder fulfills all of the microbusiness ownership requirements pursuant to N.J.A.C. 17:30-6.7;



10. No employee of any State, county, or local government entity involved in the process of reviewing, processing, or making determinations with regard to cannabis business license applications has any direct or indirect financial interest in the license applicant or license-holder; and
11. The license applicant or license-holder has not provided anything of value to an employee of any State, county, or local government entity involved in the process of reviewing, processing, or making determinations with regard to license applications in exchange for reviewing, processing, or making any recommendations with respect to a license application.

(b) A license applicant or license-holder is not qualified to hold a license where the license applicant or license-holder:

1. Does not meet the requirements of paragraph (a);
2. Fails to provide information, documentation, and assurances as required by P.L.2021, c.16 (C.24:6I-31 et al.) or this subchapter or as requested by the commission, including failure to provide a required criminal history record background check or to cooperate with the Commission in its investigation of the conditional license applicant;
3. Fails to reveal any material fact pertaining to qualification;
4. Supplies information that is untrue or misleading as to a material fact pertaining to the qualification criteria for a conditional license; or
5. Has been determined by the Commission to be unsuitable to hold a cannabis business license pursuant paragraph (c) of this section.

(c) The Commission may determine a license applicant or license-holder is unsuitable pursuant to (b)5., above, where the license applicant or license-holder has demonstrated:

1. A danger to the public health, safety, and general welfare of the State; or
2. A history of:
  - i. Distributing marijuana to minors;
  - ii. Involvement with organized crime;
  - iii. Diverting marijuana from personal use or cannabis states to other states;
  - iv. Engaging in trafficking of controlled substances not authorized by the Act or this chapter, or other illegal activity;
  - v. Engaging in violence or the use of firearms as part of cannabis business operations.

(d) If the person is determined to be not qualified for an annual license, such disqualification shall be considered a final agency action subject to judicial review pursuant to N.J.A.C. 17:30-17.9, and the Commission shall provide the determination to the person in writing, which shall include:

1. Notice of the determination of disqualification, including when disqualification is due to a disqualifying conviction pursuant to paragraph (d) of N.J.A.C. 17:30-7.12 or the determination of the absence of sufficient evidence of rehabilitation pursuant to paragraph (e) of 17:30-7.12;
2. The specific reason for the disqualification, including any conviction that constitutes the basis for the disqualification; and
3. Information about appeal rights pursuant to N.J.A.C. 17:30-17.9.

#### § 17:30-7.12 CRIMINAL HISTORY BACKGROUND CHECK

(a) Each owner, principal, employee, or volunteer of a cannabis business or testing laboratory license applicant or license-holder or staff member of a license applicant's or license-holder's management services contractor shall provide written consent to submit to a criminal history background check pursuant to the Act and shall comply with procedures established by the Division of State Police pursuant to N.J.A.C. 13:59 for obtaining readable fingerprint impressions.

1. The license applicant, or license holder, as applicable, shall bear the cost for the criminal history background check, including all costs of fingerprinting and administering and processing the check.
2. For a management services contractor, only staff members that participate in obtaining, possessing, securing, cultivating, manufacturing, transporting, selling, delivering, or destroying cannabis items on behalf of a license applicant or license holder shall be required to consent and comply with a criminal history record background check.

(b) A person who is required to undergo a criminal history background check pursuant to this section who refuses to consent to, or cooperate in, the securing of a check of criminal history and background information shall not be considered by the Commission for participation in a license applicant or license-holder.

(c) Where the criminal history background information demonstrates that a person has been convicted of a disqualifying conviction pursuant to paragraph (d), the Commission shall find the person disqualified from holding a license and shall not approve the person for participation in a license applicant or license holder.

(d) A disqualifying conviction is a conviction:

1. Of an indictable offense under this State's law, or equivalent offense under federal law or any other state's law, that is substantially related to the qualifications, functions, or duties for which the license is required:
  - i. Which shall include:
    - a. Paragraph (b) of N.J.S.A. 2C:35-4.1 (Booby traps in manufacturing or distribution facilities);

- b. N.J.S.A. 2C:35-6, (Employing a juvenile in a drug distribution scheme, or a similar indictable offense involving the use of a minor to dispense or distribute a controlled dangerous substance or controlled substance analog);
  - c. N.J.S.A. 2C:35-8 (Distribution to persons under age 18);
  - d. N.J.S.A. 2C:35-11.1 (Counterfeit drugs, medical devices); and
  - e. N.J.S.A. 2C:36-5 (Delivering drug paraphernalia to person under 18 years of age).
- ii. Which may include any State, other state, or federal offense involving fraud, deceit, or embezzlement.
- 2. Where not more than five years have passed since the date of that conviction, satisfactory completion of probation or parole, or release from incarceration, whichever is later.

(e) Notwithstanding the provisions of paragraph (c) to the contrary, a person required to consent to a criminal history background check under paragraph (a) of this subchapter shall not be disqualified on the basis of any disqualifying conviction disclosed by a criminal history record background check if the person has affirmatively demonstrated to the Commission clear and convincing evidence of rehabilitation. In determining whether clear and convincing evidence of rehabilitation exists the Commission shall conduct a thorough review of any disqualifying conviction and consider and examine the following factors:

- 1. The nature and responsibility of the position that the person with a conviction would hold, has held, or currently holds;
- 2. The nature and seriousness of the crime or offense;
- 3. The circumstances under which the crime or offense occurred;
- 4. The date of the crime or offense;
- 5. The age of the person when the crime or offense was committed;
- 6. Whether the crime or offense was an isolated or repeated incident;
- 7. Any social conditions which may have contributed to the commission of the crime or offense; and
- 8. Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of those who have had the person under their supervision.

(f) Notwithstanding the provisions of paragraph (c) to the contrary, the Commission may, in its discretion, offer provisional authority for a person to be an owner, principal, or employee of a cannabis business or testing laboratory license applicant or license-holder

for a period not to exceed three months if the person submits to the Commission a sworn statement attesting that the person has not been convicted of any disqualifying conviction.

1. Such person's provisional status does not guarantee a person's qualification.
2. Submission of a false attestation shall result in a determination of the person's disqualification, the revocation of the person's provisional status and any cannabis business Identification card and may result in permanent ineligibility for the person to participate in a license applicant or license-holder.
3. If a license applicant or license-holder demonstrates a pattern of submission of such false attestations, the Commission may sanction the license applicant or license-holder pursuant to Subchapter 17, including with civil monetary penalties.

(g) In accordance with the provisions of the Administrative Procedures Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., and the Uniform Administrative Procedures Rules, N.J.A.C. 1:1, any individual disqualified from owning, operating or being employed by a cannabis business or testing laboratory license applicant or license-holder shall be given an opportunity to challenge the accuracy of the disqualifying criminal history record prior to being permanently disqualified from participation.

1. Such challenges shall be made within 20 days of the disqualification.

#### § 17:30-7.13 PROBITY REVIEW

(a) After the receipt of an application from a license applicant, as part of verification and probity review, the Commission, at its discretion, may require additional information and the submission by the license applicant of supporting documents and other evidence before issuing a license.

(b) At the discretion of the Commission, an owner, passive investor, management services contractor, or financial source may be required to submit documentation verifying the source of the funds provided to the license applicant, including but not limited to, a promissory note, credit facility, debt instrument, guarantor agreement, or loan agreement, as well as closing documents.

(c) At the discretion of the Commission, the following persons or entities may be required to submit to a financial probity review:

1. Owners;
2. Principals;
3. Members of a governing body that governs an owner or a principal of a license applicant or license-holder that is an entity;
4. Management services contractors contracting with a license applicant;
5. Any person or entity that holds at least 10% aggregate ownership interest in or who is a member of the executive team of a management services contractor contracting with a license applicant or license-holder;

6. Financial sources that are not a qualified institutional investor;
7. Any person or entity that holds at least 10% aggregate ownership interest in or who is a member of the executive team of a financial source entity that is not a qualified institutional investor; and
8. Vendor-contractors.

(d) Financial probity review for a person for the purposes of verification for a license application and qualification for a license may include submission of:

1. A State driver's license, or other photo identification issued by the State, another state, or the federal government;
2. A passport;
3. Any college diploma, transcript or letter from a registrar providing confirmation of graduation;
4. Ownership documents for any vehicles, aircraft or boats owned by the person or the person's business;
5. Any professional licenses held, and any documents related to sanctions imposed or known investigations in connection with those licenses;
6. Any criminal record history, along with police report and disposition, and any information regarding rehabilitation pursuant to paragraph (e) of N.J.A.C. 17:30-7.12;
7. Documentation for any business, aside from the license applicant, in which the person currently holds at least 25% ownership interest, including but not limited to, partnership papers, operating agreements, and stock registry-stock certificates;
8. Summary of any pending litigation or past litigation that concluded during the previous five (5) years, other than divorce, in which the person was involved, including docket number, venue, cause of action, named litigants, a copy of the complaint, and disposition or current status;
9. Any employment contract or offer letter between the license applicant and the person;
10. Most recently filed individual state, federal, and foreign tax returns including Schedule K1, and, if applicable, most recently filed letter requesting an extension;
11. Most recently filed business state, federal, and foreign tax returns for any business, aside from the license applicant, in which the person holds more than 50% ownership interest;
12. All most recently issued W-2 and 1099 forms;
13. Current account statement for any personal bank account, including a money market account, for which the person has signatory authority;

14. An original deed and purchase settlement statement, for any real estate property in which the person has an ownership interest;
15. The declaration page of any cash value life insurance policy held by the person and the names of all beneficiaries, including the name, trustee and beneficiaries of any trust;
16. Current account statement for any pension or retirement account held by the person, including any 401k;
17. Current account statement for any account held by the person that holds securities, including a brokerage or investment account;
18. Any notes or loans receivable in the person's name;
19. Any notes or loans payable in the person's name;
20. Any documents relative to any contingent liabilities in which the person serves as a guarantor;
21. Any liens, judgments or taxes payable levied against the person; and
22. Additional identifying information about the person's immediate family, including but not limited to marriage, death and birth certificates.

(e) Financial probity review for an entity for the purposes of verification of license application submissions and qualification may include submission of:

1. Entity organizational chart;
2. Entity business formation documents;
3. List and summary of all fines or sanctions imposed by any agency regulating cannabis on the entity in any jurisdiction and the circumstances surrounding such fines or sanctions;
4. Summary of any pending litigation or past litigation that concluded during the previous five years in which the entity or its subsidiaries was involved, including docket number, court name, cause of action, named litigants, a copy of the complaint, and disposition or current status;
5. Documentation for any company, aside from the license applicant, in which the entity currently holds at least 25% ownership interest, including but not limited to, partnership papers, operating agreements, and stock registry-stock certificates;
6. Most recently filed individual state, federal, and foreign tax returns including Schedule K1, and, if applicable, most recently filed letter requesting an extension;
7. Most recently filed business state, federal, and foreign tax returns for any business, aside from the license applicant, in which the entity holds more than 50% ownership interest;
8. Minutes of the meetings of and resolutions passed by the entity's governing board for the previous two calendar years;

9. Most recently filed annual financial reports of the entity that are required to be filed by a national securities exchange or over the counter market;
  10. Unaudited balance sheet and income statement or audited financial statement of the entity for the 24 months previous to the application;
  11. Monthly bank statements for the previous year for all entity bank accounts related to the license applicant;
  12. Any notes or loans receivable in the entity's name;
  13. Any notes or loans payable in the entity's name;
  14. Any liens, judgments or taxes payable levied against the entity;
  15. Where the entity is a publicly traded corporation or a private capital fund, a complete list of persons and entities with any ownership interest in the entity; and
  16. Any other information the Commission deems relevant in determining whether to grant a license to the applicant.
- (f) Probity review materials submitted to the Commission pursuant to N.J.S.A. 24:6I-36. or this section shall not be considered public records pursuant to N.J.S.A. 47:1A-1 to -13 or the common law concerning access to government records.

§ 17:30-7.14 ANNUAL CANNABIS BUSINESS LICENSE ACCEPTANCE, INSPECTION, ISSUANCE, COMMENCEMENT OF OPERATIONS

- (a) After the Commission approves a license applicant applying for an annual license pursuant to N.J.A.C. 17:30-7.9 the Commission shall give written notice of approval to the applicant.
- (b) Within seven business days after receiving notice of approval, a license applicant shall notify the Commission as to whether:
1. It will accept the license, or,
  2. It will abandon the license, including if accepting the license would violate N.J.A.C. 17:30-6.8 or make the license applicant otherwise ineligible or if the circumstances of the license applicant have changed.
  3. Failure of the applicant to notify the Commission of its decision to accept or abandon the license shall result in the license being deemed abandoned.
- (c) If a license applicant from a lottery abandons a license, the license shall be offered to the next license applicant on the waitlist, pursuant to N.J.A.C. 17:30-6.2.
- (d) If the license applicant accepts the annual license, it shall submit the annual licensing fee, pursuant to N.J.A.C. 17:30-7.17.
- (e) A license applicant shall have 365 days from the date of the notice of approval to request a final onsite assessment pursuant to (g) of this subchapter.



(f) The license applicant has a continuing duty to seek approval for or report changes in the information submitted as part of the annual license application, pursuant to N.J.A.C. 17:30-9.2.

1. If a material change occurs to an application that is otherwise complete, the Commission may deem the application incomplete pending further review.

(g) After the license applicant has completed construction and preparation of its cannabis business premises, the license applicant shall request in writing that the Commission conduct a final onsite assessment.

(h) The Commission shall conduct a final onsite assessment of the cannabis business and shall determine whether the cannabis business premises, operations, plans, procedures, protocols, and actions are consistent with the annual license application and compliant with the Act, this chapter, and any additional requirements provided by the Commission.

(i) No later than 30 days after such onsite assessment, unless the Commission finds the applicant is not in compliance with this subchapter or the Commission is notified by the relevant municipality that the applicant is not in compliance with its ordinances or regulations in effect at the time of the application, the Commission shall issue the annual license and provide the annual license to the license applicant.

1. An annual license shall be valid for one year from its date of issuance and may be renewed annually.

(j) If the Commission determines that the annual license applicant is not compliant pursuant to paragraph (f), or the license applicant does not undergo a successful final onsite assessment yielding a determination of compliance pursuant to paragraph (h) within 365 days of the notice of approval, the Commission shall decline to issue the annual license approval and the license shall be returned to the Commission.

(k) Within 14 days of the issuance of an annual license, the license-holder shall notify the Commission in writing of a proposed opening date for the cannabis business.

#### § 17:30-7.15 ANNUAL MICROBUSINESS LICENSE CONVERSION PROCESS: APPROVAL; DENIAL; ISSUANCE

(a) After at least one year of operation, a microbusiness holding an annual license may apply to the Commission to convert to a standard cannabis business and expand its physical plant and capacity beyond the limitations established in N.J.A.C. 17:30-6.7.

(b) The Commission shall review such application and verify the information contained in such application is truthful.

1. The license applicant shall cooperate with the Commission investigation and verification process and provide all information requested by Commission staff.

(c) The Commission shall approve an annual microbusiness license conversion applicant for conversion to an annual standard cannabis business license if its application:

1. Is complete;
2. As applicable, demonstrates that the license-holder is projected to exceed the operational restrictions of a microbusiness pursuant to N.J.A.C. 17:30-6.7.
3. Includes:
  - i. a renovation or relocation plan that specifically addresses quality control procedures for the protection of cannabis and cannabis products from any contamination during the construction process and any other criteria the Commission requires;
  - ii. a recitation of the microbusiness's cultivation, manufacturing, or sales, as applicable, of the 180 days preceding the application, and an explanation for the request to expand business capacity and its justification by the projected needs of the consumers it will serve;
  - iii. an amended version of the most recent annual microbusiness license application or renewal that provides an overview of the license-holder's proposed changes, including:
    - a. a proposed site plan demonstrating the license-holder's ability to operate at an expanded capacity and physical plant; and
    - b. A proposed business plan demonstrating, the license-holder's ability to cultivate, manufacture, or sell cannabis or cannabis products at an expanded capacity;
  - iv. An attestation signed by a bona fide labor organization stating that the license applicant has entered into a labor peace agreement with such bona fide labor organization;
  - v. Submission of a converted standard cannabis business license licensing fee pursuant to N.J.A.C. 17:30-7.17; and
  - vi. Any other information the Commission deems relevant in determining whether to grant a conversion to the applicant;
4. Complies with all provisions of the Act and this chapter.

(d) If the Commission determines that the criteria of paragraph (c) have not been met, the Commission shall deny the annual microbusiness license conversion application and the license-holder shall continue to operate in compliance with the provisions of N.J.A.C. 17:30-6.7.

(e) If an application is denied, the Commission shall provide the denial to the applicant in writing, which shall include notice of the denial of the annual standard cannabis business license and the specific reason for the denial.

(f) The final decision on an application shall be considered a final agency decision, subject to judicial review by, and of which jurisdiction and venue for such review are vested in, the Appellate Division of the Superior Court pursuant to N.J.A.C. 17:30-17.9.

(g) The Commission shall provide written notice of approval to the microbusiness, authorizing the license-holder to convert to a standard cannabis business and expand its capacity and physical plant.

(h) Prior to issuing an amended license, the Commission may conduct an onsite assessment of the cannabis business and shall determine whether the cannabis business premises, operations, plans, procedures, protocols, and actions are compliant with the Act, this chapter, and any requirements or conditions provided by the Commission, and whether they are being implemented.

(i) After the Commission has conducted any verification pursuant to paragraph (b), and if the Commission has determined compliance pursuant to paragraph (i), the Commission shall issue an amended license to the license applicant.

1. The requirements specific to a microbusiness, pursuant to N.J.A.C. 17:30-6.7 shall no longer apply to such license-holder.

(j) If the Commission determines that the license-holder is not compliant pursuant to paragraph (i), the Commission the license-holder shall continue to operate in compliance with N.J.A.C. 17:30-6.7.

(k) Notwithstanding a microbusiness' converted operations, any microbusiness authorized to expand in accordance with this subchapter shall be counted towards the percentages of licenses that are designated for and only issued to microbusinesses pursuant to N.J.S.A.24:6I-36.f.(1).

#### § 17:30-7.16 RENEWALS

(a) A license-holder holding an annual license, including an annual license converted from a conditional license, shall renew such annual license annually.

(b) The Commission may renew a license subject to conditions set forth in this chapter.

(c) A license-holder shall submit a renewal application and the annual licensing fee pursuant to N.J.A.C. 17:30-7.17 no later than 90 days prior to the expiration of the current cannabis business license.

(d) Pursuant to paragraph (c), the following may be grounds for denial of a license renewal application:

1. Failure to provide truthful, correct and current information;
2. Failure to maintain compliance with this Act or this chapter;
3. Failure to maintain its diversely owned business, impact zone business, social equity business, or microbusiness status; or
4. The inclusion of a person or entity not deemed qualified to hold a license.

(e) Renewal materials submitted to the Commission pursuant to N.J.S.A. 24:6I-7.2. or this section shall not be considered a public record pursuant to N.J.S.A. 47:1A-1 to -13 or the common law concerning access to government records.

#### § 17:30-7.17 CANNABIS BUSINESS AND TESTING LABORATORY FEES

(a) The following fees shall be paid by conditional license applicants or license-holders, as applicable:

- |   |       |
|---|-------|
| 1. Conditional microbusiness license application submission fee                         | \$100 |
| 2. Conditional standard cannabis business license application submission fee            | \$200 |
| 3. Conditional microbusiness license application approval fee                           | \$400 |
| 4. Conditional standard cannabis business license application approval fee              | \$800 |
| 5. Conditional microbusiness license conversion application submission fee              | \$100 |
| 6. Conditional standard cannabis business license conversion application submission fee | \$200 |
| 7. Conditional microbusiness license conversion application approval fee                | \$400 |
| 8. Conditional standard cannabis business license conversion application approval fee   | \$800 |

(b) Submission fees represent 20% of the total application fee and shall be payable by all conditional license applicants.

(c) Approval fees represent 80% of the total application fee and shall only be payable by successful conditional license applicants.

(d) The following licensing fees shall be paid by license applicants or license-holders, as applicable:

- |   |             |
|---|-------------|
| 1. Annual microbusiness license application submission fee              | \$200       |
| 2. Annual standard cannabis business license application submission fee | \$400       |
| 3. Annual microbusiness license application approval fee                | \$800       |
| 4. Annual standard cannabis business license application approval fee   | \$1,600     |
| 5. Expanded ATC certification fee:                                      |             |
| a. Medical cannabis cultivator expansion                                | \$400,000   |
| b. Medical cannabis manufacturer expansion                              | \$300,000   |
| c. Medical cannabis dispensary expansion                                | \$100,000   |
| d. Vertically integrated ATC with three dispensaries                    | \$1,000,000 |
| e. Vertically integrated ATC with two dispensaries                      | \$900,000   |

- f. Vertically integrated ATC with one dispensary \$800,000
- 6. Annual microbusiness cannabis cultivator initial or renewal licensing fee \$1,000
- 7. Annual standard cannabis cultivator initial or renewal licensing fee
  - i. Tier I
    - \$5,000
  - ii. Tier II
    - \$10,000
  - iii. Tier III
    - \$20,000
  - iv. Tier IV
    - \$30,000
  - v. Tier V
    - \$40,000
  - vi. Tier VI
    - \$50,000
- 8. Annual microbusiness cannabis manufacturer initial or renewal licensing fee \$1,000
- 9. Annual standard cannabis manufacturer initial or renewal licensing fee
  - i. With premises up to 10,000 square feet \$20,000
  - ii. With premises greater than 10,000 square feet premises
    - \$30,000
- 10. Annual microbusiness cannabis retailer initial or renewal licensing fee \$1,000
- 11. Annual standard cannabis retailer initial or renewal licensing fee \$10,000
- 12. Annual microbusiness license conversion application submission fee \$200
- 13. Annual microbusiness license conversion application approval fee \$800
- 14. Testing laboratory license application submission fee \$400
- 15. Testing laboratory license application approval fee \$1,600
- 16. Testing laboratory initial or renewal licensing fee \$4,000
- 17. Background investigation fee
  - i. Financial source
    - \$1,000
  - ii. Management services contractor
    - \$1,000

- iii. Each owner or principal of cannabis business or testing laboratory  
\$250

18. Cannabis Business Identification Card issuance fee \$25

(e) Submission fees represent 20% of the total application fee and shall be payable by all annual license applicants.

(f) Approval fees represent 80% of the total application fee and shall only be payable by successful annual license applicants.

(g) An expanded ATC shall pay initial or renewal licensing fees in accordance with the license(s) it holds, pursuant to paragraph (d).

(h) Annual initial or renewal licensing fees in paragraph (d) shall include an annual license converted from a conditional license.

(i) For the licensing fees in the first year of operation for a cannabis business following the initial issuance of the cannabis business's license(s), the amount due in annual licensing fee shall be reduced by subtracting the amount of application submission and approval fees submitted pursuant to this subchapter from the total amount of annual licensing fees due for the cannabis business.

1. Background investigation fees shall not be considered application fees pursuant to this provision.

(j) The following material change fees shall be paid by license-holders, as applicable:

1. The fee to apply for a change of location of a cannabis business premises is:
  - i. Standard cannabis business annual license-holder: \$10,000; or
  - ii. Microbusiness license-holder: \$1,000
2. The fee to apply for a change or modification of the cannabis business' capacity or physical plant is \$2,000;
  - i. This fee shall not apply to a microbusiness converting to a standard cannabis business pursuant to N.J.A.C. 17:30-7.15; and
3. The fee to apply for the transfer of more than 50% of ownership interest in a license-holder is \$20,000.
  - i. Any financial source, management services contractor, or owner or principal may be required to pay background investigation fees as part of an ownership interest transfer.

(k) Fees shall be paid by certified check, money order, or any other form of payment approved by the Commission, and made payable to the "Treasurer, State of New Jersey."

(l) Fees shall be deposited in the "Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Fund" established under N.J.S.A. 24:6I-50.

(m) Conditional license applicants or license-holders and social equity business license applicants or license-holders shall be exempt from any background investigation fee in subparagraph (17) of paragraph (d).

## SUBCHAPTER 8: CANNABIS BUSINESS IDENTIFICATION CARDS

### § 17:30-8.1 COMMISSION ISSUANCE OF CANNABIS BUSINESS IDENTIFICATION CARDS; EXPIRATION

(a) Every owner, principal, management services contractor, employee or volunteer of a cannabis business license-holder or a testing laboratory that accesses the premises of a cannabis business or handles cannabis on behalf of a license-holder or testing laboratory and every cannabis handler pursuant to paragraph (a) of N.J.S.A. 24:6I-44 shall be required to register with the Commission and be issued a Cannabis Business Identification Card.

(b) As part of the registration, the Commission shall verify that the person who is requesting a Cannabis Business Identification Card:

1. Is at least 21 years of age.
2. Has completed a training course, whether from a license applicant, a license-holder or a third party, that has been approved by the Commission and provides education on, at a minimum, the following topics:
  - i. History of cannabis use, prohibition, and legalization;
  - ii. Common cultivation techniques and strain/cultivar varieties;
  - iii. Chemotypes of cannabis;
  - iv. Packaging, labeling, and advertising;
  - v. Cultivation and manufacturing processes;
  - vi. Health education regarding the risks of cannabis use and over-use, including cannabis dependency;
  - vii. The medical use of cannabis; and
  - viii. Laws and regulations pertaining to cannabis, including the Act and this chapter
3. Has authorized a criminal history background check pursuant to paragraph (d) of N.J.A.C. 17:30-7.12 and does not have any disqualifying convictions that have not been found to be rehabilitated.
4. Has paid the Cannabis Business Identification Card Fee pursuant to N.J.A.C. 17:30-7.17.



(c) The Commission shall issue each requesting person that is qualified pursuant to paragraph (a) a Cannabis Business Identification Card after the Commission receives a completed application with required documents, which include, but are not limited to:

1. A copy of the requesting person's driver's license or other unexpired photo identification issued by the State, another state, or the federal government;
2. Proof of criminal record background check, and where a person has a disqualifying conviction, proof of rehabilitation, pursuant to N.J.A.C. 17:30-7.12.

(d) A requesting person that is qualified pursuant to paragraph (a) shall not begin working at the cannabis business or handling cannabis items at a testing laboratory before the Commission issues a Cannabis Business Identification Card and the card is in the registrant's physical possession.

(e) Cannabis Business Identification Cards expire one year after the date of issuance, except a Cannabis Business Identification Card issued to cannabis business personnel with provisional approval, which shall expire three months after issuance."

(f) Cannabis Business Identification Cards shall contain:

1. The name of the person;
2. The name of the cannabis business or testing laboratory;
3. The date of issuance and expiration; and
4. A photograph of the cardholder.

(g) The Commission may suspend, revoke, or refuse to renew a Cannabis Business Identification Card if the person who is applying for or who holds the card violates any provision of the Act or this chapter; makes a false statement to the Commission; or refuses to cooperate in any investigation by the Commission.

(h) A Cannabis Business Identification Card issued under this section is a personal privilege and authorizes work described in this section only for the cardholder.

#### § 17:30-8.2 NOTICE TO COMMISSION WHEN EMPLOYMENT OR AFFILIATION CEASES

The cannabis business or testing laboratory shall notify the Commission within 10 business days of the date that a qualified person pursuant to paragraph (a) of N.J.A.C. 17:30-8.1 ceases to work at or be affiliated with the cannabis business or testing laboratory.

#### § 17:30-8.3 SURRENDER OF CANNABIS BUSINESS IDENTIFICATION CARD

Any Cannabis Business Identification Card holder shall surrender to the Commission the Cannabis Business Identification Card if they have been deemed no longer qualified to validly use or possess the card for any reason.

## SUBCHAPTER 9: CANNABIS BUSINESS LICENSE-HOLDER MATERIAL CONDITIONS AND REQUIREMENTS

### § 17:30-9.1 CANNABIS BUSINESS PREMISES

(a) A cannabis business shall conduct all operations authorized by the Act and this chapter at the address(es) identified on the license(s) issued by the Commission.

1. The cannabis business license shall identify the physical address of the cannabis business premises.
2. All cannabis business premises, and the principal office of a cannabis business license-holder shall be located within the State of New Jersey.
3. The Commission shall conduct an onsite assessment pursuant to N.J.A.C. 17:30-17.3 of each proposed cannabis business premises prior to license issuance.
4. A cannabis business conducting curbside retail sales in accordance with N.J.A.C. 17:30-12.4 shall be considered to be compliant with the requirements of this paragraph.

(b) A license-holder may apply to change the location of the cannabis business premises, pursuant to N.J.A.C. 17:30-9.2.

(c) For a microbusiness, pursuant to N.J.A.C. 17:30-6.7, the entire physical plant shall occupy an area of no more than 2,500 square feet.

(d) The license-holder shall display its license issued by the Commission in a conspicuous location at each cannabis business premises at all times when the license-holder is engaged in conduct authorized pursuant to the Act and this chapter involving cannabis.

### § 17:30-9.2 CHANGES TO LICENSE APPLICANT OR LICENSE-HOLDER; APPROVAL AND NOTICE; PROVISIONAL APPROVAL

(a) Cannabis business license-holders shall submit an application for an amended license, along with the applicable fee, if any, under N.J.A.C. 17:30-7.17, for the following material changes:

1. Change in ownership, which shall include:
  - i. Addition or removal of owners or passive investors;
  - ii. Change in license-holder entity structure, including any related mergers, acquisitions, or creation of new related entities;
  - iii. Change in ownership structure or ownership interest that results in a change of owner, pursuant to N.J.A.C. 17:30-9.3; and

- iv. Any other changes to the ownership and financial information provided to the Commission pursuant to N.J.A.C. 17:30-7.10 and N.J.A.C. 17:30-7.13.
  - 2. Change of management services contractor and the terms of any management services agreement; pursuant to N.J.A.C. 17:30-6.9;
  - 3. Change of financial source and the terms of an FSA pursuant to N.J.A.C. 17:30-6.10;
  - 4. Change of location;
  - 5. Change or modification of capacity, physical plant, or premises;
  - 6. Change of name of the cannabis business;
- (b) Failure to seek approval for such material changes pursuant to paragraph (a) may result in sanctions upon the license-holder pursuant to Subchapter 17 of this chapter including civil penalties, or suspension or revocation of any license issued to the license-holder.

#### § 17:30-9.3 TRANSFERS OF OWNERSHIP INTEREST

- (a) From the submission of a conditional license conversion application or an annual license application to at least two years after the cannabis business commences operations, a license-holder holding an annual license shall not make any change to more than 50% of its ownership interest, except that:
- 1. A transfer of ownership interest in a license applicant or license-holder from a deceased owner to the deceased owner's heir shall not be prohibited;
  - 2. A transfer of ownership interest in a license applicant or license-holder from a deceased owner to the deceased owner's surviving spouse, domestic partner, or civil union partner, if the license was issued jointly to both the parties, shall not be prohibited.
- (b) From the submission of the conditional license conversion application or an annual license application to least two years after the cannabis business commences operations, a license-holder may add new loans from new or existing financial sources, or gifts.
- (c) Until at least two years after the cannabis business commences operations, a diversely owned business license-holder shall maintain all conditions required to qualify as eligible for its diversely owned business certification.
- (d) Until at least two years after the cannabis business commences operations, a social equity business license-holder shall maintain the conditions required to qualify for its social equity business status.
- (e) A license-holder operating as a microbusiness shall not transfer ownership interest such that the license-holder no longer qualifies as a microbusiness.

(f) If the cannabis business ceases operations during the two-year period after the cannabis business commences operations, the license-holder may not transfer the license to another entity; the license will be considered to be abandoned and will be returned to the Commission.

(g) A cannabis business license-holder shall not provide, transfer, or sell, or offer to provide, transfer, or sell any ownership interest to or employ or offer to employ any Commission member or employee restricted from such transactions by the provisions of sections 33 through 35 of P.L.2019, c.153 (C.24:6I-26 through C.24:6I-28).

(h) The Commission retains discretion to determine when a transfer of ownership interests has occurred.

#### § 17:30-9.4 ONGOING MATERIAL CONDITIONS AND GENERAL REQUIREMENTS APPLICABLE TO CANNABIS BUSINESS LICENSEHOLDERS

(a) No person or entity shall operate a cannabis business without a Commission-issued license.

(b) A cannabis business shall only be operated under the name on the license, which shall be the legal entity name as found on the New Jersey business registration of the license-holder.

(c) A license-holder and its owners, principals, employees, management services contractors, financial sources, and vendor-contractors shall:

1. Maintain qualification to hold a license pursuant to N.J.A.C. 17:30-7.4, as applicable;
2. Comply with the Act and this chapter; and
3. Cooperate with the Commission and its staff.

(d) Upon request of the Commission, a license applicant or license-holder shall provide, for any submission to the Commission, a redacted copy that may be released to the public.

1. Redactions shall be limited to information that is likely to be found to be exempted pursuant to N.J.S.A. 47:1A-1 to -13 or the common law on public records.

(e) A license-holder shall make a good faith effort to recruit and employ persons who would otherwise qualify for the provisions of N.J.A.C. 17:30-6.6 (a) (1) or (2).

(f) A microbusiness license-holder shall employ no more than 10 employees.

(g) The maintenance of a labor peace agreement with a bona fide labor organization by a licensed cannabis business, including an expanded ATC, shall be an ongoing material condition of the cannabis business's license.

1. A microbusiness is exempted from this requirement.

(h) Where a majority of the employees of a cannabis business, including an expanded ATC, have voted to join a bona fide labor organization, failure to enter, or to make a good faith effort to enter, into a collective bargaining agreement within 200 days of the opening of such licensed cannabis business, may result in the suspension or revocation of the cannabis business's license.

1. A microbusiness is exempted from this requirement.

(i) A license-holder shall maintain sanitary conditions throughout the cannabis business premises.

(j) A cannabis business shall seek to prevent the escape of odors associated with cannabis over the boundary of the property. Failure to engage in such an effort may result in sanctions, including civil monetary penalties.

(k) A license-holder shall implement a plan to increase sustainability in its operations, which may include, but is not limited to:

1. A waste reduction plan;
2. A water usage reduction plan;
3. Biodynamic farming;
4. A sustainable packaging plan which reduces or eliminates the use of single-use plastics and promotes the use of recyclable or green packaging; or
5. A plan to use some amount of renewable energy to power its operations.

(l) A visitor entering a cannabis business premises must be accompanied by an escort with a Cannabis Business Identification Card at all times, except in the consumer area of a cannabis retailer.

1. A vendor-contractor's staff shall be considered to be a visitor during any time present at a cannabis business premises except if the person possesses a Cannabis Business Identification Card.

(m) An expanded ATC issued cannabis business licenses pursuant to N.J.A.C. 17:30-7.1 shall be authorized to use the premises for all activities under the Act and the "Jake Honig Compassionate Use Medical Cannabis Act," P.L.2009, c.307 (C.24:6I-1 et al.), without being required to establish or maintain any physical barriers or separations between operations related to the medical use of cannabis and operations related to personal use of cannabis items.

1. As a condition of licensure, an expanded ATC shall meet the anticipated treatment needs of registered qualifying patients before meeting the retail requests of consumers, and the expanded ATC shall not make operational changes that reduce access to medical cannabis for registered qualifying patients in order to operate a cannabis business.
2. If the Commission finds an expanded ATC does not have sufficient quantities of medical cannabis or medical cannabis products available to meet the reasonably

anticipated needs of qualifying patients, the Commission may issue fines, limit retail sales, temporarily suspend the expanded ATC's cannabis business licenses, or issue any other penalties included in subchapter 17.

3. Prior to the date on which the expanded ATC's cannabis business license is set to expire after its first year of operations, in order to renew its cannabis business license pursuant to N.J.A.C. 17:30-7.16, an expanded ATC shall:
  - i. Certify to the Commission as to the continued material accuracy of the expanded ATC's previously approved ATC license application and its compliance with the provisions of the Act regarding its operations concerning cannabis or cannabis items;
  - ii. Submit a new written approval from the municipality in which the expanded ATC is located, approving the continued operations as a cannabis business.
4. After the end of the second year of expanded ATC's licensure, the license renewal process pursuant to N.J.A.C. 17:30-16 shall be followed.
5. Nothing shall authorize an alternative treatment center that has not been licensed as an expanded ATC pursuant to N.J.A.C. 17:30-7.1 to:
  - i. Provide cannabis items to a person who is not a registered qualifying patient;
  - ii. Purchase or acquire cannabis items in a manner or from a source not permitted under the "Jake Honig Compassionate Use Medical Cannabis Act," P.L.2009, c.307 (C.24:6I-1 et al.); or
  - iii. Operate on the same premises as a cannabis license applicant or license-holder.

#### § 17:30-9.5 PROHIBITIONS APPLICABLE TO CANNABIS BUSINESSES

- (a) A license-holder shall not allow any cannabis item or alcohol to be consumed on the premises of the cannabis business, or in public areas in the vicinity of such premises.
- (b) Sales of food, beverages, alcohol or tobacco on the premises of a cannabis business are prohibited.
- (c) Entry onto the premises of a cannabis business by a person who is under the age of 21 is prohibited, unless the individual is accompanied by and supervised by a parent or legal guardian or is otherwise permitted by law.
- (d) A license-holder and its personnel and agents shall not sell or give for consumption any cannabis items to a person under 21 years of age.
- (e) Pursuant to N.J.A.C. 17:30-9.4 (b), a cannabis business shall not use, display, advertise, or operate under any alternate name, including but not limited to any doing business as name, nor shall it hold itself out to be an entity operating under an alternate name.

1. This prohibition shall not apply to any alternative treatment center that was issued a permit prior to the effective date of P.L.2019, c.153 (C.24:6I-5.1 et al.) and any alternative treatment center that was issued a permit subsequent to July 2, 2019 pursuant to an application submitted prior to that effective date, provided that the ATC's alternate name was authorized by the Commission prior to the effective date of this section and that the ATC does not change its name or alternate name subsequent to the effective date of this section.

#### § 17:30-9.6 CANNABIS BUSINESS OPERATIONS MANUAL

(a) Each cannabis business shall develop, implement, and maintain on the premises an operation manual that addresses, at a minimum, the following:

1. Procedures for the oversight of the cannabis business which shall include:
  - i. Adverse Event Reporting;
  - ii. Quality assurance and quality control;
  - iii. Recall of cannabis items as needed or directed;
  - iv. Packaging and Labeling of cannabis items;
  - v. Inventory Control, Storage, Diversion Prevention;
  - vi. Waste Disposal, Sanitation;
  - vii. Accounting and tax compliance; and
  - viii. Reporting of test results, as applicable, based on the class of license sought.
2. Procedures for safely cultivating, manufacturing, or selling cannabis, as applicable;
3. Procedures to ensure accurate recordkeeping, including inventory procedures to ensure that quantities cultivated do not suggest redistribution;
4. Employee, visitor, and facility security policies;
5. Safety procedures, including a disaster plan with procedures to be followed in case of fire or other emergencies, and personal safety and crime prevention techniques; and
6. A description of the cannabis business's:
  - i. Hours of operation and after-hour contact information;
  - ii. Fee schedule;
  - iii. Confidentiality and privacy standards regarding cannabis business operations and consumers, as applicable;
  - iv. For a cannabis retailer, criteria for refusing service to a consumer pursuant to unacceptable behavior; and



- v. Procedures for ensuring consumers comply with cannabis business age verification policies.

(b) The license-holder shall ensure that the operations manual of the cannabis business is available for inspection by the Commission, upon request.

#### § 17:30-9.7 CANNABIS BUSINESS RECORDKEEPING

(a) A cannabis business shall maintain a system of recordkeeping that will permit the identification for purposes of recall of any batch of cannabis or lot of cannabis products from consumers when such cannabis items are found to be unsafe for use.

- 1. As part of this system, the cannabis business shall ensure that the container that contains the cannabis item at any stage in the process of cultivation, manufacturing, and distribution bears an identifying name and number, and that the final packaged cannabis item contains all labeling information required by N.J.A.C. 17:30-13.3, to make it possible to determine the complete manufacturing history of the packaged cannabis item.

(b) A cannabis business shall maintain a complete and accurate confidential record of all sales of usable cannabis or cannabis products, including the cannabis business to whom the cannabis item is sold, if applicable, and the quantity, variety, form, and cost of the cannabis item.

- 1. Such records shall be kept and maintained for four years, either on-premises or at an off-site facility, in written or electronic form.
- 2. In order to ensure that individual privacy is protected, a cannabis retailer shall not collect and retain any personal information from consumers other than information typically acquired in a financial transaction conducted by the holder of a Class C retail license concerning alcoholic beverages as set forth in N.J.S.A. 33:1-12.

(c) A cannabis business shall retain every written report from a testing laboratory for any cannabis item that the cannabis business cultivated, manufactured, or sold to a consumer.

(d) A cannabis business shall maintain the following administrative records, as applicable:

- 1. An organizational chart;
- 2. A general description of any facilities to be used as a cannabis business premises and a floor plan identifying the square footage available and descriptions of the functional areas of the cannabis business; and
- 3. The standards and procedures by which the cannabis business determines the price it charges for usable cannabis or cannabis products and a record of the prices charged.

(e) A cannabis business shall maintain business records including manual or digital records of assets and liabilities; monetary transactions; and journals, ledgers and

supporting documents, including agreements, checks, invoices and vouchers, that the cannabis business keeps as its books of accounts.

(f) The Commission may request an audit of the financial records of a cannabis business by an independent certified public accountant approved by the Commission.

1. The cannabis business or testing laboratory shall bear all costs related to such audit;
2. Such audit shall be concluded within a reasonable period, as determined by the Commission.
3. Results of a required audit shall be forwarded to the Commission.

(g) A cannabis business shall maintain documentation of any occurrence that is reported pursuant to N.J.A.C. 17:30-9.11 in an auditable form for at least two years after the reporting of such occurrence.

(h) If cannabis is disposed of or destroyed, a cannabis business shall maintain for at least two years after the disposal, a written record of the date, the quantity disposed of, the manner of disposal, and the persons present during the disposal, with their signatures.

(i) A cannabis business shall maintain a personnel record for each owner, principal, management services contractor, employee, and volunteer of the license-holder that includes, at a minimum, copies of the following, as applicable:

1. An application for employment or to volunteer;
2. Current Cannabis Business Identification Card;
3. Driver's license or other State or federally issued photo identification;
4. Certification confirming the person's or entity's submission to the jurisdiction of the courts of the State and agreeing to comply with all of the requirements of the laws of the State pertaining to the Commission;
5. Documentation of verification of references;
6. Documentation of submission of fingerprint impressions for compliance with a criminal history record background check;
7. Job or role description or contract that includes the duties, authority, responsibilities, qualifications, and supervision of the job or role;
8. Documentation of all required training and the signed statement of the person indicating the date, time and place that individual person received they received such training and the topics discussed, including the name and title of presenters;
9. Documentation of periodic performance evaluations; and
10. Documentation of any disciplinary action taken.

(j) The license-holder shall maintain personnel records, including but not limited to those in (i) above:

1. For the purposes of this rule, for at least 12 months after termination of the person's affiliation with the cannabis business; and
2. For all other business purposes, in accordance with their business practice.

#### § 17:30-9.8 CANNABIS BUSINESS TRAINING

(a) In addition to any workplace trainings required by law, each owner and principal of a license-holder that handles cannabis and each employee and volunteer and any management services contractor staff of a license-holder shall complete at least eight hours of ongoing training each calendar year.

(b) Such training pursuant to paragraph (a) shall be tailored to the roles and responsibilities of the person's job or role function, and shall include:

1. State and federal laws regarding cannabis;
2. State and federal laws regarding privacy and confidentiality;
3. Informational developments in the field of cannabis;
4. The proper use of security measures and controls that have been adopted; and
5. Specific procedural instructions for responding to an emergency, including a robbery or workplace violence.

(c) In order to provide such training pursuant to paragraph (a), a cannabis business shall either:

1. Develop, implement and maintain on the premises a training curriculum; or
2. Enter into contractual relationships with outside resources capable of meeting personnel training needs.

(d) A person shall not begin working at the cannabis business or handling cannabis items at a testing laboratory before completing initial trainings in accordance with N.J.A.C. 17:30-8.1(b), unless otherwise approved by the Commission.

#### § 17:30-9.9 CANNABIS BUSINESS WORKPLACE ALCOHOL AND DRUG POLICY AND SMOKE FREE WORKPLACE POLICIES; EMPLOYEE ASSISTANCE PROGRAM

(a) A cannabis business may establish, implement, and adhere to any of the following policies governing conduct of personnel while performing work for the cannabis business:

1. A written smoke-free workplace policy;
2. A written policy prohibiting cannabis business personnel from possessing, consuming, or being under the influence of an illicit controlled dangerous substance or alcohol; or

3. A written policy prohibiting cannabis business personnel from consuming or being under the influence of cannabis at the workplace, provided that no cannabis business shall infringe upon the rights of qualifying patients under P.L. 2019, c. 153 (C.24:6I-5.1 et al.).

(c) The license-holder shall ensure that such policies pursuant to paragraphs (a) and (b) are available to the Commission upon request.

(d) The license-holder shall maintain a contract with an approved New Jersey employee assistance program.

#### § 17:30-9.10 SECURITY

(a) Each cannabis business shall provide effective controls and procedures to guard against unauthorized access to the premises or the business's electronic systems; theft, and diversion of cannabis. Such controls may include but are not limited to systems to protect against electronic records tampering.

(b) At minimum, each cannabis business shall:

1. Install, maintain in good working order and operate a safety and security alarm system at its premises that will provide suitable protection against theft and diversion and that provides, at a minimum:
  - i. Immediate automatic or electronic notification to alert cannabis business personnel and State or local police agencies to an unauthorized breach of security or an alarm or system failure at the cannabis business; and
  - ii. A backup system that activates immediately and automatically upon a loss of electrical support and that immediately issues either automatic or electronic notification to State or local police agencies of the loss of electrical support;
2. Implement appropriate security and safety measures to deter and prevent the unauthorized entrance into areas containing cannabis and the theft of cannabis;
3. Implement security measures that protect the premises, consumers and cannabis business personnel;
4. Establish a protocol for testing and maintenance of the security alarm system;
5. Conduct maintenance inspections and tests of the security alarm system at the cannabis business 's authorized location at intervals not to exceed 30 days from the previous inspection and test and promptly implement all necessary repairs to ensure the proper operation of the alarm system;
6. In the event of a failure of the security alarm system due to a loss of electrical support or mechanical malfunction that is expected to last longer than eight hours:
  - i. Notify the Commission pursuant to N.J.A.C. 17:30-9.11; and

- ii. Provide alternative security measures approved by the Commission or close the authorized physical addresses impacted by the failure or malfunction until the security alarm system is restored to full operation.
  - 7. Keep access from outside the premises to a minimum and ensure that access is well controlled;
  - 8. Limit entry into areas where cannabis is held to authorized personnel;
  - 9. Equip interior and exterior premises with electronic monitoring, video cameras, and panic buttons.
    - i. A video surveillance system shall be installed and operated to clearly monitor all critical control activities of the cannabis business and shall be in working order and operating at all times. The cannabis business shall provide access for remote viewing by the Commission. This system shall be approved by the Commission prior to license issuance.
    - ii. The original tapes or digital pictures produced by this system shall be stored in a safe place with a 30-day archive.
  - 10. Keep the outside areas of the premises and its perimeter well lighted.
    - i. Exterior lighting must be sufficient to deter nuisance and criminal activity and facilitate surveillance and must make reasonable efforts to not disturb surrounding businesses or neighbors; and
    - ii. The video surveillance system shall be supported by adequate security lighting, which shall illuminate all entrances and exits, and which may be modified as necessary to include motion control sensors to protect cultivation light-dark cycles, as applicable; and
  - 11. Provide law enforcement and neighbors within 100 feet of the cannabis business with the name and phone number of a staff member to notify during and after operating hours to whom they can report problems with the establishment.
- (c) The security alarm system and video surveillance system pursuant to paragraph (b) shall be continuously monitored, 24 hours a day, seven days a week.
- 1. Monitoring of the security alarm system and video surveillance system may be conducted off-site.

#### § 17:30-9.11 REPORTABLE EVENTS INVOLVING RISK OF INVENTORY LOSS

- (a) A cannabis business, upon becoming aware of a reportable loss, discrepancies identified during inventory, diversion or theft, whether or not the cannabis, funds or other lost or stolen property is subsequently recovered and/or the responsible parties are identified, and action taken against them, shall:
- 1. Immediately notify appropriate law enforcement authorities by telephone; and

2. Notify the Commission no later than three hours after discovery of the event.
- (b) The cannabis business shall notify the Commission within 24 hours by telephone, followed by email notification within 5 business days of any of the following:
1. An alarm activation or other event that requires response by public safety personnel;
  2. A breach of security;
  3. The failure of the security alarm system due to a loss of electrical support or mechanical malfunction that is expected to last longer than eight hours; and
  4. Corrective measures taken, if any.

#### § 17:30-9.12 ACCESSABILITY OF CANNABIS ITEM STORAGE AREAS

- (a) A cannabis business shall limit access to cannabis item storage areas to the minimum number of authorized personnel necessary to maintain safe and orderly operations.
1. When it is necessary for visitors to be present in or passthrough cannabis item storage areas, the cannabis business shall provide for adequate observation of the area by cannabis business personnel whom the license-holder specifically authorized by policy or job description to supervise the activity.
  2. The cannabis business shall, in its standard operating procedures, identify the personnel with authorization to access the storage area.
- (b) Each cannabis business shall securely store finished usable cannabis and cannabis products that are ready for sale in a locked area, which may include a locked room, cage, or safe, with adequate security and limited access.
1. For purposes of this section, "adequate security," at a minimum, shall be assessed, established and maintained based on:
    - i. The quantity of cannabis items kept on hand;
    - ii. The cannabis business's inventory system for tracking and distributing cannabis items;
    - iii. The number of owners, principals, employees, volunteers, management services contractor staff, or vendor-contractors who have or could have access to the cannabis items;
    - iv. The geographic location of the cannabis business and its associated environmental characteristics, such as the remoteness of the premises from local populations and the relative level of crime associated with the area;
    - v. The scope and sustainability of the security alarm system; and

- vi. The findings of root cause analyses of any breaches of security and/or inventory discrepancies for cannabis items at that location.

#### § 17:30-9.13 INVENTORY

(a) Each cannabis business, at a minimum, shall:

1. Utilize the inventory tracking system designated by the Commission pursuant to N.J.A.C. 17:30-3.12;
  - i. Cannabis businesses shall utilize any plant tags, product identification tags, or stamps designated by the Commission pursuant to N.J.A.C. 17:30-3.12 and N.J.A.C. 17:30-13.4.
  - ii. Cannabis business shall be responsible for any fees associated with plant tags, product identification tags, or stamps designated by the Commission.
2. Conduct an initial comprehensive inventory of all cannabis in the possession of the cannabis business, including cannabis available for cultivation, finished usable cannabis available for sale, immature and mature cannabis plants, and unusable cannabis, at the authorized premises on the date the cannabis business first engages in the cultivation, manufacturing, or sale of cannabis;
  - i. An inventory shall include damaged, defective, expired or adulterated cannabis awaiting disposal, including the name, the quantity and the reasons for which the cannabis business is maintaining the cannabis;
  - ii. The initial comprehensive inventory shall be reported to the Commission utilizing the inventory tracking system.
3. Establish inventory controls and procedures for the conduct of inventory reviews and comprehensive inventories of cultivating, stored, usable and unusable cannabis;
4. Update product inventories on at least a daily basis;
5. Conduct a monthly inventory audit of cultivated, stored, usable and unusable cannabis;
6. Conduct a comprehensive annual inventory audit at least once every year from the date of the previous comprehensive inventory; and
7. Promptly transcribe inventories.

(b) The record of an inventory conducted pursuant to this section shall include, at a minimum, the date of the inventory, a summary of the inventory findings and the name, signature and title of the persons who conducted the inventory.



#### § 17:30-9.14 DESTRUCTION OF CANNABIS

(a) When a license-holder disposes of or destroys cannabis, the license-holder destroy it or render it unusable and shall create and maintain a written record of the disposal of the cannabis by the cannabis business and weigh the cannabis and update it in the inventory prior to disposal or destruction.

(b) If a license expires without being renewed or is revoked, the license-holder shall:

1. Immediately discontinue any production or sale of cannabis items;
2. Weigh any cannabis in its inventory and update it in the inventory prior to disposal or destruction.
3. Destroy or dispose of all unused cannabis or surplus inventory in its possession by providing it to the Commission for destruction within 72 hours of the license expiring; and
4. Create and maintain a written record of the disposal of the cannabis.

(c) Within 10 business days after destroying the cannabis, the license-holder shall notify the Commission, in writing, of the amount of cannabis destroyed including the form, weight, quantity and any other information requested by the Commission.

#### § 17:30-9.15 SECURE TRANSPORT

(a) A cannabis business may securely transport cannabis items to another cannabis business, or it may use a licensed cannabis distributor for such transport.

(b) A license-holder may transport between multiple cannabis business premises or to another cannabis business anywhere in the state using a delivery vehicle according to this section.

(c) A cannabis business shall ensure each delivery vehicle is equipped with:

1. A secure lockbox or secure cargo area, which shall be used for the sanitary and secure transport of cannabis;
2. A Global Positioning System (GPS) device for identifying the geographic location of the delivery vehicle, either permanently or temporarily affixed to the delivery vehicle while the delivery vehicle is in operation;
  - i. The device shall remain active and in the possession of the cannabis business staff member at all times during transport.
  - ii. At all times, the originating cannabis business shall be able to identify the geographic location of all delivery vehicles that are transporting its cannabis items and shall provide that information to the Commission upon request; and
3. Functioning heating and air conditioning systems appropriate for maintain correct temperatures for storage of cannabis and cannabis products.

(d) A cannabis business shall maintain current hired and non-owned automobile liability insurance sufficient to insure all delivery vehicles in the amount of at least \$1,000,000 per occurrence or accident.

(e) A cannabis business shall ensure that a delivery vehicle bears no markings that would either identify or indicate that the vehicle is used to transport cannabis.

(f) Upon request, a cannabis business shall provide the Commission with information regarding any delivery vehicles, including the vehicle's make, model, color, Vehicle Identification Number, license plate number, and vehicle registration.

(g) A cannabis business shall staff each delivery vehicle with at least one cannabis business staff member.

1. The cannabis business staff member shall not leave cannabis items in an unattended delivery vehicle unless the vehicle is locked and equipped with an active vehicle alarm system. In no case shall cannabis items be left in a delivery vehicle overnight or outside the operating hours of the cannabis business conducting the transport.
2. The cannabis business staff member shall have access to a secure form of communication with the cannabis business, such as a cellular telephone, at all times that the delivery vehicle contains cannabis items.
3. The cannabis business staff member shall possess their Cannabis Business Identification Card at all times and shall present it to Commission staff or law enforcement officials upon demand.
4. Before transport, the cannabis business staff member shall create a physical or electronic copy of the transport request. During transport, the cannabis business staff member shall maintain a such copy of the transport request and shall make it available upon request to State and local law enforcement, and State and local regulatory authorities and agencies.
5. Only Cannabis Business Identification Card holders shall be allowed in a delivery vehicle.

(h) All transport of cannabis items shall be conducted by a person. A transport of cannabis items shall not be made through the use of an unmanned vehicle, which shall include a drone.

(i) A cannabis business shall ensure that transports are completed in a timely and efficient manner.

1. The cannabis business staff member shall only travel between originating cannabis business premises and receiving cannabis business premises and shall not deviate from the delivery path described in this paragraph, except in the event of emergency or as necessary for rest, fuel, or vehicle repair stops, or because road conditions make continued use of the route or operation of the vehicle unsafe, impossible, or impracticable.

2. The process of transport begins when the cannabis business staff member leaves the originating cannabis business premises with the purchase order of cannabis items and ends when the cannabis business staff member furnishes the cannabis items to the receiving cannabis business premises.

(j) Each cannabis business shall maintain a written or electronic record of each transport of cannabis; For each transport, such record shall include:

1. The date and time that the transport began and ended;
2. The name, Cannabis Business Identification Card number, and signature of the cannabis business staff member performing the transport;
3. The weight of the cannabis or cannabis items transported;
4. The batch number of the usable cannabis or the lot number of the cannabis product, the name of the strain/cultivar, and the form of the cannabis product; and
5. The signature of the cannabis business staff member of the receiving cannabis business attesting to receipt of the goods.

(k) A cannabis business shall report any vehicle accidents, diversions, losses, or other reportable events that occur during transport to the Commission in accordance with N.J.A.C. 17:30-9.11.

(l) A municipality may not restrict the transportation of cannabis items through or within that municipality by adoption of a municipal ordinance or any other measure, and any restriction to the contrary shall be deemed void and unenforceable.

(m) Where a transport is attempted and not completed and the cannabis item remains in the possession of the cannabis business personnel conducting the transport, the personnel shall return the cannabis item to the originating cannabis business. The cannabis business may repackage and restock the product, logging the product's amended status in the business's internal inventory. Such items must be in new, unopened condition prior to restocking.

#### § 17:30-9.16 CANNABIS BUSINESS COMPLAINT PROCESS

(a) A cannabis business shall establish standard operating procedures for receiving and recording complaints associated with usable cannabis or cannabis products that it has cultivated, manufactured, sold or distributed which shall include:

1. A process for submission of a complaint to the cannabis business;
2. A procedure for notifying all cannabis businesses that participated in the supply chain of the product identified in the complaint;
3. A procedure for reviewing the complaint;
4. A procedure for investigating the complaint;

5. A procedure for the review and approval of the findings by cannabis business personnel that are responsible for quality control; and
6. A procedure for follow-up action of any investigation performed and a response to the complainant.

(b) Based on the procedures established in (a) of this subchapter, a cannabis business shall make a determination as to whether the complaint may be evidence of an adverse event.

(c) A cannabis business shall establish procedures for complaints involving adverse events, which shall include:

1. Collecting data necessary to investigate the adverse event, including but not limited to:
  - i. Noting the identifiable consumer who is reported to have experienced the adverse event;
  - ii. Noting the initial reporter of the adverse event, or identifying that the initial reporter requests to remain anonymous;
  - iii. Noting the identity of the specific usable cannabis or cannabis product used, if known, including batch or lot number, and the name of the cannabis business that sold the product to the identifiable consumer; and
  - iv. A description of the adverse event based on information received from the identifiable consumer in (i), above, and the initial reporter in (ii), above.
2. Reporting the adverse event to the Commission within 7 days of becoming aware of the adverse event, including all information and data collected pursuant to this subchapter.
3. Reporting the adverse event to all cannabis businesses who participated in the supply chain of the product involved in the adverse event or the products batch or lot.
4. Investigating the adverse event to determine:
  - i. If there was a deviation from the standard operating procedure in the cultivation of the batch or the manufacturing of the lot, which shall be done by reviewing cultivation or manufacturing logs; and
  - ii. If the batch or lot meets specifications, which shall be done by submitting parts of the retention samples of the batch or lot to a testing laboratory for testing.
5. Determining if an adverse event requires a product recall;
6. A procedure for communicating the adverse event standard operating procedure to:
  - i. Cannabis business staff members;
  - ii. Consumers of the cannabis business; and

- iii. Other cannabis businesses that purchase cannabis items from or provide cannabis items to the cannabis business.
- (d) Adverse events shall be reported to the Commission within 48 hours.
- (e) The review and investigation of a complaint or adverse event, and the findings and follow-up action of any investigation performed, must extend to all related batches or lots and relevant records and to all cannabis businesses involved in the supply chain of the product identified in the complaint.
- 1. Related batches or lots may include, but are not limited to, batches or lots of the same product, other batches or lots processed on the same equipment or during the same time period, or other batches or lots produced using the same components or packaging components.
- (f) The cannabis business must keep a written record for four years of the complaint or adverse event and its investigation, including:
- 1. Identification and batch or lot number of the product;
  - 2. Date the complaint was received and the name, address, or telephone number of the complainant, if available;
    - i. Anonymous complaints shall be logged even when no name, address or telephone number is provided.
  - 3. Nature of the complaint including, if known, how the product was used;
  - 4. All notifications provided to the Commission, other cannabis businesses, consumers, and to the public;
  - 5. Names of all personnel involved in the complaint process and their roles;
  - 6. Findings of the investigation and follow-up action taken when an investigation is performed; and
  - 7. Response to the complainant, if applicable.

#### § 17:30-9.17 CANNABIS BUSINESS RECALL PROCESS

- (a) A cannabis business shall develop and implement a recall plan addressing at a minimum:
- 1. Factors which necessitate a recall procedure, including if testing laboratory testing analysis finds that the batch or lot fails to meet specifications;
  - 2. Personnel responsible for initiating and implementing a recall;
  - 3. Notification protocols, including as required by N.J.A.C. 17:30-9.16; and
  - 4. Receipt, handling, and disposition of returned usable cannabis or cannabis products.

(b) A cannabis business shall establish a standard operating procedure for publicly communicating a recall of usable cannabis or cannabis products manufactured from that usable cannabis or other cannabis products that present a probability that exposure to the product could cause serious adverse health consequences or temporary or medically reversible adverse health consequences; This standard operating procedure shall include:

1. A mechanism to contact all consumers who have, or could have, obtained the usable cannabis or cannabis products manufactured from that usable cannabis or other cannabis products from the cannabis business, which communication must include information on the procedure for return of the recalled product and an offer to pay reimbursement for the recalled product;
2. A mechanism to contact all cannabis businesses that receive cannabis items from or provide cannabis items to the cannabis business;
3. Instructions for the return or destruction of any recalled cannabis item by consumers or cannabis businesses;
4. Procedures for the issuance of refunds in conjunction with a recall; and
5. Communication and outreach via traditional and social media, as necessary and appropriate.

(c) The cannabis business shall collect all recalled cannabis items that are returned, have cannabis business personnel that supervise quality control review it, track it in inventory control, and segregate it in quarantine until the Commission authorizes disposal, at which point the cannabis business shall dispose of it in a manner that ensures that it is unusable.

(d) The cannabis business should periodically conduct a mock recall to assess the effectiveness of the recall plan.

(e) The Commission may, at its discretion, order a cannabis business to undertake a recall.

(f) A cannabis business shall comply and cooperate with any recalls ordered by the Commission.

## SUBCHAPTER 10. CANNABIS CULTIVATOR AUTHORIZED CONDUCT

### § 17:30-10.1 CANNABIS CULTIVATOR PREMISES

(a) In no case shall a cannabis cultivator operate or be located on land that is valued, assessed or taxed as an agricultural or horticultural use pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.).

(b) A cannabis cultivator shall produce cannabis only at the cannabis business premises authorized in the license, including any indoor or outdoor areas.

1. All cannabis cultivation shall take place in an enclosed, locked area or facility, which includes, where a cannabis cultivator is engaging in outdoor cultivation, the outdoor grow area structures authorized under N.J.A.C. 17:30-10.3.
2. Access to such enclosed, locked area or facility shall be limited to an owner, principal, employee, volunteer, of a license-holder or the staff members of a license-holder's management services contractor that possesses a Cannabis Business Identification Card and are authorized by the cannabis business to access the facility.

(c) A cannabis cultivator shall comply with N.J.A.C. 8:21-3A.8.

(d) A cannabis cultivator shall comply with N.J.A.C. 8:21-3A.9.

(e) A cannabis cultivator microbusiness shall have a total cannabis grow area that does not exceed 2,500 square feet, measured on a horizontal plane, and 24 feet, measured vertically above that plane.

#### § 17:30-10.2 CANNABIS CULTIVATOR AUTHORIZED CONDUCT; PROHIBITIONS

(a) A cannabis cultivator holding a Class 1 Cannabis Cultivator license issued by the Commission shall be authorized to:

1. Possess, propagate, germinate, plant, cultivate, grow, harvest, dry, cure, process, and package cannabis; and
2. Transport, transfer, distribute, supply, and sell this usable or unusable cannabis to other cannabis cultivators or to cannabis manufacturers, or sell usable cannabis to cannabis wholesalers, or cannabis retailers.

(b) A cannabis cultivator holding a Class 1 Cannabis Cultivator license issued by the Commission shall not be authorized to:

- i. Manufacture or otherwise create cannabis products; or
- ii. Transport, transfer, distribute, supply, or sell cannabis, usable cannabis, cannabis products, paraphernalia, or related supplies to consumers.

(c) Where a cannabis cultivator sells unusable cannabis to other cannabis cultivators or to cannabis manufacturers, the cannabis cultivator shall ensure such unusable cannabis does not have any mold, rot, or disease, and that it meets specifications in quality control testing.

(d) A cannabis cultivator shall not be limited in the number of strains/cultivars of cannabis cultivated.

(e) A cannabis cultivator shall comply with applicable laws and rules of the New Jersey Department of Agriculture and attendant inspection and enforcement activities.

(f) A cannabis cultivator may label cannabis it cultivates as "organic" if the cannabis cultivator meets the organic program standards as defined at N.J.A.C. 2:78 et seq.



(g) In accordance with N.J.S.A. C.54:47F-1A, a cannabis cultivator shall collect from the purchasing or acquiring cannabis establishment any Social Equity Excise Fee imposed by the Commission on the sale or transfer of usable cannabis by such cannabis cultivator to any other cannabis establishment other than another cannabis cultivator and be personally liable for such fee.

(h) A cannabis cultivator microbusiness shall possess no more than 1,000 cannabis plants each month.

#### § 17:30-10.3 ADDITIONAL OUTDOOR CULTIVATION REQUIREMENTS

(a) Outdoor cultivation may be permitted, where the license-holder complies with this section, the Act and this chapter, and where approved by the municipality in which the cannabis business is located.

1. Outdoor cultivation may occur in a full greenhouse with rigid walls, a partial greenhouse, a hoop house, or other non-rigid structure, or an expanse of open or cleared ground fully enclosed by a physical barrier.

(b) The outdoor grow area shall be situated to maintain the greatest achievable level of privacy and security.

(c) The property that contains an outdoor grow area and the outdoor grow area itself shall each be securely surrounded by fencing and locked gates on the entire perimeter, constructed in accordance with the Uniform Construction Code, to prevent access to the grow area by unauthorized persons.

1. Fencing shall be constructed of metal chain links or another similarly secure material and shall measure at least eight feet from the ground to the top. All support posts shall be securely anchored. Fencing shall meet the requirements of the relevant municipal code provisions.
2. Locks on gates shall be commercial-grade, non-residential door locks.

(d) The outdoor grow area shall be protected by a security alarm system and 24-hour video surveillance system that is continuously monitored and capable of detecting power loss, pursuant to N.J.A.C. 17:30-9.10, to ensure surveillance of the entire perimeter of the grow area and over all portions of the security fences and all gates.

#### § 17:30-10.4 CANNABIS CULTIVATOR PRODUCTION MANAGEMENT TIERS

(a) All cannabis cultivators shall be assigned a cultivation production management tier at license issuance and reassigned at renewal, as necessary.

(b) The cannabis cultivator shall accurately calculate its plant count and mature cannabis plant grow canopy area.

1. Square footage of a mature cannabis plant grow canopy area is measured horizontally starting from the outermost point of the furthest plant in a grow canopy area and continuing around the outside of all plants located within the mature cannabis plant grow canopy area.
2. If a vertically tiered or shelving system is included in the cultivation area, the surface area of each tier or shelf must be included in calculating the grow canopy area.
3. A mature cannabis plant grow canopy area is the total square feet in which a cannabis cultivator plants and grows cannabis plants, and does not include areas exclusively used for harvesting, drying, curing, packaging, labeling, or storing cannabis.

(c) The following are the cannabis cultivator cultivation production management tiers:

1. Microbusiness Cultivator. A cannabis cultivator with a microbusiness license:
  - i. May cultivate and possess no more than 1,000 mature cannabis plants each month; and
  - ii. May cultivate an unlimited number of immature cannabis plants, germinated seeds, cuttings, or clones;
  - iii. In a facility occupying an area that does not exceed 2,500 square feet; and
  - iv. In a total grow canopy area that does not exceed 2,500 square feet, measured on a horizontal plane, and 24 feet, measured vertically above that plane.
2. Tier I Cultivator. A cannabis cultivator with a Tier I Cultivator license may cultivate in a mature cannabis plant grow canopy area that does not exceed 10,000 square feet.
3. Tier II Cultivator. A cannabis cultivator with a Tier II Cultivator license may cultivate in a mature cannabis plant grow canopy area that is greater than 10,000 square feet but does not exceed 25,000 square feet.
4. Tier III Cultivator. A cannabis cultivator with a Tier III Cultivator license may cultivate in a mature cannabis plant grow canopy area that is greater than 25,000 square feet but does not exceed 50,000 square feet.
5. Tier IV Cultivator. A cannabis cultivator with a Tier IV Cultivator license may cultivate in a mature cannabis plant grow canopy area that is greater than 50,000 square feet but does not exceed 75,000 square feet.
6. Tier V Cultivator. A cannabis cultivator with a Tier V Cultivator license may cultivate in a mature cannabis plant grow canopy area that is greater than 75,000 square feet but does not exceed 100,000 square feet.
7. Tier VI Cultivator. A cannabis cultivator with a Tier VI Cultivator license may cultivate in a mature cannabis plant grow canopy area that is greater than 100,000 square feet but does not exceed 150,000 square feet.
8. Expanded ATC Cultivator. An expanded ATC with a cannabis cultivator license may cultivate medical cannabis and personal use cannabis in a combined mature cannabis plant grow canopy area that does not exceed 150,000 square feet.

(d) A cannabis cultivator applying for a conditional or annual standard cannabis business license may choose its tier in its application and shall include an explanation of the anticipated demand for its products that justify such tier choice.

#### § 17:30-10.5 PACKAGING, LABELING, RELEASE FOR DISTRIBUTION

(a) A cannabis cultivator shall place a legible, permanently affixed label containing the information specified at N.J.A.C. 17:30-13.3 on each package of finished usable cannabis that is ready for sale.

(b) A cannabis cultivator shall only release for distribution and transfer to another cannabis business cannabis that has been properly processed, tested, packaged, sealed and labeled in accordance with the provisions of N.J.A.C. 17:30-13.2 and 13.3.

#### § 17:30-10.6 CANNABIS CULTIVATOR RECORDKEEPING

(a) A cannabis cultivator shall maintain records identifying the source of each ingredient used in the cultivation of cannabis. Records identifying the source of each ingredient shall include:

1. The date of receipt of the ingredient;
2. The vendor-contractor's name and address;
3. The name of the ingredient and the vendor-contractor's control number or other identifying number or symbol, if any, used by the vendor-contractor to identify the ingredient; and
4. The grade and quantity of said ingredient.

(b) A cannabis cultivator shall keep and maintain for four years in an on- or off-premises facility, a complete and accurate record of:

1. All sales of cannabis flowers, cannabis leaves, and immature cannabis plants;
2. The number of ounces of cannabis flowers produced;
3. The number of ounces of cannabis leaves produced;
4. The number of immature cannabis plants produced, and
5. The dates of all sales and production as enumerated above in (b) 1 through 4, including and the name of the purchasing entity for each sale.

#### § 17:30-10.7 CANNABIS CULTIVATOR STORAGE OF CANNABIS; QUARANTINE

(a) A cannabis cultivator shall establish and implement a standard operating procedure for quarantine of any cannabis seed, cutting, clone, immature cannabis plant, batch of cannabis, or cultivation material or component whose suitability for use or distribution is in question, including the conditions described in paragraph (b), to prevent its use and distribution pending disposition by quality control personnel.

(b) A cannabis cultivator shall have at least the following storage areas, which must be segregated from each other:

1. Storage for newly received cultivation materials or components and newly received cannabis seeds, cuttings, clones, immature cannabis plants, or usable cannabis;
2. Batches of usable cannabis awaiting release for distribution for personal use pending written reports confirming they meet specifications;
3. Any usable cannabis suspected but not yet confirmed to be contaminated, including usable cannabis returned as part of a complaint or recall process;
4. Usable cannabis, components, or materials that have been confirmed to be contaminated, including, but not limited to usable cannabis that fails testing or is returned as part of a recall, and shall be stored with cannabis waste in a waste disposal room until destroyed and rendered unusable, in accordance with N.J.A.C. 17:30-9.14.

#### § 17:30-10.8 CANNABIS CULTIVATOR INVENTORY

(a) A cannabis cultivator shall be authorized to acquire a reasonable initial and ongoing inventory of cannabis seeds, cuttings, clones, and immature cannabis plants and paraphernalia.

(b) A cannabis cultivator shall limit its inventory of cannabis seeds, cuttings, clones, immature cannabis plants, and usable cannabis to reflect the current market needs of consumers.

#### § 17:30-10.9 CANNABIS CULTIVATOR QUALITY CONTROL; PESTICIDE USE LIMITED

A cannabis cultivator shall not apply any pesticide as defined pursuant to the provisions of N.J.A.C. 7:30, in the cultivation of cannabis, except that a pesticide that has been deemed to be minimum risk by the United States Environmental Protection Agency in accordance with 40 CFR 152.25(f) and exempted from the Federal Insecticide, Fungicide, and Rodenticide Act may be applied.

### SUBCHAPTER 11. CANNABIS MANUFACTURER AUTHORIZED CONDUCT

#### § 17:30-11.1 CANNABIS MANUFACTURER PREMISES

(a) All manufacturing of cannabis shall take place in an enclosed indoor, and locked facility.

(b) Access to the enclosed indoor, and locked facility shall be limited to cannabis business ID cardholders when acting within the scope of their owner, principal, employee, or volunteer responsibilities on behalf of the cannabis manufacturer.

(c) A cannabis manufacturer shall have an area specifically designated for the safe and orderly manufacturing of cannabis products.

(d) A cannabis manufacturer shall ensure that:

1. All manufacturing areas are well-lighted and ventilated and are maintained in a clean and sanitary condition;
2. Heating and air conditioning systems are controlled to avoid decomposition of chemicals;
3. Sewage, trash, and other refuse in and from the cannabis manufacturer and immediate product manufacturing area are maintained, and disposed of, in a timely, safe, and sanitary manner; and,
4. The manufacturing area is easily accessible to hot and cold running water, exclusive of the bathroom sink; soap or detergent; and air dryers or single-source towels.

(e) A cannabis manufacturer operating as a microbusiness shall have a physical plant that does not exceed 2,500 square feet.

#### § 17:30-11.2 CANNABIS MANUFACTURER AUTHORIZED CONDUCT; PROHIBITIONS

(a) A cannabis manufacturer holding a Class 2 Cannabis Manufacturer license issued by the Commission shall be authorized to:

1. To purchase or otherwise obtain cannabis from a cannabis cultivator or cannabis manufacturer;
2. To purchase or otherwise obtain cannabis products from other cannabis manufacturers;
3. To develop, produce, manufacture, prepare, or otherwise create and package cannabis products; and
4. To possess, transfer, transport, distribute, supply, or sell cannabis and cannabis products to other cannabis manufacturers, or usable cannabis and cannabis products to cannabis wholesalers or cannabis retailers.

(b) A cannabis manufacturer holding a Class 2 Cannabis Manufacturer license issued by the Commission shall not be authorized to:

1. To cultivate cannabis; or
2. To transport, transfer, distribute, supply, or sell cannabis, cannabis products, paraphernalia, or related supplies to consumers.

(c) A cannabis manufacturer shall only manufacture cannabis products in forms approved by the Commission, pursuant to N.J.A.C. 17:30-11.5.

(d) A microbusiness cannabis manufacturer shall acquire no more than 1,000 pounds of usable cannabis each month.

#### § 17:30-11.3 CANNABIS MANUFACTURER EQUIPMENT

a) A cannabis manufacturer shall possess equipment of appropriate design and capacity to the type of manufacturing performed, which shall be suitably located to facilitate operations for the intended use, cleaning, and maintenance of the equipment.

b) Equipment surfaces that contact ingredients shall not be reactive, additive, or adsorptive such that those surfaces could alter the safety, identity, strength, quality, and purity of the cannabis product.

c) Equipment used in manufacturing cannabis products shall be thoroughly cleaned and sanitized after each use, and when necessary, prior to use, in order to prevent cross-contamination of ingredients and preparations.

d) Equipment used in manufacturing cannabis products shall be stored in a manner to prevent cross-contamination of ingredients and preparations.

e) Automated, mechanical, or electronic equipment may be used in manufacturing cannabis products. All equipment utilized in manufacturing cannabis products shall be inspected, maintained, and validated at appropriate intervals, consistent with manufacturer's recommendations, to ensure the accuracy and reliability of equipment performance.

#### § 17:30-11.4 QUALITY CONTROL

(a) A cannabis manufacturer shall establish cannabis product specifications to ensure the identity, strength, quality, and purity of the cannabis product, and to ensure that the cannabis product has been manufactured, packaged, labeled, and stored under conditions to prevent contamination by impurities or foreign substances.

(b) A cannabis manufacturer shall establish procedures to ensure quality control over its manufacturing process.

(c) A cannabis manufacturer shall establish laboratory testing to ensure quality control over its manufacturing process, pursuant to Subchapters 15 and 16 of this chapter.

#### § 17:30-11.5 PROHIBITED MANUFACTURING; AUTHORIZED FORMS; AUTHORIZED AMOUNTS

(a) A cannabis manufacturer shall not manufacture cannabis products that contain drug products that appear on the Federal Food and Drug Administration's list of Drug Products

Withdrawn or Removed from the Market for Reasons of Safety or Effectiveness, codified at 21 C.F.R. 216.24.

(b) A cannabis manufacturer may manufacture oil for use in an electronic smoking device as vaporized formulation, in a pressurized metered dose inhaler, or in topical or oral formulations.

(c) A cannabis manufacturer is authorized to manufacture the following forms:

1. A cannabis concentrate, either in solid form or in liquid form as oil, either as cannabis extract or as resin extracted using non-chemical processes;
2. A cannabis-infused product, either in solid form or liquid form, containing either usable cannabis or cannabis concentrate along with an additional ingredient, which includes but is not limited to:
  - i. Vaporized formulation;
  - ii. Drops, tinctures, and other sublabial and sublingual forms;
  - iii. Oral lozenges and other buccal forms;
  - iv. Ingestible forms, which shall only include syrups, pills, tablets, capsules, and chewable forms; and
  - v. Topical formulations and transdermal forms; and
3. Any other form authorized by the Commission, including a form authorized in accordance with the Commission's power to waive requirements pursuant to N.J.A.C. 17:30-3.13.

(d) A cannabis manufacturer shall manufacture cannabis products such that:

1. Each package of finished cannabis product shall, for inhalable products, contain no more than  $\frac{1}{4}$  ounce or 7.09 grams of usable cannabis or equivalent weight dependent on form;
2. Each package of finished cannabis product shall, for ingestible products, contain no more than 100 mg of active THC;
3. Each single serving of a cannabis product shall contain no more than 10mg of active THC or the equivalent weight as best determined based on THC potency, dependent on form;
  - i. Each single serving of a cannabis product shall have a cannabinoid concentration that is within 95% to 105% of the specified milligram serving size claimed for that cannabis product.
  - ii. Each single serving shall be demarcated in accordance with subparagraph (g) of paragraph (8) of subsection (a) of N.J.S.A. 24:6I-35;
4. No ingestible product shall be in the shape of, or a shape bearing the likeness or containing characteristics of, a realistic or fictional human, animal, or fruit, or part thereof, including artistic, caricature, or cartoon renderings; and



5. A commercially manufactured or trademarked food product shall not be used as an ingestible product, provided that a commercially manufactured or trademarked food product may be used as a component of an ingestible product or part of a product's recipe so long as the commercially manufactured or trademarked food product is used in a way that renders it unrecognizable in the final ingestible product and the product is not advertised as containing the commercially manufactured or trademarked food product.
6. Each ingestible product shall have a universal symbol marked, stamped, or imprinted directly on it, in accordance with subparagraph (h) of paragraph (8) of subsection (a) of N.J.S.A. 24:6I-35.

#### § 17:30-11.6 INGREDIENTS IN CANNABIS PRODUCTS

(a) A cannabis manufacturer must ensure all ingredients included in the products are compliant with the standards in this section and used only within the ingredient manufacturer's recommendations.

(b) All ingredients used to manufacture cannabis products shall be United States Pharmacopeia–National Formulary (USP–NF), analytical reagent (AR), certified American Chemical Society (ACS), or Food Chemicals Codex (FCC) grade substances. If a USP-NF, AR, ACS, or FCC grade substance ingredient is not available, the cannabis manufacturer shall establish the purity and safety of the ingredient by reasonable means, which may include lot analysis, manufacturer reputation, or reliability of source study.

(c) Components used in the manufacturing of cannabis products such as aliquots, triturates, stock solutions, buffering agents, or isotonic solutions may be prepared in advance and stored as cannabis manufacturer stock. The preparation of such products shall be documented in accordance with the requirements outlined in this subchapter.

(d) Inactive and active ingredients for inhalable products:

1. Inactive ingredients for vaporized formulations:

- i. Vaporized formulations may not include inactive ingredients that are additives, cutting agents, and artificial flavorings known to be harmful including but not limited to:
  - a. Polyethylene glycol (PEG);
  - b. Propylene glycol (PG);
  - c. Vegetable glycerin, glycerine, or glycerol (VG);
  - d. Vitamin E acetate or tocopherol acetate (VEA);
  - e. Acetic acid; or
  - f. Any other ingredient listed in the most recently published Food and Drug Administration Established List of Harmful and Potentially Harmful Constituents in Tobacco Products and Tobacco Smoke, or the Food and

Drug Administration Notice of Proposed Additions to the Established List of Harmful and Potentially Harmful Constituents in Tobacco Products and Tobacco Smoke (August 5, 2019).

- ii. Any inactive ingredient used in a vaporized formulation must be listed as an allowable ingredient in products using the Respiratory (Inhalation) Route of Administration in the most recently published Food and Drug Administration Inactive Ingredients Database and must be used in an amount less than or equal to the “Potency Amount” allowed for the ingredient.
  - 1. Except that medium-chain triglyceride oil (MCT) may be used in a vaporized formulation in less than or equal to 13% of the vaporized formulation.
  - 2. Inactive ingredients for oil intended for inhalation using a pressurized metered dose inhaler:
    - i. An oil intended for inhalation using a pressurized metered dose inhaler may include an inactive ingredient, including a pressurized propellant, that is listed as an allowable ingredient in products using the Respiratory (Inhalation) Route of Administration and the Aerosol, Metered Dosage Form in the most recently published Food and Drug Administration Inactive Ingredients Database, and that is used in an amount less than or equal to the “Potency Amount” allowed for the ingredient.
  - 3. Permitted active ingredients for cannabis products intended for inhalation and vaporized formulations:
    - i. Cannabis products intended for inhalation and vaporized formulations may include oil, cannabis-derived ingredients including terpenes, and botanically-derived terpenes.
      - a. Except that the total amount of terpenes in a cannabis product intended for inhalation or vaporized formulation may not exceed 10% of the product.
  - 4. A cannabis manufacturer may seek a waiver to an inactive ingredient requirement by providing evidence that demonstrates the safety of the ingredient in aerosol form for the inhalation route of administration within the maximum potency per unit dose, including but not limited to:
    - i. Peer-reviewed studies, especially studies that demonstrate the safety of the ingredient after heating and in combination with cannabis concentrate;
    - ii. Approval for use as an allowable ingredient in products using the inhalation route of administration by an international body or government agency in another country equivalent to the Food and Drug Administration or another U.S. state department of health.
- (e) Inactive ingredients for ingestible products:
- 1. Any inactive ingredient used in an ingestible cannabis product must be listed as an allowable ingredient in products using the Oral, Buccal, or Sublingual Routes of

Administration, as applicable, in the most recently published Food and Drug Administration Inactive Ingredients Database and must be used in an amount less than or equal to the “Potency Amount” allowed for the ingredient.

(f) Inactive ingredients for dermal products:

1. Any inactive ingredient used in a dermal cannabis product must be listed as an allowable ingredient in products using the Topical and Transdermal Routes of Administration, as applicable, in the most recently published Federal Food and Drug Administration Inactive Ingredients Database and must be used in an amount less than or equal to the “Potency Amount” allowed for the ingredient.

(g) Food and Drug Administration website references:

1. The most recently published Food and Drug Administration Established List of Harmful and Potentially Harmful Constituents in Tobacco Products and Tobacco Smoke is available at <https://www.fda.gov/tobacco-products/rules-regulations-and-guidance/harmful-and-potentially-harmful-constituents-tobacco-products-and-tobacco-smoke-established-list>.
2. The Food and Drug Administration Notice of Proposed Additions to the Established List of Harmful and Potentially Harmful Constituents in Tobacco Products and Tobacco Smoke (August 5, 2019) is available at <https://www.federalregister.gov/documents/2019/08/05/2019-16658/harmful-and-potentially-harmful-constituents-in-tobacco-products-established-list-proposed-additions>.
3. The most recently published Food and Drug Administration Inactive Ingredients Database is available at <https://www.fda.gov/drugs/drug-approvals-and-databases/inactive-ingredients-database-download>.

## § 17:30-11.7 CANNABIS ELECTRONIC SMOKING DEVICES

(a) A cannabis manufacturer that acquires an electronic smoking device for the purpose of distributing it to a cannabis retailer or cannabis wholesaler must ensure this device is made with ingredients and manufacturing processes compliant with the standards in this section and is reasonably safe for its intended use.

1. The cannabis manufacturer shall establish the reasonable safety of all electronic smoking devices through reasonable means, which may include manufacturer reputation, reliability of source study, and independent product testing results.

(b) An electronic smoking device, excluding the battery, shall not, in homogenous material, contain:

1. More than 100 ppm of cadmium; and

2. More than 1000 ppm of lead, mercury, hexavalent chromium, polybrominated biphenyls, polybrominated diphenyl ether, bis(2-ethylhexyl) phthalate, butyl benzyl phthalate, dibutyl phthalate, diisobutyl phthalate.
- (c) An electronic smoking device battery shall not contain more than 0.0005% of mercury and 0.002% of cadmium by weight.
- (d) The electronic smoking device shall be manufactured:
1. According to the cGMP requirements for medical devices, pursuant to 21 CFR Part 820;
  2. In a manufacturing facility with ISO 13485 certification;
  3. Using, for any component or mouthpiece that comes in contact with the vaporized formulation, food contact materials listed as indirect food additives in 21 CFR 174-190.
- (e) The electronic smoking device shall not exceed 500°F and 4V during intended use and shall be equipped to automatically shut off if those conditions are exceeded.
- (f) A cannabis manufacturer that acquires an electronic smoking device for the purpose of distributing it to another cannabis business shall maintain certificates of analysis, material data safety sheets, or other records demonstrating the full composition of each ingredient or component used in the manufacture of the electronic smoking device.

#### § 17:30-11.8 EXPIRATION DATES

- (a) The expiration date is the date after which a cannabis product shall not be sold. The expiration date shall be determined from the date the cannabis product is manufactured.
- (b) After stability testing has commenced pursuant to N.J.A.C. 17:30-16.5, a cannabis manufacturer shall determine the expiration date based on stability testing information. The expiration date limits established in this section may be exceeded only when there is supporting valid scientific stability testing information that is directly applicable to the specific cannabis product.
1. “Directly applicable to the specific cannabis product” shall mean that the stability tested product and the other product shall share characteristics, such as concentration range, pH, excipients, vehicle, or water content.
- (c) In the absence of stability testing information pursuant to N.J.A.C. 17:30-16.5 that is applicable to a specific cannabis product, the following are the maximum expiration dates for cannabis products that are packaged in airtight, light-resistant containers and stored at controlled room temperature, unless otherwise indicated in (c), below:
1. For water-containing formulations (prepared from ingredients in solid form), the expiration date shall not be later than 14 days for liquid preparations when stored

at cold temperatures between two degrees and eight degrees Celsius (36 degrees and 46 degrees Fahrenheit); and,

2. For all other formulations, the expiration date shall not be later than 6 months from the manufacture date.

#### § 17:30-11.9 PACKAGING; LABELING; RELEASE FOR DISTRIBUTION

(a) A cannabis manufacturer shall place a legible, permanently affixed label containing the information specified at N.J.A.C. 17:30-13.3 on each package of finished cannabis product

(b) A cannabis manufacturer shall only release for distribution and transfer cannabis products to another cannabis business, cannabis products that have been properly processed, tested, packaged, sealed and labeled in accordance with the provisions of N.J.A.C. 17:30-13.2 and 13.3.

#### § 17:30-11.10 CANNABIS MANUFACTURER STORAGE OF CANNABIS; CANNABIS PRODUCTS; QUARANTINE

(a) A cannabis manufacturer shall have at least the following storage areas, segregated from each other:

1. Storage for newly received manufacturing materials, including newly received usable or unusable cannabis, ingredients to be used in manufacturing, and any cannabis-infused products or cannabis concentrates received from other cannabis manufacturers;
2. Lots of cannabis products awaiting release for distribution for personal use pending written reports confirming they meet specifications;
3. Any usable cannabis or cannabis products suspected but not yet confirmed to be contaminated, including cannabis products returned as part of a complaint or recall process;
4. Cannabis products, components, or materials that have been confirmed to be contaminated, such as usable cannabis or cannabis products that fail testing or are returned as part of a recall, shall be stored with cannabis waste in a waste disposal room until destroyed or rendered unusable, as applicable, pursuant to N.J.A.C. 17:30-9.14.

(b) A cannabis manufacturer shall establish and implement a standard operating procedure for quarantine of any batch of usable cannabis, lot of cannabis concentrates or cannabis-infused products, or component whose suitability for use or distribution is in question, including the conditions described in (a)(3) and (4) above, to prevent its use and distribution pending disposition by quality control personnel.

§ 17:30-11.11 HEALTH AND SAFETY STANDARDS

(a) A cannabis manufacturer shall:

1. Enter into an on-site consultation agreement with the New Jersey Department of Labor and Workforce Development, Division of Public Safety and Occupational Safety and Health, Occupational Safety and Health On-Site Consultation Program ("Consultation Program") established pursuant to 29 C.F.R. Part 1908 and in accordance with the Consultation Program's procedures identified on its website at [http://lwd.dol.state.nj.us/labor/lssse/employer/Occupational\\_Safety\\_and\\_Health\\_Onsite\\_Consultation\\_Program.html](http://lwd.dol.state.nj.us/labor/lssse/employer/Occupational_Safety_and_Health_Onsite_Consultation_Program.html);
2. Cooperate fully with the Consultation Program in the consultation process;
3. Permit the Consultation Program full access to evaluate the cannabis manufacturer premises and operations and to interview cannabis manufacturer staff on an ongoing basis;
4. Correct, to the satisfaction of the Consultation Program, health and safety hazards that the Consultation Program may find and identify in its written report; and
5. Maintain ongoing cooperation with the Consultation Program and continue to correct, to the satisfaction of the Consultation Program, health and safety hazards that the Consultation Program may find and identify in subsequent written reports.

(b) The Commission shall not authorize a cannabis manufacturer to commence operations, or recommence operations, unless and until the cannabis manufacturer:

1. Corrects, to the satisfaction of the Consultation Program, imminent dangers and serious hazards that the Consultation Program identifies; and
2. Demonstrates ongoing progress and cooperation, to the satisfaction of the Consultation Program, in the correction of other-than-serious hazards in accordance with a schedule and action plan of correction accepted by the Consultation Program.

(c) A violation of paragraph (b) shall result in enforcement actions pursuant to Subchapter 17 of this chapter, which may include civil monetary penalties or summary suspension.

§ 17:30-11.12 MANUFACTURING PERSONNEL; MANUFACTURING SUPERVISOR

(a) A cannabis manufacturer shall designate a manufacturing supervisor who will be responsible for ensuring compliance with this subchapter, including ensuring that:

1. Cannabis products have been properly prepared, labeled, controlled, stored, sold, and distributed in accordance with the provisions of this standard;
2. All aspects of the manufacturing process are documented and that accurate manufacturing records for all cannabis products prepared by the cannabis manufacturer are maintained;

3. Manufacturing personnel are capable of and qualified to perform their assigned duties;
4. Ingredients used in manufacturing have their expected identity, strength, quality, and purity consistent with the requirements in this standard;
5. Cannabis products are manufactured with acceptable strength, quality, and purity, are packaged with appropriate packaging and labeling, and are prepared in accordance with good manufacturing practices;
6. Critical processes are recorded and validated to ensure that procedures will consistently result in the expected strength, quality, and purity in the finished cannabis products;
7. The manufacturing environment is suitable for its intended purpose;
8. Appropriate stability testing pursuant to N.J.A.C. 17:30-16.5 is performed or is determined from literature for establishing reliable expiration dating to ensure that the finished cannabis products have their expected strength, quality, and purity, at least until the labeled expiration date;
9. Manufacturing conditions and standard operating procedures are in place to minimize the potential for errors; and
10. Adequate procedures and records exist for investigating and correcting failures or problems in manufacturing, quality control, or in the cannabis product itself.

(b) Personnel employed by the cannabis manufacturer shall have appropriate education and/or experience to assume responsibility for positions that would affect compliance with this subchapter.

(c) The manufacturing supervisor shall report any confirmed failure of a cannabis product to meet the standard of acceptable strength, quality, purity, packaging, and labeling to the Commission within 24 hours of incident confirmation.

#### § 17:30-11.13 CANNABIS MANUFACTURER RECORDKEEPING; AUDIT TRAIL; MANUFACTURING RECORD

(a) A cannabis manufacturer shall maintain records identifying the source of each ingredient used in the manufacturing of cannabis. Records identifying the source of each ingredient shall include:

1. The date of receipt of the ingredient;
2. The vendor-contractor's name and address;
3. The name of the ingredient and the vendor-contractor's control number or other identifying number or symbol, if any, used by the vendor-contractor to identify the ingredient; and
4. The grade and quantity of said ingredient.



(b) A cannabis manufacturer shall maintain a manufacturing record for each cannabis product; the record shall contain the following information:

1. Selection of all ingredients and documentation of source, lot/batch numbers, and expiration dates of all ingredients used;
2. Verification that ingredients comply with the master formulation record;
3. Verification that the cannabis product label complies with the requirements outlined N.J.A.C. 17:30-11.9;
4. Verification that the cannabis product is complete and ready for sale;
5. Strength of cannabis product;
6. Date of preparation;
7. Name of the person(s) who performed each step of the manufacturing process and the manufacturing supervisor who verified the preparation of the cannabis product;
8. Reference(s) for formulation, if available;
9. Total quantity of cannabis product, including number of servings, manufactured in each lot;
10. Detailed steps of the manufacturing process to ensure that the exact same cannabis product can be duplicated at a future date;
11. Type of container used when the cannabis product has specific storage requirements;
12. Expiration date of the cannabis products consistent with the requirements outlined in this subchapter;
13. Results of quality control procedures;
14. Instructions for use, storage, and handling of the cannabis product.

(d) The cannabis manufacturer shall follow all recordkeeping requirements as outlined in N.J.A.C. 17:30-9.7.

## SUBCHAPTER 12. CANNABIS RETAILER AUTHORIZED CONDUCT

### § 17:30-12.1 CANNABIS RETAILER PREMISES

(a) A cannabis retailer premises shall not be located in or upon any premises in which operates:

1. A grocery store, delicatessen, indoor food market, or other store engaging in retail sales of food; or
2. A store that engages in licensed retail sales of alcoholic beverages, as defined by subsection b. of R.S.33:1-1.

(b) A cannabis retailer shall sell cannabis, only at the cannabis business premises authorized in the license, including any indoor or outdoor areas, including as provided at N.J.A.C. 17:30-12.4. A purchase made through the Internet site of a cannabis retailer shall be considered to have been conducted at the cannabis retailer's premises.

#### § 17:30-12.2 CANNABIS RETAILER AUTHORIZED CONDUCT; PROHIBITIONS

(a) A cannabis retailer shall be authorized to:

1. Purchase or acquire usable cannabis from cannabis cultivators or cannabis retailers;
2. Purchase or otherwise obtain cannabis products and related supplies from cannabis manufacturers, cannabis wholesalers, or cannabis retailers;
3. Purchase or acquire paraphernalia;
4. Possess, display, transport, and transfer usable cannabis, cannabis products, paraphernalia, and related supplies;
5. Distribute, supply, sell, or furnish usable cannabis, cannabis products, paraphernalia, and related supplies to a consumer or to other cannabis retailers.
  - i. A cannabis retailer may furnish usable cannabis, cannabis products, paraphernalia, and related supplies to cannabis business delivery personnel for delivery to a consumer consistent with the requirements of N.J.A.C. 17:30-12.8.

(b) A cannabis retailer shall not be authorized to:

1. Cultivate cannabis, or
2. Produce, manufacture, or otherwise create cannabis products.

(c) A cannabis retailer may sell usable cannabis and cannabis products to consumers in any authorized form, in accordance with N.J.A.C. 17:30-11.2(c).

1. A cannabis retailer shall only sell usable cannabis and cannabis products that are packaged and labeled in accordance with N.J.A.C. 17:30-13.2 and 13.3.

(d) A cannabis retailer shall not allow persons under the age of 21 to purchase cannabis items or to enter or remain on the premises of a cannabis retailer unless accompanied by a parent or legal guardian and shall ensure similar restrictions are enacted on any internet site operated by the cannabis business.

(e) A cannabis retailer shall not allow persons under the age of 21 to purchase cannabis items.

(g) A cannabis retailer shall only sell cannabis items directly to a consumer.

(h) Each cannabis retailer shall maintain and make available on its Internet website, if any, a standard price list that shall apply to all usable cannabis, cannabis products, paraphernalia, and related supplies sold by the cannabis retailer.

(i) Each cannabis retailer shall consider whether to make interpreter services available to the population served, including for individuals with a visual or hearing impairment.

1. The cannabis retailer shall assume the cost of providing such interpreter services.
2. The Commission shall provide assistance to any cannabis retailer that seeks to provide such services in locating appropriate interpreter resources.

(j) A microbusiness cannabis retailer shall acquire no more than 1,000 pounds of usable cannabis, or the equivalent amount in any form of cannabis product, or any combination thereof, for retail sale to consumers each month.

#### § 17:30-12.3 CANNABIS RETAILER SALE TO CONSUMER

(a) Before allowing entrance to a cannabis retailer and additionally prior to selling or serving cannabis items to a consumer, for each transaction, cannabis retailer personnel shall examine any one of the following pieces of photographic identification and shall confirm the consumer is of legal age to purchase cannabis:

1. The person's United States passport; other country's passport; or proper government-issued documentation for international travel, provided it is lawful to use as identification in the United States;
2. The person's motor vehicle driver's license, whether issued by New Jersey or by any other state, territory, or possession of the United States, or the District of Columbia, provided the license displays a picture of the person;
3. A New Jersey identification card issued by the New Jersey Motor Vehicle Commission; or
4. Any other identification card issued by a state, territory, or possession of the United States, the District of Columbia, or the United States that bears a picture of the person, the name of the person, the person's date of birth, and a physical description of the person;

(b) In order to ensure that individual privacy is protected:

1. A consumer is not required to provide a cannabis retailer with personal information other than government-issued identification as set forth in paragraph (a) in order to determine the consumer's identity and age;
2. A cannabis retailer shall not collect and retain any personal information about a consumer other than information typically acquired in a financial transaction conducted by the holder of a Class C retail license concerning alcoholic beverages as set forth in R.S.33:1-12; and

3. The cannabis retailer shall not keep a copy of the consumer's photographic identification.

(c) Cannabis retailer personnel shall log that the examination of photographic identification and confirmation of legal age pursuant to paragraph (a) occurred in a record, and the cannabis retailer shall maintain such record and it shall be available for inspection by the Commission.

(d) The cannabis retailer shall not sell to a consumer in a single sales transaction:

1. More than one ounce of usable cannabis;
2. The equivalent of more than one ounce of usable cannabis as a cannabis-infused product in solid, liquid, or concentrate form;
3. More than five grams of cannabis concentrate; or
4. Some combination thereof not to exceed one ounce, or the equivalent, of usable cannabis and cannabis products.

(e) The cannabis retailer shall make a good faith effort to prevent a consumer from exceeding one ounce of usable cannabis or the equivalent weight in cannabis products, in multiple sales transactions.

(f) The cannabis retailer shall only sell to consumers cannabis items that have been properly tested, packaged, sealed, and labeled in accordance with the provisions of N.J.A.C. 17:30-13.2 and 13.3.

(g) A cannabis retailer shall provide the consumer with a receipt that includes, at a minimum:

1. Its name, address, license number, and telephone number;
2. The date of retail sale; and
3. The cannabis items purchased and their purchase price.

(h) A cannabis retailer selling an electronic smoking device to the consumer shall provide a supplemental information document that:

1. Lists all ingredients or materials used to manufacture the electronic smoking device;
2. Provides instructions to consumers on how to use the electronic smoking device safely as part of intended usage based on manufacturer's recommendations, which shall include, but is not limited to, a recommended number of seconds per dose; and
3. States, "Electronic smoking devices and vaporized formulations of cannabis are not approved by the Food and Drug Administration and have not been proven to be safe for use in humans. Consumers should consider alternative methods for the administration of cannabis."

(i) A cannabis retailer shall offer to provide a copy of the written report from the testing laboratory pursuant to N.J.A.C. 17:30-16.6 as a supplemental informational document to the adult consumer.

(j) The cannabis retailer shall collect any tax from a consumer required by the Act and this chapter.

#### § 17:30-12.4 CURBSIDE RETAIL SALES

(a) A cannabis retailer may conduct curbside retail sales in accordance with this section upon approval of the Commission.

(b) Prior to initiating curbside retail sales, the cannabis business shall provide the Commission with, and shall seek approval from the Commission on, standard operating procedures regarding:

1. Taking cannabis item orders, verifying photographic identification, and receiving payment;
2. Logging transactions in the Commission-designated inventory management system, and, as applicable, the internal inventory management system; and
3. Security needed to accommodate curbside retail sales.

(c) When a cannabis retailer conducts curbside retail sales:

1. A consumer shall place an order with the cannabis retailer in advance;
2. Usable cannabis and cannabis products shall be labeled in the cannabis retailer's premises prior to retail sale on the exterior of the facility;
3. The cannabis retailer shall provide a consumer with an approximate pick-up time to reduce traffic around the premises;
5. Prior to making a retail sale, cannabis retailer personnel shall conduct an in-person visual verification of the consumer's photographic identification.
6. All transactions shall be appropriately logged in the Commission-designated inventory management system, and as applicable, the internal inventory management system in accordance with N.J.A.C. 17:30-9.7 and N.J.A.C. 17:30-9.13;
7. All transactions shall be conducted in a secure and monitored manner in accordance with N.J.A.C. 17:30-9.10; and

(d) The cannabis retailer shall notify the municipality in which it is located and local law enforcement that it intends to conduct curbside retail sales.

#### § 17:30-12.5 CANNABIS RETAILER RECORDKEEPING; REPORTING

(a) A cannabis retailer shall keep a complete and accurate record of all cannabis item sales and deliveries made to consumers by the retailer or a cannabis delivery service acting on its behalf

1. Such records shall be kept and maintained for four years, either on-premises or at an off-site facility, in written or electronic form.

(b) A cannabis retailer license-holder shall collect and report to the Commission for each calendar year at least the following statistical data:

1. The number of consumers who purchased each cannabis item sold by the cannabis retailer;
2. Total number of cannabis item transactions;
3. Taxes collected; and
4. Such other information as the Commission may require in the administration and enforcement of this chapter.

#### § 17:30-12.6 CANNABIS RETAILER CONSUMER EDUCATION

(a) A cannabis retailer shall, prior to the opening date of the cannabis business, establish and implement policies describing its plans for providing information and communicating to consumers as to:

1. Limitations of the right to possess and use cannabis items pursuant to the Act and this chapter;
2. Potential side effects of cannabis use;
3. The differing strengths of cannabis items sold;
4. Safe techniques for use of cannabis items and paraphernalia, noting the potential variations in feeling the effects of cannabis;
5. Alternative methods and forms of consumption or inhalation by which one can use cannabis items;
6. Signs and symptoms of substance abuse;
7. Opportunities to participate in substance abuse programs; and
8. Information on tolerance, dependence and withdrawal.

(b) A cannabis retailer shall maintain, and make available for distribution to consumers, an adequate supply of up-to-date informational materials addressing the matters identified in the policies developed pursuant to paragraph (a).

1. Informational materials must be available for inspection by the Commission upon request.

#### § 17:30-12.7 CANNABIS RETAILER STORAGE

All cannabis items shall be stored in an enclosed indoor, locked area pursuant to N.J.A.C. 17:30-9.12 where access to such area is limited to an owner, principal, employee, volunteer, of a license-holder or staff members of a license-holder's management services contractor that possesses a Cannabis Business Identification Card when acting in their official capacity.

#### § 17:30-12.8 HOME DELIVERY

(a) A license-holder holding a Class 6 Cannabis Delivery license may be authorized by a cannabis retailer to deliver cannabis items to consumers on behalf of that cannabis retailer.

(b) As approved by the Commission and pursuant to paragraph (j) of N.J.S.A. 24:6I-44, on behalf of a cannabis retailer, cannabis business delivery personnel or a cannabis delivery service may deliver cannabis to a consumer at a residence.

1. Cannabis retailers may engage in delivery in any region and may institute geographic and hourly restrictions on where and when they opt to deliver to consumers.
2. Any such restrictions shall be reported to the Commission and listed on the cannabis retailer's Internet website.
3. Cannabis retailers may change those restrictions, provided however that the cannabis retailer gives advance notice of seven days to the Commission and the municipality in which the cannabis retailer is located, the cannabis retailer notifies consumers, and the cannabis retailer posts the changed restrictions online.
4. If servicing different geographic areas on different days or at different times, cannabis retailers shall implement a regular schedule to the extent practicable.

(c) Orders shall be placed in advance, and cannabis items shall be assembled for delivery at the cannabis retailer premises.

1. When a consumer places an order for delivery for the first time with a cannabis retailer, the cannabis retailer may validate the consumer's age by phone or through online means, provided, however that an in-person verification is conducted by cannabis business delivery personnel prior to sale.

(d) In transit, cannabis items shall be locked and stored in a sanitary and secure lockbox in the delivery vehicle until cannabis business delivery personnel arrive at the delivery address.

(e) When outside of the vehicle to conduct a delivery, or when leaving the vehicle for any other reason, cannabis business delivery personnel shall lock the delivery vehicle and the secure lockbox and engage the vehicle alarm system.



(f) Deliveries may be conducted by a single person provided, however, that another person that is cannabis retailer or cannabis delivery service personnel, preferably a supervisor, has access to real-time GPS tracking of the delivery vehicle.

(g) A cannabis delivery service and cannabis retailer:

1. Shall only deliver to a residence, including a temporary residence, in this State;
2. Shall only deliver to a legal consumer whose age has been verified by an examination of the consumer's photographic identification; and
3. Shall only deliver a cannabis item in person and shall not use an unmanned vehicle.

(h) A cannabis retailer or cannabis delivery service shall not leave cannabis items unattended, such as on a porch or stoop, and shall not deliver in mailboxes or to post office boxes or to any residence located on land owned by the federal government or any residence on land or in a building leased by the federal government.

(i) At the door of the consumer, cannabis business delivery personnel shall conduct an in-person visual verification of the photographic identification of the consumer prior to furnishing purchased cannabis items.

(j) Cannabis business delivery personnel may make multiple deliveries in one trip and shall travel only between the cannabis retailer premises and residential delivery addresses, except in the event of emergency or dangerous road conditions or as necessary for sanitization, rest, fuel, or vehicle repair stops.

1. A cannabis retailer shall ensure that deliveries are completed in a timely and efficient manner.

(k) All transactions, including the information in (k), below, shall be appropriately logged in the Commission-designated inventory management system and as applicable, the cannabis retailer's internal inventory in accordance with N.J.A.C. 17:30-9.7, N.J.A.C. 17:30-9.13, and other corresponding rules.

(l) A cannabis retailer shall maintain delivery records, which includes the following information for every delivery conducted by the cannabis retailer or on its behalf:

1. Date and time of delivery.
2. Name, address, and signature of the consumer delivery recipient;
3. Name and Cannabis Business Identification Card number of cannabis business delivery personnel;
4. The name, amount, batch or lot number(s), and tracking number(s) of the cannabis item(s) delivered; and
5. Confirmation of photographic identification verification.

(m) Where a delivery is attempted and not completed and the cannabis item remains in the cannabis business delivery personnel's possession, the delivery personnel shall

return the cannabis item to the originating retailer. The cannabis retailer may repackage and restock the product, logging the product's amended status in the internal inventory. Such items must be in new, unopened condition prior to restocking.

(n) To the extent practicable, the cannabis retailer and cannabis delivery service shall implement protective measures for delivery to reduce the spread of COVID-19 and other communicable diseases as recommended by the New Jersey Department of Health, the United States Centers for Disease Control and Prevention, the Occupational Safety & Health Administration or health care professionals. These include but are not limited to providing cannabis business delivery personnel with hand sanitizer and personal protective equipment.

(o) While conducting a delivery, a person that is cannabis business delivery personnel, shall carry:

1. Their Cannabis Business Identification Card;
2. A valid non-probationary driver's license appropriate to the type of delivery vehicle driven;
3. A cellular telephone to communicate securely with the cannabis retailer; and
4. A physical or electronic copy of the consumer's delivery request.

(p) A delivery vehicle shall bear no markings that would either identify or indicate that the vehicle is used to deliver cannabis items.

(q) Delivery vehicles shall be equipped with or contain an operational GPS device at all times.

(r) A cannabis retailer and cannabis delivery service shall maintain current hired and non-owned automobile liability insurance sufficient to insure each delivery vehicle in the amount of at least \$1,000,000 per occurrence or accident.

(s) A cannabis retailer and cannabis delivery service shall provide the Commission with current information on all delivery vehicles including each vehicle's make, model, color, Vehicle Identification Number, license plate number, and vehicle registration.

(t) A cannabis retailer and cannabis delivery service shall provide the Commission with a list of all personnel that will be used as cannabis business delivery personnel, documentation that they have received training for the position, and verification that they have valid non-probationary driver's licenses appropriate to the type of delivery vehicle driven.

(u) A cannabis retailer shall report any vehicle accidents, diversions, losses, or other reportable events that occur during delivery to the appropriate State and local authorities, including the Commission.

(v) A cannabis retailer may charge a delivery fee which shall not exceed 10% of the pre-tax total for an order.

(w) A cannabis retailer may sell wholesale bulk, packaged and/or labeled product to another cannabis retailer to conduct deliveries on its behalf.

(x) Prior to initiating delivery services, a cannabis retailer and cannabis delivery service shall provide the Commission with a delivery plan for approval. The delivery plan shall include Standard Operating Procedures for:

1. Taking orders, verifying photographic identification and taking payment;
2. Logging the transactions in the Commission-designated inventory management system and, as applicable, internal inventory;
3. Conducting in-person deliveries, which shall include protocols for use of personal protective equipment and regular sanitization if necessary;
4. Maintaining privacy and confidentiality of the purchasing consumer's purchase information;
5. Training cannabis business delivery personnel;
6. Tracking delivery vehicles and inventory;
7. Security for cannabis business delivery personnel, delivery vehicles and inventory; and
8. Emergency notification and response in the event of accidents, theft, equipment malfunction, or other emergency events.

### SUBCHAPTER 13. RELEASE FOR DISTRIBUTION; PACKAGING AND LABELING OF CANNABIS ITEMS

#### § 17:30-13.1 PROCESSING OF CANNABIS ITEMS; RELEASE FOR DISTRIBUTION

(a) Each cannabis cultivator and cannabis manufacturer shall contract with a testing laboratory to obtain and test samples of usable cannabis and cannabis products.

(b) A cannabis cultivator or cannabis manufacturer shall process usable cannabis or manufacture cannabis products in a safe and sanitary manner to protect consumers from adulterated cannabis items, which shall be:

1. For usable cannabis, well cured and free of seeds and stems;
2. Free of dirt, sand, debris or other foreign matter; and
3. Free of mold, rot or other fungus or bacterial diseases.

(c) After curing is complete and usable cannabis is in its final dried form, or after manufacturing is complete and cannabis products are in their final form, as applicable, before packaging and release for distribution, a cannabis cultivator or cannabis manufacturer shall ensure that a licensed testing laboratory, in accordance with N.J.A.C. 17:30-16:

1. Obtains a representative sample from a batch of usable cannabis or a lot of cannabis products;
2. Tests the representative sample; and
3. Provides a written report to the cannabis cultivator or cannabis manufacturer.

(d) The cannabis cultivator or cannabis manufacturer shall hold the batch of usable cannabis or lot of cannabis products in secure, segregated storage until it receives a written report from the licensed testing laboratory confirming that the representative sample meets specifications.

(e) After it receives a written report confirming that the representative sample meets specifications, the cannabis cultivator or cannabis manufacturer may:

1. Assign an expiration date to the batch or lot;
2. Package the batch or lot and release it for distribution; and
3. Revise the status of the batch or lot in the inventory control.

(f) When the cannabis cultivator or cannabis manufacturer receives a written report confirming that the test results of the representative sample do not meet specifications, the cannabis cultivator or cannabis manufacturer shall not sell the batch or lot to another cannabis business and shall destroy the batch or lot and render it unusable.

1. Except that if the written report confirms that the test results for usable cannabis do not meet specifications for total yeast and mold count, pursuant to subsection (f) of the Cannabis Testing Guidance, the cannabis cultivator may sell the batch to a cannabis manufacturer to manufacture the batch into a cannabis extract or cannabis-infused product using a process involving a solvent that leaves no yeast or mold, and where the final cannabis product is tested again prior to sale or transfer.
2. Except for the opportunity to retest and remediate pursuant to subparagraph (c) of paragraph (13) of subsection (a) N.J.S.A. 24:6I-35.

(g) The cannabis cultivator or cannabis manufacturer shall submit a copy of the written report to the Commission on a form developed by the Commission.

#### § 17:30-13.2 CANNABIS ITEM PACKAGING REQUIREMENTS

(a) A cannabis cultivator or cannabis manufacturer, as applicable, shall package cannabis items in packaging compliant with the requirements of this subchapter in a secure area connected to the cultivation or manufacturing area in accordance with this section before transfer to another cannabis business.

1. The usable cannabis and cannabis products shall be handled on food grade stainless steel tables.
2. Proper sanitation shall be maintained.

3. Proper rodent and bird exclusion practices shall be employed at all times.

(b) Each package of usable cannabis and cannabis product shall be sealed in a closed container, so that the package cannot be opened, and the contents consumed, without the seal being broken.

1. Such container for the packaging of cannabis products shall meet United States Pharmacopeia standards (see Containers under Preservation, Packaging, Storage, and Labeling in the General Notices and Requirements, Containers 661, and Containers—Permeation 671);
2. Such container for the packaging of cannabis products shall depend on the physical and chemical properties of the cannabis product; Container–cannabis interaction is to be considered with substances such as phenolic compounds and sorptive materials (e.g., polypeptides and proteins);

(c) Each package of usable cannabis and cannabis product shall bear a label that complies with N.J.A.C. 17:30-13.3 and shall be affixed with the universal symbol established by the Commission pursuant to N.J.A.C. 17:30-13.6.

(d) A cannabis cultivator shall only package usable cannabis, and such packages may contain no more than  $\frac{1}{4}$  oz or 7.09 grams.

(e) A cannabis manufacturer shall only package authorized forms of cannabis products, and such packages may contain such amounts in accordance with N.J.A.C. 17:30-11.5.

(f) All packaging for cannabis items shall:

1. Be fully enclosed, opaque, of a single color, and light resistant;
  - i. Packaging may contain a logo or symbol of a different color or colors, provided the logo is no larger than 1 inch in length and 1 inch in height.
2. Be child-resistant in accordance with the Poison Prevention Packaging Act of 1970, 16 C.F.R. Part 1700;
3. Protect the product from contamination; and
4. Be able to be resealed in a child-resistant manner unless the package contains a single serving cannabis item.
  - i. For ingestible products in liquid form with multiple serving units, the container must have a resealing cap or closure.

(g) Once a package is sealed, a cannabis business shall not open the package except for quality control purposes. Once the seal is broken on a cannabis item ready for sale to the consumer, the cannabis item is deemed unusable.

(h) Cannabis businesses shall make a good faith effort to utilize packaging that is biodegradable.

### § 17:30-13.3 CANNABIS ITEM LABELING REQUIREMENTS

(a) Each package of usable cannabis and cannabis product shall be affixed with a compliant label by a cannabis cultivator or cannabis manufacturer, as applicable, before transfer to another cannabis business.

(b) Labels affixed to cannabis items shall include the following consumer safety and product information:

1. The name, address, license number, telephone number of the cannabis cultivator and cannabis manufacturer that produced the cannabis item, as applicable;
2. Net weight and quantity of the cannabis items contained in the package;
3. Production or harvest date;
4. Expiration date, consistent with the requirements of N.J.A.C. 17:30-11.8;
5. A sequential serial number, batch or lot number, and bar code to identify the batch or lot associated with cultivation or manufacturing;
6. A list of any other inactive or excipient ingredients besides usable cannabis or cannabis concentrate used to manufacture a cannabis product or contained within the package;
7. A list of all potential allergens contained within the cannabis product;
8. Whether the cannabis item requires refrigeration;
9. Serving size and the total number of servings contained in the finished cannabis item; and the cannabinoid and terpene profile, in milligrams and/or as a percentage, of the cannabis item and of a single serving size;
  - i. For example: "The serving size of active THC in this product is X mg. This product contains X servings of cannabis, and the total amount of active THC in this product is X mg."
10. The strain/cultivar name, listed by scientific terms, if available, and generic or "slang" names;
11. For usable cannabis, the chemotype, growth method, an indication whether the cannabis was grown using all-organic materials, and a list of any allowable pesticides, fungicides and herbicides used in cultivation pursuant to N.J.A.C. 17:30-10.9;
  - i. Chemotypes shall be displayed as:
    - a. "High THC, Low CBD" where the THC to CBD ratio is greater than 5:1 and the total THC percentage is 15% or greater;
    - b. "Moderate THC, Moderate CBD" where the THC to CBD ratio is between 5:1 and 1:5 and the total THC percentage is between 5% and 15%;

- c. “Low THC, High CBD” where the THC to CBD ratio is less than 1:5 and the total THC percentage is less than or equal to 5%; or
      - d. Where usable cannabis does not conform to one of the three chemotypes, it shall be listed as the closest chemotype determined by mathematical analysis of the ratio of THC to CBD.
    - ii. Growth methods include, but are not limited to:
      - a. Indoor;
      - b. Outdoor;
      - c. Soil-grown;
      - d. Hydroponic; or
      - e. Aquaponic;
  - 15. A summary of the written report detailing the results of the testing laboratory testing, including but not limited to:
    - i. Potency of all major cannabinoids detected and listed in the written report; and
    - ii. A list of major terpenoids detected and listed in the written report.
  - 16. Directions for inhalable, ingestible, or topical administration, as applicable; and
  - 17. Requirements for proper storage.
- (c) Labels affixed to cannabis items shall contain the following consumer warnings, as applicable, in no less than 6-point font unless otherwise noted:
- 1. For all cannabis items:
    - i. “This product contains cannabis;”
    - ii. “This product is intended for use by adults 21 years of age or older and not for resale. Keep out of the reach of children;”
    - iii. “There may be health risks associated with the consumption of this product, including for women who are pregnant, breastfeeding, or planning on becoming pregnant;”
    - iv. “Do not drive a motor vehicle or operate heavy machinery while using this product;” and
    - v. The nationwide toll-free telephone number used to access poison control centers that is maintained in accordance with 42 U.S.C. s.300d-71.
  - 2. For any cannabis item that contains a total THC percentage greater than 40%:
    - i. “This is a high potency product and may increase your risk for psychosis” printed in no less than 10-point font.



- a. This warning shall appear complete on the front of the package and shall not be wrapped around multiple sides of the package.
- 3. For ingestible products:
  - i. "The intoxicating effects of this product may be delayed by two or more hours" printed in no less than 10-point font.
    - a. This warning shall appear complete on the front of the package and shall not be wrapped around multiple sides of the package.
- 4. For an electronic smoking device:
  - i. "This device has not been evaluated or approved by the Food and Drug Administration."
- 5. A label containing any statements about the product other than those specified in this chapter shall contain the following statement prominently displayed, and in boldface type: "This statement has not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure, or prevent any disease.
- (d) The cannabis business shall submit the label and any required form to the Commission for recordkeeping.
  - 1. The Commission shall provide a copy of the label to authorized employees of State agencies or local law enforcement agencies, as necessary for these agencies to perform their official duties.

#### § 17:30-13.4 TAX STAMP AND TRACKING

- (a) Every cannabis item shall contain a unique stamp or tag, as prescribed by the Commission, that at a minimum:
  - 1. Verifies the cannabis item was cultivated, manufactured, and sold by licensed cannabis businesses;
    - i. The Commission shall utilize the unique stamp or tag to provide the license numbers where the cannabis item was cultivated, manufactured, and sold to consumers who purchase cannabis items.
  - 2. Tracks the batch(es) and lot(s) with the which the cannabis item is associated; and
  - 3. Allows the Commission to track compliance with sales tax, municipal transfer tax, and social equity excise fees.
- (b) Cannabis businesses shall be responsible for paying any fees, as determined by the Commission, for the unique stamp or tag required by this subchapter.
- (c) Until such time as the Commission designates a tax stamp pursuant to this subchapter, the Commission may authorize cannabis items to be sold without tax stamps.

## § 17:30-13.5 CANNABIS ITEM PACKAGING AND LABELING; PROHIBITIONS

(a) The packaging and labeling of cannabis items shall not contain any:

1. Statement, illustration, or image that includes false, deceptive, or misleading statements or promotes over-consumption;
2. Resemblance to a trademarked, characteristic, or product-specialized packaging of any commercially available candy, snack, baked good, or beverage;
3. Statement, artwork, or design that could reasonably mislead any person to believe that the cannabis item or package contains anything other than cannabis items;
4. Seal, flag, crest, coat of arms, or other insignia that could reasonably mislead any person to believe that the cannabis items or package have been endorsed, manufactured, or used by any State, county, or municipality, or any agency thereof; or
5. Statement, illustration, or image that depicts a child or other person under legal age consuming cannabis items;
6. Statement, illustration, image, cartoon, color scheme, graphic, or feature that might make the cannabis item or package attractive to children.
  - i. Examples of images or graphics that are prohibited include but are not limited to toys, games, candy, beverages, food products, characters, cartoon characters suggesting the presence of a person under the legal age to purchase cannabis items, or any other depiction designed in any manner to be especially appealing to persons under the legal age to purchase cannabis items.

## § 17:30-13.6 CANNABIS ITEM PACKAGING AND LABELING; UNIVERSAL SYMBOL

(a) Pursuant to N.J.S.A. 24:6I-35, the Commission shall establish a universal symbol indicating clearly to consumers and members of the public that any package of cannabis items contains cannabis.

1. Such symbol, once established, shall be imprinted on all packages of cannabis items in a form and manner prescribed by the Commission.

## SUBCHAPTER 14. ADVERTISING

### § 17:30-14.1. PURPOSE

(a) This subchapter establishes the requirements for the advertising of cannabis products and cannabis paraphernalia to ensure no advertisement is made in a manner that is

appealing to minors or promotes excessive use or illegal activity, or that otherwise presents a significant risk to public health and safety.

(b) The Commission may take enforcement action and punitive action under N.J.A.C. 17:30-17.5 against a license-holder that fails to comply with N.J.S.A. 24:6I-34.b(b)6 and 35.a.(9) and this subchapter:

1. Which may include, but is not limited to, specifying a reasonable time period by which the license-holder shall cease the non-compliant advertising and remove any advertising still being published or displayed.

#### § 17:30-14.2. GENERAL ADVERTISING REQUIREMENTS AND PROHIBITIONS

(a) A licensed cannabis business may provide information to the public through advertising except that no person shall engage in advertisement of a cannabis business, cannabis products, or cannabis paraphernalia unless such person has reliable evidence that at least 71.6 percent of the audience for the advertisement is reasonably expected to be 21 years of age or older.

(b) Any advertisement of any cannabis product, or cannabis paraphernalia shall contain the following warning: "This product contains cannabis. For use only by adults 21 years of age or older. Keep out of the reach of children. There may be health risks associated with the consumption of this product, including for women who are pregnant, breastfeeding, or planning on becoming pregnant. Do not drive a motor vehicle or operate heavy machinery while using this product."

(c) Any advertisement by any licensed cannabis business shall disclose that the facility is licensed by the State of New Jersey.

(d) No person shall advertise any cannabis business, cannabis product, or cannabis paraphernalia:

1. In a manner that would target or is designed to appeal to individuals under the legal age to purchase cannabis products, including, but not limited to:
  - i. a depiction of a person under 21 years of age consuming cannabis items, or,
  - ii. inclusion of objects, such as toys, characters, or cartoon characters suggesting the presence of a person under 21 years of age, or any other depiction designed in any manner to be especially appealing to a person under 21 years of age;
3. On television, or on radio between the hours of 6:00 a.m. and 10:00 p.m.;
4. In any form or through any medium whatsoever within 200 feet of any elementary or secondary school grounds.
  - i. This subparagraph shall not apply to advertisements within the premises of a cannabis retailer;

5. Directed towards location-based devices, including but not limited to cellular phones or augmented reality devices;
  - i. unless the advertising is a mobile device application installed on the device by the owner of the device who is at least 21 years of age, and it includes a permanent and easy opt-out feature and warnings that the use of cannabis items is restricted to persons 21 years of age or older;
6. At or in connection with a charitable, sports, musical, artistic, cultural, social, or other similar event or sponsor such an event;
  - i. unless the advertiser or sponsor has reliable evidence that no more than 20 percent of the audience at the event is reasonably expected to be under the legal age to purchase cannabis items;
7. On a billboard outside of the real property where a cannabis business is located;
8. On a sign or placard in an arena, stadium, shopping mall, fair that receives State allocations, or video game arcade, unless such a site is an adult-only facility that prohibits persons under 21 years of age from entering;
9. In a manner that falsely disparages the products of another cannabis business;
10. In a manner that suggests that cannabis items are safe solely based on the fact that they are regulated by the Commission or have been tested by a licensed testing laboratory;
11. In a manner that promotes rapid consumption or overconsumption of cannabis;
12. By way of any statement or illustration that is deceptive, false, or misleading. For the purposes of this section, a statement or illustration that is “deceptive, false, or misleading” includes, but is not limited to:
  - i. A representation that one brand or form of cannabis is better, more effective, or safer than other drugs or treatments including other brands or forms of cannabis, unless such a claim has been demonstrated by substantial scientific or clinical evidence consisting of two or more adequate and well-controlled studies on the basis of which it could fairly and reasonably be concluded by experts qualified by scientific training and experience to evaluate the effectiveness of the product involved that the product will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling or proposed labeling thereof. Substantial evidence shall include such adequate and well-controlled studies that are, as a matter of sound scientific judgment, necessary to establish that a product will have its intended effect.
  - ii. The use of a quote or a paraphrase out of context or without citing conflicting information from the same source, to convey a false or misleading idea; or
  - iii. The use of favorable information or conclusions from a study that is plainly inadequate in design, scope, or conduct to furnish significant support for such information or conclusions.

(f) No cannabis business shall:

1. Display on the exterior of the establishment any advertisement for cannabis or a certain brand of cannabis product except that a cannabis business may have external signage for purposes of identifying the building by the licensed name.
  - i. The signage shall be compliant with local ordinances related to the real property where the cannabis business is located.
2. Use a commercial mascot outside of, or in proximity to, its premises.
3. Display cannabis and cannabis paraphernalia in a manner that is clearly visible to a person from the exterior of a cannabis business.
4. Advertise the price of cannabis products, except that:
  - i. A cannabis business may make available a catalogue or a printed list of the prices and strains or cultivars of cannabis items at the cannabis business to other cannabis businesses or consumers, as applicable.
  - ii. A cannabis business may list its prices on its website.
5. Produce any items for sale or promotional gifts, such as T-shirts or novelty items, bearing a symbol or references to cannabis.
  - i. This prohibition shall not pertain to cannabis paraphernalia sold to consumers.

(g) A cannabis business that advertises shall keep records as reliable evidence that the advertisement meets the requirements of this subchapter, which shall be available, upon request, to the Commission.

1. Such records shall include a precise description of the audience that is reasonably expected for an advertisement, and a list of all publications and venues in which an advertisement was published.

## SUBCHAPTER 15. LICENSING OF TESTING LABORATORIES

### § 17:30-15.1 NOTICE OF TESTING LABORATORY APPLICATION LICENSING

(a) Pursuant to section 25 of P.L.2019, c.153 (C.24:6I-18), the Commission shall license testing laboratories that perform testing services.

(b) The Commission shall announce a date upon which it will begin accepting applications from entities seeking to apply for a license to operate a testing laboratory, and the criteria for such applications.

§ 17:30-15.2 TESTING LABORATORY APPLICATION; APPROVAL; DENIAL; ISSUANCE OF LICENSE

(a) To apply for a testing laboratory license, an applicant for such license shall access an application form from the Commission's website at <https://www.nj.gov/cannabis> and shall submit the completed application online.

(b) The applicant shall include in the application the following:

1. The legal name of the license applicant applying for a license, a copy of the entity's organizational documents and by-laws, evidence that the business entity is in good standing with the New Jersey Department of the Treasury, and a certificate certified under the seal of the New Jersey State Treasurer as to the legal status of the business entity;
2. Documentation of a valid Business Registration Certificate on file with the New Jersey Department of the Treasury, Division of Revenue and Enterprise Services;
3. The mailing and physical addresses of the proposed testing laboratory facility;
4. A list of the names, addresses and dates of birth of the testing laboratory applicant's owners, principals, and employees, and disclosure of any affiliation with any ATC or cannabis business, or any previous ownership of or employment with any ATC or cannabis business by any of the individuals;
5. A list of all individuals or business entities having direct or indirect authority over the management or standard operating procedures of the testing laboratory applicant;
6. A sworn statement from each of the testing laboratory applicant's owners, principals and employees attesting that none of them currently hold any ownership or any employment with any ATC or ATC applicant, or cannabis business or cannabis business applicant.
7. Written consent from each owner, principal or employee of the testing laboratory applicant to being fingerprinted for the purposes of undergoing a criminal history record background check pursuant to N.J.A.C. 17:30-7.12;
  - i. A testing laboratory applicant with an owner, principal, or employee who refuses to consent to, or cooperate in, the securing of a criminal history record background check shall not be considered for a cannabis testing laboratory license.
  - ii. Except that no criminal history record background check shall be required for an owner, principal or employee of the testing laboratory applicant who completed a criminal history record background check as a condition of current and active professional licensure or certification, provided it was completed in the previous three calendar years.
8. Evidence of ISO 17025 certification from an accreditation body that requires conformance by the testing laboratory to the International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC)

general requirements for the competence of testing and calibration laboratories (ISO/IEC 17025 standards), as they may be updated or revised, in order to ensure equipment is routinely inspected, calibrated, and maintained;

9. A list of all accreditations, registrations, and certifications held by the testing laboratory applicant, including but not limited to, from governing bodies such as the Commission, the New Jersey Department of Health, the New Jersey Department of Environmental Protection, the New Jersey Department of Agriculture, other similar agencies in other states, the U.S. Food and Drug Administration, or the U.S. Department of Agriculture;
  10. Evidence of experience related to the testing activities associated with the license sought and ability to comply with the requirements of this chapter and the Act;
  11. Certification from each of the testing laboratory applicant's owners, principals, and employees stating that they submit to the jurisdiction of the courts of the State of New Jersey and agrees to comply with all the requirements of the laws of the State of New Jersey pertaining to the Commission;
  12. An attestation signed by a bona fide labor organization stating that the testing laboratory applicant has entered into a labor peace agreement with such bona fide labor organization; and
  13. Any other information the Commission deems relevant in determining whether to grant a license to the applicant.
- (c) The applicant may include in the application a sworn statement from each owner, principal, or employee of the testing laboratory applicant attesting that the individual has not been convicted of any disqualifying conviction pursuant to N.J.A.C. 17:30-7.12.
- (d) The Commission may verify information contained in each application and accompanying documentation by:
1. Contacting the applicant by telephone, mail or electronic mail;
  2. Conducting an on-site visit;
  3. Requiring a face-to-face meeting and the production of additional identification materials if proof of identity is uncertain; and
  4. Requiring additional information as the Commission deems reasonably necessary to determine whether a license should be granted.
- (e) The Commission shall approve a testing laboratory licensing applicant that:
1. Submits a sufficient application pursuant to (b), above, that provides all requested information and presents only truthful information;
  2. Is qualified for a testing laboratory license pursuant to N.J.A.C. 17:30-15.3 and
  3. Submits a testing laboratory license application fee in accordance with N.J.A.C. 17:30-7.17.



- (f) The Commission shall issue a written notice of its award decision to applicants.
- (g) After the license applicant has completed any necessary construction or preparation of the testing laboratory, the license applicant shall request an onsite assessment.
- (h) The Commission shall conduct an onsite assessment of the testing laboratory and determine whether its premises, operations, and procedures are consistent with its application, and compliant with the Act and this chapter.
- (i) If the Commission determines compliance, it shall issue the testing laboratory license to the license applicant.
- (j) A license application the Commission deems incomplete because of failure to address all applicable criteria and measures, to provide requested information, or to present truthful information in the application process shall be disqualified prior to a substantive review of the submission, and such disqualification shall be considered a final agency decision subject to judicial review pursuant to N.J.A.C. 17:30-17.9.
- (k) The Commission may grant a license applicant the opportunity to cure the deficiencies in a license application and resubmit it.
- (l) The Commission shall provide notice to a denied license applicant in writing that:
  - 1. Notice of the denial of the annual license and the specific reason for the denial;
  - 2. The filing fee shall be nonrefundable; and
  - 3. The opportunity to request an administrative hearing with the Commission.
- (m) Such administrative hearing shall take place in the Office of Administrative Law in accordance with the "Administrative Procedure Act," N.J.S.A. 52:14B-1 et seq. and the Office of Administrative Law hearing procedures.
- (n) The final denial of an application shall be considered a final agency decision, subject to judicial review by, and of which jurisdiction and venue for such review are vested in, the Appellate Division of the Superior Court pursuant to N.J.A.C. 17:30-17.9.

#### § 17:30-15.3 TESTING LABORATORY LICENSE QUALIFICATION

- (a) A license applicant shall provide the Commission a complete disclosure that includes all true parties of interest.
  - 1. The license applicant or license-holder shall not attempt to conceal or disguise ownership or other control over its operations in its submissions.
- (b) The Commission shall determine that a license applicant or license-holder is qualified to hold a testing laboratory license where:
  - 1. Each owner, principal, employee, or volunteer of a testing laboratory license applicant or license-holder has submitted a criminal history background check pursuant to N.J.A.C. 17:30-7.12 or is excused from doing so pursuant to N.J.A.C. 17:30-15.2(b)(7)(ii);

2. No owner, principal, employee, or volunteer of a testing laboratory license applicant or license-holder has a disqualifying conviction pursuant to N.J.A.C. 17:30-7.12(d) without evidence of rehabilitation pursuant to N.J.A.C. 17:30-7.12(e);
3. Each owner and principal of the testing laboratory license applicant or license-holder is eligible to be an owner or principal, respectively, of the license applicant or license-holder in accordance with N.J.A.C. 17:30-6.8;
4. For each person requesting a determination of qualification as part of a license applicant or license-holder, the license applicant or license-holder has paid a background investigation fee pursuant to N.J.A.C. 17:30-7.17.
5. The license applicant and its owners and principals do not:
  - i. Create a danger to the public health, safety, and general welfare of the State;
  - ii. Distribute marijuana to minors;
  - iii. Share revenue with a gang or cartel;
  - iv. Divert marijuana from personal use or cannabis states to other states;
  - v. Engage in trafficking of controlled substances or other illegal activity;
  - vi. Engage in violence or the use of firearms as part of testing laboratory operations;

(c) The Commission shall determine that a license applicant or license-holder is not qualified to hold a license where the license applicant or license-holder:

1. Does not meet the requirements of paragraph (b);
2. Fails to provide information, documentation, and assurances as required by P.L.2021, c.16 (C.24:6I-31 et al.) or this subchapter or as requested by the Commission, including failure to provide a required criminal history record background check or to cooperate with the Commission in its investigation;
3. Fails to reveal any material fact pertaining to qualification; or
4. Supplies information that is untrue or misleading as to a material fact pertaining to the qualification criteria for a testing license;

(d) If a person is determined to be disqualified, such disqualification shall be considered a final agency action subject to judicial review pursuant to N.J.A.C. 17:30-17.9, and the Commission shall provide the determination to the person in writing, which shall include:

1. Notice of the determination of disqualification, including when disqualification is due to a disqualifying conviction pursuant to N.J.A.C. 17:30-7.12(d) or the determination of the absence of sufficient evidence of rehabilitation pursuant to N.J.A.C. 17:30-7.12(e);
2. The specific reason for the disqualification, including any conviction that constitutes the basis for the disqualification pursuant to N.J.A.C. 17:30-7.12(d);

3. Information about appeal rights pursuant to N.J.A.C. 17:30-17.9

§ 17:30-15.4 LICENSE TERM; LICENSE RENEWAL

(a) A license shall be in effect for a period of one year and shall be renewable annually thereafter.

(b) 90 days prior to the expiration of a testing laboratory license, a testing laboratory that seeks to renew the license shall submit to the Commission an application for renewal of the license with all required documentation and the required fees pursuant to N.J.A.C. 17:30-15.2.

1. A testing laboratory shall update and ensure the correctness of all information submitted in previous applications for a license or otherwise on file with the Commission.
2. A testing laboratory shall submit a copy of the most recent assessment from the accreditation body as required at paragraph (e) of N.J.A.C. 17:30-15.5.
3. Failure to provide correct and current up-to-date information is grounds for denial of application for renewal of the license.

(c) The license period for a testing laboratory shall be from January 1st (or the date of approval of the application, if later) through December 31st of a given year.

(d) An applicant for renewal of a testing laboratory license shall submit a fee of \$4,000 in a check payable to the "Treasurer, State of New Jersey."

(e) The Commission shall renew the license of a testing laboratory that meets the requirements of this subchapter; the Commission may deny the application for renewal of the license if the Commission determines that the facility is in violation of the Act or this chapter.

§ 17:30-15.5 TESTING LABORATORY INSPECTION; AUTHORIZED CONDUCT; ONGOING MATERIAL CONDITIONS

(a) No person shall operate a testing laboratory pursuant to this subchapter without a Commission-issued license.

(b) A licensed testing laboratory is subject to inspection by the Commission:

1. To determine the condition and calibration of any equipment used for testing purposes; and
2. To ensure that testing is being performed in accordance with N.J.S.A. 24:6I-19, N.J.S.A. 24:6I-35, and the Commission's accreditation requirements for licensure pursuant to this subchapter.

(c) A testing laboratory license shall permit a testing laboratory to sample and test cannabis items in accordance with the Act and this chapter, as well as sample and test

medical cannabis and medical cannabis products in accordance with the provisions of the “Jake Honig Compassionate Use Medical Cannabis Act,” P.L.2009, c.307 (C.24:6I-1 et al.) upon certification or licensing under N.J.S.A. 24:6I-18.

(d) The testing laboratory shall display the license in a conspicuous location at the front entrance to the premises of the licensed facility at all times when the facility is engaged in conduct authorized pursuant to N.J.S.A. 24:6I-1 et al. involving cannabis.

(e) A licensed testing laboratory shall maintain third party accreditation from an accreditation body that requires conformance to the International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC) general requirements for the competence of testing and calibration laboratories (ISO/IEC 17025 standards).

1. A licensed testing laboratory shall routinely inspect, calibrate and maintain its equipment as required by such accreditation body; and
2. A licensed testing laboratory shall adopt a standard operating procedure to test cannabis and cannabis products that is approved by such accreditation body

(f) A licensed testing laboratory must notify the Commission about any change to the list of accreditations and certifications submitted in the testing laboratory application, including but not limited to, those from governing bodies such as the Commission, the New Jersey Department of Health, the New Jersey Department of Environmental Protection, the New Jersey Department of Agriculture, other similar agencies in other states, the U.S. Food and Drug Administration, or the U.S. Department of Agriculture.

(g) A licensed testing laboratory shall adopt a standard operating procedure that provides for adequate chain of custody controls for samples transferred to the testing laboratory during secure transport and testing.

(h) To maintain the security of the cannabis and cannabis product samples, a licensed testing laboratory shall:

1. Provide additional security during working hours as needed to protect testing laboratory employees and cannabis and cannabis product samples in a manner appropriate for the community where it operates;
2. Provide training to inform all testing laboratory employees about the cannabis-related security procedures, and each individual employee’s security roles and responsibilities;
3. Securely store cannabis and cannabis products in a manner that prohibits sample degradation, contamination, and tampering;
4. Create controlled access areas for storage of cannabis and cannabis product samples and cannabis waste.
  - i. Access to controlled access areas must be limited to testing laboratory personnel by locks, electronic badge readers, biometric identifiers, or other secure means;

- ii. A testing laboratory standard operating procedure must revoke access privileges to controlled access areas for personnel whose employment is terminated by the testing laboratory.
- (i) As an ongoing material condition of maintaining a testing laboratory license, a testing laboratory must maintain a labor peace agreement with a bona fide labor organization.
- (j) A licensed testing laboratory may perform testing on goods unrelated to cannabis, as long as:
- 1. The licensed testing laboratory complies with all testing laboratory requirements in this chapter, including this subchapter, and subchapters 8 and 16.
  - 2. The licensed testing laboratory segregates cannabis and cannabis product testing from other non-cannabis-related testing performed at the facility, stores cannabis and cannabis products separately and distinctly from other non-cannabis goods and follows all the security requirements of subsection (h) above in the areas where cannabis or cannabis products are present.
- (k) A licensed testing laboratory shall conduct an internal audit at least once per year or in accordance with the accrediting body's requirement, whichever is more frequent.
- 1. The internal audit must include all of the components required by the ISO/IEC 17025 internal audit standards.
  - 2. Within 3 business days of completing the internal audit, the testing laboratory shall submit the results of the internal audit to the Commission.
- (l) A licensed testing laboratory shall not acquire or receive personal use usable cannabis or cannabis products except from a cannabis business in accordance with this chapter, and shall not distribute, sell, or dispense cannabis or cannabis products.
- 1. Except that a testing laboratory may receive and test samples of usable cannabis or cannabis products from a consumer and provide a written report to the consumer for a reasonable fee;
    - i. A testing laboratory may not certify samples from a consumer for resale or transfer to another person, ATC, or cannabis business.

## SUBCHAPTER 16. PERSONAL USE USABLE CANNABIS AND CANNABIS PRODUCT TESTING PROCEDURES

### § 17:30-16.1 COMMISSION QUALITY CONTROL TESTING; SAMPLE COLLECTION; CHAIN OF CUSTODY

- (a) To ensure the safety of consumers, a cannabis business shall provide upon request of the Commission one or more samples of usable cannabis or cannabis product to the Commission during announced and unannounced inspections for product quality control, including but not limited to:

1. A sample from a batch of usable cannabis from the first harvest of a new cultivar; and
2. A unit or units of packaged usable cannabis or cannabis product available for distribution to consumers.

(b) To implement the requirement in (a) above, the Commission shall:

1. Collect soil and plant samples and samples of usable cannabis or cannabis product from the cannabis business, as applicable;
2. Place the license number of the cannabis business on each sample container;
3. Label the sample containers with the date of the sampling, the name of the cultivar/strain, and the quantity of its contents by weight;
4. Seal the sample containers;
5. Have a member of the cannabis business staff and Commission staff initial each sample container; and
6. Have Commission staff transport all sample containers in a lockable box to the New Jersey Department of Health's Public Health and Environmental Laboratories (PHEL) or a licensed testing laboratory for testing.

(c) The Commission shall maintain documentation of the chain of custody of any sample taken in accordance with this chapter.

1. The Commission shall provide a receipt for any collected sample to the license-holder representative of the cannabis business.
2. The Commission shall maintain an accounting of all collected sample containers for control purposes, including the Medicinal Marijuana Testing Laboratories Specimen Submittal form as amended or supplemented and found on its website at <https://www.nj.gov/health/phel/documents/ECLS/CTL-1.pdf>.

(d) The Commission shall use PHEL or a licensed testing laboratory to test samples.

1. Sample testing may include tests for, among other things, cannabinoid content, the presence of pests, mold and mycotoxins, mildew, heavy metals and pesticides and to ensure the accuracy of labeling.
2. PHEL shall conduct testing according to the following "Laboratory SOPs for Medicinal Marijuana" as amended or supplemented and found on its website at <https://www.nj.gov/health/phel/env-testing/chemical-terrorism-lab/>:
  - i. Standard Operation Procedure for Qualitative and Quantitative Determination of Major Cannabinoids in Cannabis Plant Material;
  - ii. Standard Operating Procedure for the Screening of Marijuana for Toxic Metals by Inductively Coupled Plasma Mass Spectrometry; and
  - iii. Assessing Presence of Aflatoxins and Ochratoxin A in Medical Marijuana Using HPLC.

3. The Department shall issue written reports of the results of its testing to the cannabis business.
  4. The cannabis business shall pay the expenses for the testing.
- (e) The first harvest of a new cultivar shall be segregated until the cannabis business receives the written report that the sample meets specifications, and the batch may be released for distribution.
- (f) A written report that the sample does not meet specifications shall yield further testing by PHEL or a testing laboratory of that batch or lot and other batches from the same growth area or lots from the same manufacturing area and may yield a recall and destruction of the usable cannabis or cannabis products, as determined by the Commission.

#### § 17:30-16.2 TESTING OF EVERY BATCH AND LOT

- (a) In addition to testing of usable cannabis and cannabis products by the Commission in accordance with N.J.A.C. 17:30-16.1, each batch of usable cannabis and each lot of cannabis products manufactured shall be tested in accordance with the requirements of N.J.S.A. 24:6I-35 and this subchapter by a testing laboratory licensed pursuant to N.J.S.A. 24:6I-18 and subchapter 15 of this chapter.
- (b) Before any usable cannabis or cannabis product is packaged and prepared for distribution pursuant to N.J.A.C. 17:30-13.2, they shall be sampled and tested by a licensed testing laboratory and then the cannabis business shall hold them in secure, segregated storage.
1. After the cannabis business receives a written report from a licensed testing laboratory confirming the representative sample meets specifications, the cannabis business may release the usable cannabis or cannabis products for distribution.
- (c) The testing laboratory may charge a reasonable fee for any test performed pursuant to this subchapter, which the cannabis business or consumer of cannabis, as applicable, shall pay.

#### § 17:30-16.3 TESTING LABORATORY SAMPLE COLLECTION; CHAIN OF CUSTODY

- (a) Upon request of a cannabis business when a batch or lot is ready for testing, a testing laboratory employee shall initiate sample collection for all applicable tests before packaging:
1. After usable cannabis is in its final usable form, ready to be manufactured into a cannabis product or ready to be distributed for personal use; or



2. After a cannabis product is in its final processed form, including placement of vaporized formulation in its electronic smoking device or oil in its pressurized metered dose inhaler, ready to be distributed for personal use.

(b) A testing laboratory employee shall collect a representative initial sample and a representative retention sample from each batch of usable cannabis from a cannabis business that cultivates and from each lot of cannabis products from a cannabis business that manufactures according to a statistically valid sampling method.

1. A cannabis business employee shall be physically present to observe the testing laboratory employee collect any sample.
2. The cannabis business employee shall not touch the usable cannabis, cannabis product or the sampling equipment while the testing laboratory employee is collecting the samples.
3. The testing laboratory employee shall collect a representative initial sample and a representative retention sample of each batch or lot by removing increment samples of material or units from throughout the container(s) in the batch or lot in the manner required at (b)3.i and ii below.
  - i. Where appropriate for the purpose of the sample and the nature of the material being sampled, sample portions are removed from the top, middle, and bottom of containers.
  - ii. Containers from which samples have been taken shall be marked to indicate that samples have been removed from them.
4. A representative initial sample of usable cannabis shall be .5% of a batch or lot, with the following increment sample amounts:
  - i. < 10 lbs. of usable cannabis, 5 increment samples;
  - ii. 10.1-20 lbs. of usable cannabis, 10 increment samples;
  - iii. 20.1-30 lbs. of usable cannabis, 15 increment samples;
  - iv. 30.1-40 lbs. of usable cannabis, 20 increment samples;
  - v. 40.1-50 lbs. of usable cannabis, 25 increment samples; and
  - vi. > 50 lbs. of usable cannabis, 30 increment samples.
5. A representative initial sample of non-homogenizable cannabis product shall be:
  - i. < 50 total units, 2 increment units;
  - ii. 51-150 total units, 3 increment units;
  - iii. 151-500 total units, 5 increment units;
  - iv. 501-1200 total units, 8 increment units;
  - v. 1201-3200 total units, 16 increment units;

- vi. 3201-10,000 total units, 40 increment units; and
  - vii. 10,001-35,000 total units, 125 increment units.
6. A representative retention sample shall be two times the amounts listed for representative initial samples of a batch or lot in (b)4 and 5 above.
  7. When collecting representative samples, the testing laboratory employee shall:
    - i. Clean, open, sample, and reseal the containers in a manner designed to prevent introduction of contaminants; and
    - ii. Use sterile equipment and aseptic sampling techniques when necessary.
- (c) After completing sample collection, the testing laboratory employee shall place the cannabis business license number and affix a label with a description and the quantity of the content on each sample container.
- (d) The testing laboratory employee shall seal each sample container.
- (e) The cannabis business employee and the testing laboratory employee shall initial each sample container.
- (f) The testing laboratory employee shall provide a receipt for the collected samples to the cannabis business employee.
- (g) The cannabis business employee shall record the samples removed from a batch or lot in the inventory record for the batch or lot.
- (h) The testing laboratory employee shall transfer the representative retention samples to the cannabis business employee, who shall store them pursuant to N.J.A.C. 17:30-16.5.
- (i) The testing laboratory employee shall securely transport any usable cannabis and cannabis product representative initial samples in a secure lockbox.
1. The testing laboratory employee shall not leave cannabis or cannabis products in an unattended transfer vehicle unless the vehicle is locked and equipped with an active vehicle alarm system.
  2. The testing laboratory employee engaged in a transfer of cannabis or cannabis products shall have access to a secure form of communication with the testing laboratory, such as a cellular telephone, at all times that the testing laboratory employee is in possession of cannabis or cannabis products for transfer.
  3. The testing laboratory employee shall carry a copy of his or her Cannabis Business Identification Card when performing a transfer and shall produce it upon request of Commission staff or law enforcement officials.
  4. The transfer vehicle shall be equipped with a secure lockbox in a secured cargo area, which shall be used for the sanitary and secure transport of cannabis or cannabis products.
  5. The testing laboratory shall maintain current hired and non-owned automobile liability insurance sufficient to insure all transfer vehicles in the amount of not less than one million dollars per occurrence or accident.

6. The testing laboratory shall ensure that transfer vehicles used to transport cannabis or cannabis products bear no markings that would either identify or indicate that the vehicle is used to transport cannabis.
  7. The testing laboratory shall ensure that transfers are completed in a timely and efficient manner. While performing transfers of cannabis or cannabis products, the testing laboratory employee shall travel only from the premises of the cannabis business to the testing laboratory. The testing laboratory employee shall not deviate from the route described in this paragraph, except in the event of emergency or as necessary for rest, fuel, or vehicle repair stops, or because road conditions make continued use of the route or operation of the vehicle unsafe, impossible, or impracticable.
  8. The testing laboratory shall report any vehicle accidents, diversions, losses, or other reportable events that occur during transfer to the Commission within 7 days.
- (j) At the testing laboratory, a testing laboratory employee shall record the receipt of the samples, including the following:
1. Name, contact information for the cannabis business or individual who provided the samples;
  2. Description of cannabis or cannabis product;
  3. Batch or lot number;
  4. Unique sample identifier;
  5. Quantity of sample by net and gross weight or volume during sample collection;
  6. Date and time of receipt of sample;
  7. Testing laboratory employee who collected the sample;
  8. Cannabis business employee who observed sample collection;
  9. Testing laboratory employee who received sample; and
  10. Quantity of sample by gross weight during sample receipt.

#### § 17:30-16.4 TESTING LABORATORY PROCEDURES AND SPECIFICATIONS FOR TESTING USABLE CANNABIS AND CANNABIS PRODUCTS

(a) The testing laboratory shall test the initial samples of cannabis and cannabis product collected in accordance with N.J.A.C. 17:30-16.3 to confirm whether the samples meet the specifications of this section according to the standard operating procedures of the laboratory that have been approved by the accreditation body pursuant to N.J.A.C. 17:30-15.5 (e).

1. The testing laboratory shall analyze the samples according to the Cannabis Regulatory Commission's Testing Guidance, available on the Commission website.

2. Except when otherwise required by this subchapter and Cannabis Regulatory Commission's Testing Guidance, the testing laboratory shall analyze the samples according to the most current version of the cannabis inflorescence monograph published by the American Herbal Pharmacopeia (AHP).
- (b) If the initial sample does not meet the specifications of this section:
1. The testing laboratory shall follow their standard operating procedure to confirm or refute the original results; and
  2. The license-holder may be permitted an opportunity to remediate pursuant to subparagraph (c) of paragraph (13) of subsection (a) of N.J.S.A. 24:6I-35, upon notice to the Commission, the batch or lot from which the failed sample was taken, which batch or lot shall be subject to a subsequent test of a new representative sample.
- (c) The testing laboratory shall retain the remains of the initial sample for 45 days after analysis is completed. At such time the testing laboratory shall destroy or render unusable the remains of the initial sample.

#### § 17:30-16.5 RETENTION SAMPLES AND STABILITY TESTING

- (a) A cannabis business shall properly store the retention sample from each batch or lot released for distribution for personal use:
1. Using the same container in which the usable cannabis or cannabis product is distributed;
  2. Under conditions consistent with the storage conditions recommended on the product label or, if no storage conditions are recommended on the label, under ordinary storage conditions; and
  3. Undisturbed at the designated storage temperature for the appropriate time interval.
- (b) At 6 months and 12 months after the release of the batch or lot, the cannabis business shall provide the testing laboratory with a portion of the retention sample for stability testing.
- (c) The testing laboratory shall perform stability testing of the retention sample of usable cannabis and cannabis products for the cannabinoid content pursuant to subsection (c) and (d) of the Cannabis Regulatory Commission's Testing Guidance to:
1. Ensure product potency and purity; and
  2. Support or debunk the listed expiration date of the batch or lot.
- (d) If the stability testing debunks the listed expiration date of the batch or lot, the cannabis business shall amend its standard operating procedure on choosing an expiration date for a batch or lot and base its amended standard operating procedure on the results of stability testing.

(e) The testing laboratory shall perform stability testing of the retention sample of usable cannabis and cannabis products for:

1. Microbial contamination, pursuant to subsection (f) of the Cannabis Regulatory Commission's Testing Guidance; and
2. Water activity, pursuant to subsection (h) of the Cannabis Regulatory Commission's Testing Guidance.

(f) The testing laboratory shall perform stability testing of the retention sample of vaporized formulation in an electronic smoking device for heavy metals, pursuant to subsection (k) of the Cannabis Regulatory Commission's Testing Guidance.

(g) The cannabis business shall report the findings of the stability testing to the Commission, to ensure that usable cannabis and cannabis product purity and potency are maintained throughout the storage process without the stored products falling out of specification.

(h) If the sample falls out of specification, the cannabis business shall amend its standard operating procedure for packaging and storage and base its amended standard operating procedure on the results of the stability testing.

(i) In the case of an adverse event reported to the cannabis business or the Commission related to cannabis or cannabis products from the batch or lot pursuant to N.J.A.C. 17:30-9.16, the cannabis business shall provide the testing laboratory with a portion of the retention sample for confirmatory testing by the testing laboratory.

(j) A cannabis business shall destroy the remains of the retention sample, if any, rendering it unusable, six months after the expiration of the batch or lot.

#### § 17:30-16.6 WRITTEN REPORTS

(a) The testing laboratory performing any testing under this subchapter shall produce a written report detailing the results of all testing for each representative sample and provide it to the cannabis business, or consumer, as applicable, as well as the Commission.

(b) The written report must include:

1. The name, address, license number, and contact information of the testing laboratory;
2. The name, address, and license number of the cannabis business;
3. The representative sample's batch or lot number;
4. The unique sample identifier number;
5. The form of the product;
6. The history of the representative sample, including the date collected, the date received by the testing laboratory, the analytical methods used for test, and the date(s) of sample analyses and corresponding testing results;

7. For cannabis, the weight of the representative sample and the total weight of the batch; For cannabis products, the total unit count and weight of the representative sample and the total number of units and weight of the lot;
8. The analytical methods and instrumentation used for each test;
9. The concentrations of the cannabinoids and terpenes listed in subsections (c) and (d) of the Cannabis Regulatory Commission's Testing Guidance; and
10. The level of the contaminants listed in subsections (a), (e), (f), (g), (h), (i), (j), (k) of the Cannabis Regulatory Commission's Testing Guidance and whether that level meets specifications and should be marked "pass", or whether that level exceeds the levels provided and should be marked "fail."

(c) A supervisor at the testing laboratory shall validate the accuracy of the information contained in the written report and sign and date the written report.

(d) The cannabis business must provide the written report to any other cannabis business receiving the usable cannabis or cannabis product. The cannabis retailer selling the usable cannabis or cannabis product to a consumer must include a summary of the written report.

#### § 17:30-16.7 TESTING LABORATORY RECORDKEEPING

(a) The testing laboratory shall maintain documentation of the chain of custody of samples taken.

(b) The testing laboratory shall maintain a copy of all receipts for the collected samples and written reports provided to cannabis businesses and consumers.

(c) The testing laboratory shall maintain an accounting of all collected samples for control purposes for at least five years. This shall include:

1. Name of the cannabis business or individual who requested the testing;
2. Date of the order and date of the testing;
3. Form of product and strain, if applicable;
4. Weight of sample;
5. All written reports;
6. Further correspondence with the cannabis business, qualifying patient, or primary caregiver regarding the results of the analysis;
7. All records of destruction of the sample; and
8. The price charged to the cannabis business or individual who requested the testing for the testing services provided.

(d) The testing laboratory shall maintain records of inspection, calibration, and maintenance of all equipment. These records shall include:

1. The date of the inspection, calibration, or maintenance;
2. The person who performed the inspection, calibration, or maintenance;
3. The standard operating procedure used for the inspection, calibration, or maintenance;
4. Any deviations from the standard operating procedure;
5. If the inspection, calibration, or maintenance involves a repair:
  - i. How and when the need for the repair was discovered;
  - ii. The nature of the repair;
  - iii. Post-repair certification that the equipment is in proper working order;
  - iv. Any corrective action made to standard operation procedures in response to the repair; and
6. The result of the inspection, calibration, or maintenance.

#### § 17:30-16.8 TESTING LABORATORY TESTING REQUIREMENTS TRANSITION PERIOD

(a) The requirements of N.J.A.C. 17:30-16.2 to 16.7 shall take effect at such time as the Commission certifies that a sufficient number of testing laboratories have been licensed pursuant to N.J.S.A. 24:6I-18 or N.J.S.A. 24:6I-35 and subchapter 15 of this chapter to ensure that all personal use usable cannabis and cannabis products can be promptly tested consistent with the requirements of this subchapter without disrupting patient access to medical cannabis.

1. The Commission shall publish in the New Jersey Register a notice of certification that a sufficient number of testing laboratories have been licensed.
2. Once the requirements of N.J.A.C. 17:30-16.2 to 16.7 have taken effect, a licensed testing laboratory shall not make operational changes that reduce the prompt testing of medical cannabis and medical cannabis products, thereby disrupting patient access to medical cannabis, in order to test samples of personal use usable cannabis and cannabis products.

#### SUBCHAPTER 17. MONITORING, ENFORCEMENT ACTIONS, AND APPEAL RIGHTS

##### § 17:30-17.1. PURPOSE

(a) This subchapter establishes the procedures for monitoring, inspecting, and assessing premises and records of license-holders under this chapter, and the procedures



governing the issuance of notices of violation, the assessment of sanctions or penalties, including civil monetary penalties and the denial, suspension, or revocation of any license issued pursuant to the Act. This subchapter also governs the procedures for the submission and review and grant or denial of any requests for adjudicatory hearings.

(b) The Commission may require license-holder compliance with the Act and may make such investigations as it shall deem proper in the administration of the Act, and any other laws which may hereafter be enacted concerning cannabis.

1. The Commission may appoint auditors, investigators, and other employees that the Commission considers necessary to enforce its powers and perform such duties.

### § 17:30-17.2. DEFINITIONS

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise:

"Concurrent violations" means violations that occur within the same 24-hour period. The penalties for concurrent violations shall generally be calculated based on the same level of violation.

"Major license violations" mean violations that affect public health or safety or betray the public trust that include, but are not limited to:

1. Selling usable cannabis or cannabis products containing any other federally controlled substance, including but not limited to opioids, stimulants, or hallucinogens;
2. Using prohibited agricultural chemicals that pose a threat to the health of consumers, or the health of individuals employed by a cannabis business if not handled in accordance with the chemical manufacturer's instructions;
3. Marketing, selling, distributing, selling, or transferring usable cannabis or cannabis products to a person under the legal age or not approved by the Commission pursuant to the Act and this chapter;
4. Selling or transporting cannabis items outside New Jersey in violation of Federal law;
5. Destroying, damaging, altering, tampering with, removing or concealing potential evidence of a violation under this subsection, attempting to do so, or asking or encouraging another person to do so;
6. Submission of fraudulent, false, or misleading information as to a material fact to the Commission, or falsifying any record required to be maintained by the cannabis business;
7. Involving a person in the operation of a cannabis business or testing laboratory who has not been authorized by the Commission to be involved in such operations;

8. Diverting any usable cannabis, cannabis product, or other item subject to regulation by the Commission to the illicit market;
9. Operating a cannabis business or testing laboratory in a manner that adversely affects the public health, safety, or general welfare of the individuals working in the cannabis business or testing laboratory, or the neighborhood surrounding its premises;
10. Having had three or more instances of failing to have on the premises, at all times during the hours of operation and periods of apparent activity, a Cannabis Business Identification Cardholder who is authorized to allow and cooperate with Commission requests to inspect the premises;
11. Having had two or more instances of a license-holder refusing to permit the Commission to inspect the premises during hours of operation or periods of apparent activity; or
12. Other conduct that shows willful or reckless disregard for the health or personal safety of any person.

"Successive violations" means two or more violations of the same duty or responsibility that occur outside of the same 24-hour period. The penalties for successive violations shall generally be calculated based upon the number of violations occurring within a two-year period from the date of disposition of any prior violation(s).

"Violation" means each breach of duty or responsibility imposed by the Act or this chapter.

#### § 17:30-17.3. ONSITE ASSESSMENT

(a) A cannabis business or testing laboratory shall permit and facilitate scheduled and unscheduled onsite assessments, at any time without notice, by the Commission or its designee as a condition of obtaining and maintaining licensure.

1. The cannabis business or testing laboratory shall allow the Commission or its designee access to its premises to conduct the onsite assessment.
2. A refusal to allow entry by the Commission or its designee or to cooperate with an onsite assessment is grounds for penalty, including revocation or denial of a license and for a referral of the matter to State law enforcement agencies.
3. The Commission shall not be required to obtain a search warrant to conduct an investigation or search of the cannabis business premises.

(b) During an onsite assessment, a cannabis business or testing laboratory shall:

1. Demonstrate compliance with the Commission's standards as set forth in this chapter for the conduct of business or the methods for which licensure is sought or granted; and
2. Provide the Commission or the Commission's designee immediate and complete access to any material and information, including sales and other financial records.

(c) During any inspection, the Commission may require proof that a person performing work at the cannabis business or testing laboratory premises is at least 21 years of age.

1. If the person does not provide the Commission with acceptable proof of age upon request, the Commission may require the person to immediately cease any activity and leave the premises until the Commission receives acceptable proof of age.

(d) An onsite assessment may include, but not be limited to:

1. The inspection and examination of the premises, including any buildings, for the purpose of determining compliance with the Act and this chapter;
2. The review or audit of all documents, records, books, accounts, and papers of the license-holder or on the cannabis business premises, and the making and retaining of copies and/or extracts from such documents, records, books, account, and papers;
3. The use of any computer system at the cannabis business or testing laboratory to examine electronic data;
4. The reproduction and retention of any document or electronic data in the form of a printout or other output;
5. The examination and collection of samples of any cannabis item found at the cannabis business or testing laboratory;
6. The seizure and detention of any cannabis item or thing believed to contain cannabis found at the cannabis business or testing laboratory, provided that:
  - i. If the Commission makes a seizure, it shall take such measures as are reasonable in the circumstances to give to the owner or other person in charge of the place where the seizure occurs notice of the seizure;
  - ii. If the Commission determines that the detention of the substance or thing seized is no longer necessary to ensure compliance with applicable law and the cannabis business or testing laboratory license, the Commission shall notify in writing the license-holder of that determination and shall return the substance or thing to the license-holder, upon the license-holder issuing a receipt to the Commission for the return of the substance or thing; and
  - iii. The Commission shall maintain documentation of the chain of custody of seized substances or things, in accordance with N.J.A.C. 17:30-16.1; and
7. The inspection of a testing laboratory to determine the condition and calibration of any equipment used for testing purposes and to ensure that testing is being performed in accordance with the requirements of N.J.S.A. 24:6I-19 and Subchapter 16 of this chapter.

§ 17:30-17.4. NOTICE OF VIOLATION; CORRECTIVE ACTION

(a) During an onsite assessment, a review of financial records, or other Commission review of the license-holder and its operations, if the Commission identifies a violation of the Act or this chapter, the Commission shall provide notice of the violation, including an official written report of the findings and the nature of the violation, to the cannabis business or testing laboratory within seven business days following the onsite assessment or other identification of the violation.

1. Such notice may be provided by service of written notice or the receipt of a written notice from an investigating officer that a violation has occurred, which may be presented to the license-holder's owner, principal, or manager at the licensed premises, or through other reasonable form of notice, such as certified mail or personal service pursuant to N.J. Ct. R. 4:4-4.

(b) Unless otherwise specified by the Commission, within 20 business days of receipt of the notice of violation pursuant to paragraph (a), the cannabis business or testing laboratory shall:

1. Correct the violation(s);
2. Notify the Commission in writing, with a postmark date that is within 20 business days of the date of receipt of the notice of violation, of any corrective actions taken to correct the violations and the date of implementation of such corrective actions.

(c) The violation identified pursuant to paragraph (a) shall not be deemed corrected until the Commission verifies in writing within seven calendar days of receiving notice of corrective action pursuant to paragraph (b) that the corrective action is satisfactory.

(d) If the violation identified pursuant to paragraph (a) has not been corrected in accordance with paragraph (b), the Commission may, in its discretion, issue a notice of proposed revocation to the license-holder and seek to revoke the cannabis business license in accordance with N.J.A.C. 17:30-17.8.

§ 17:30-17.5. ENFORCEMENT ACTION AND SANCTIONS FOR NONCOMPLIANCE

(a) In response to a violation of any provision of the Act or this chapter, the Commission is authorized to take enforcement action or impose sanctions upon a license-holder. Sanctions may include, but are not limited to, civil monetary penalties; suspension, revocation, non-renewal, or denial of a license; referral to State or local law enforcement, pursuant to N.J.A.C. 17:30-17.6, through 17.8; or any combination thereof.

1. The Commission shall refer complaints involving alleged criminal activity made against a cannabis business, testing laboratory, or any personnel thereof to the appropriate State or local law enforcement agency.

(b) The Commission may, in its discretion, impose multiple enforcement actions or sanctions pursuant to the Act and this chapter to be applied concurrently or consecutively.

(c) No enforcement action against any license shall be made until a five-day notice of enforcement action against the licensee shall have been given by the Commission to the licensee personally, or by certified mail, return receipt requested and ordinary mail, and reasonable opportunity to be heard thereon afforded to the licensee. The notice shall set forth the specific violations, charges, or reasons for the action.

#### § 17:30-17.6. CIVIL MONETARY PENALTIES; SUMMARY PROCEEDINGS

(a) This section sets forth civil monetary penalties for violations of the Act or this chapter and enforcement procedures for imposing and collecting civil monetary penalties by the Commission.

(b) A monetary penalty imposed by the Commission on a license-holder pursuant to this subchapter may not exceed \$500,000 per violation. Penalties shall be imposed on a license-holder as follows:

1. Not more than \$500,000 per major license violation; and
2. Not more than \$50,000 per any other license violation.

(c) A violation by each and every entity and person per day shall constitute a separate incident for purposes of calculating the number of violations.

(d) The Commission may impose greater penalties for successive violations up to the maximum amounts set forth in paragraph (b).

(e) The penalty for a subsequent violation shall only be imposed if the license-holder has been notified of the prior violation or violations.

1. Such notice may be provided by service of written notice or the receipt of a written notice from an investigating officer that a violation has occurred, which may be presented to the license-holder's owner, principal, or manager at the licensed premises, or other reasonable form of notice such as certified mail or personal service pursuant to N.J. Ct. R. 4:4-4.
2. Notwithstanding the foregoing, if violations are discovered during an undercover or unannounced operation, then no notice of any prior violation is necessary to impose the penalty for a subsequent violation.

(f) Notwithstanding the foregoing, the Commission may, in the Commission's sole discretion, consider additional factors in determining the penalty for each violation. Such factors may include, but are not limited to:

1. Any prior violations that the license-holder has admitted to or was found to have engaged in;
2. Good faith measures by the license-holder to self-report or prevent the violation;
3. License-holder's record of compliance checks;

4. Corrective action(s) taken by the license-holder related to the current violation or prior violations;
5. Willfulness and deliberateness of the violation;
6. Likelihood of reoccurrence of the violation; and
7. Violations involving damage or danger to the life, health, welfare, safety or property of any person.

(g) Any penalties, costs and fees in this subsection may be imposed and collected by the Commission in a summary proceeding pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.).

(h) The Commission may additionally seek reimbursement for the costs for the use of the State, including, but not limited to:

1. Costs of investigation, expert witness fees and costs, attorney fees and costs, and transcript costs for violations; and
2. Costs of cleaning up, mitigating, or remedying any environmental damage caused by a cannabis business or testing laboratory.

(i) The license-holder may request an adjudicatory hearing pursuant to the Administrative Procedure Act," N.J.S.A. 52:14B-1 et seq., to contest the Commission's imposition of a civil monetary penalty for a major license violation within 14 days of receipt of the notice of civil monetary penalty.

(j) If the license-holder requests an adjudicatory hearing pursuant to paragraph (i), the Commission shall arrange for a hearing to be conducted by the Commission and a final agency decision shall be issued after the hearing by the Commission.

1. If the Commission affirms the civil monetary penalty, it shall become final.

(k) The cannabis business may, pursuant to N.J.A.C. 17:30-17.9, apply for injunctive relief against the Commission's civil monetary penalty in the New Jersey Superior Court, Appellate Division.

#### § 17:30-17.7. SUMMARY SUSPENSION OF A LICENSE

(a) The Commission may order the summary suspension of a cannabis business license for cause upon a finding that one or more violations pose an immediate threat to consumers or to the health, safety or welfare of the public, including, but not limited to:

1. Failure to comply with or satisfy any provision of this chapter;
2. Failure to allow a monitoring visit by authorized representatives of the Commission;
3. Falsification of any material or information submitted to the Commission;
4. Diversion of cannabis, as determined by the Commission; or

5. Threatening or harming a consumer or an employee of the Commission.

(b) Upon a finding described in (a), above, the Commission or the Commission's designee shall serve written notice by certified mail to the cannabis business or testing laboratory or its license-holder representative of the nature of the findings and violations and the proposed order of suspension.

1. Except in the case of a life-threatening emergency, the notice shall provide the cannabis business with 72 hours from receipt to correct the violations and provide proof to the Commission of such correction.

(c) A license-holder may request an adjudicatory hearing pursuant to the Administrative Procedure Act," N.J.S.A. 52:14B-1 et seq., to contest the Commission's notice of proposed suspension pursuant to paragraph (b) within 48 hours of receipt of such notice.

(d) If the Commission determines the violations have not been corrected, and the cannabis business or testing laboratory has not requested an adjudicatory hearing pursuant to paragraph (c), then the cannabis business license shall be deemed suspended.

1. Upon the effective date of the suspension, the cannabis business shall cease and desist operations.

(e) If the license-holder requests an adjudicatory hearing pursuant to paragraph (c), the Commission shall arrange for an immediate hearing to be conducted by the Commission and a final agency decision shall be issued after the hearing by the Commission.

1. If the Commission affirms the proposed suspension of the license, the order of suspension shall become final.
2. The license-holder may, pursuant to N.J.A.C. 17:30-17.9, apply for injunctive relief against the Commission's final order of suspension in the New Jersey Superior Court, Appellate Division.
3. The Commission may rescind the order for suspension upon a finding that the cannabis business has corrected the conditions that were the basis for the action.

#### § 17:30-17.8. REVOCATION OF A LICENSE

(a) The Commission may revoke a cannabis business or testing laboratory license for cause in the following circumstances:

1. The cannabis business or testing laboratory has failed to comply with administrative requirements related to its license, posing an immediate and serious risk of harm or actual harm to the health, safety or welfare of consumers or personnel, and the cannabis business or testing laboratory has not corrected such violations in accordance with an approved plan of corrective action or subsequent to imposition of other enforcement actions issued pursuant to these rules;
2. The cannabis business or testing laboratory has exhibited a pattern and practice of violating the requirements of this chapter posing a serious risk of harm to the health, safety or welfare of consumers or personnel.



- i. A pattern and practice may be demonstrated by the repeated violation of identical or substantially related license standards during three consecutive onsite assessments or the issuance of civil monetary penalties pursuant to the Act or other enforcement actions for unrelated violations on three or more consecutive onsite assessments.
3. Failure of a cannabis business or testing laboratory to correct identified violations that led to the issuance of an order for summary suspension of a license.
  - (b) Upon a finding described in (a), above, the Commission or the Commission's designee shall serve written notice by certified mail to the cannabis business or testing laboratory or its license-holder representative of the nature of the findings and violations and the proposed order of revocation.
  - (c) The license-holder has a right to request an adjudicatory hearing pursuant to the Administrative Procedure Act," N.J.S.A. 52:14B-1 et seq., to contest the Commission's notice of proposed revocation pursuant to paragraph (b) within 48 hours of receipt of such notice.
  - (d) If the license-holder requests an adjudicatory hearing pursuant to paragraph (c), the Commission shall arrange for an immediate hearing to be conducted by the Commission and a final agency decision shall be issued after the hearing by the Commission.
    1. If the Commission affirms the proposed revocation of the license, the order of revocation shall become final.
    2. The license-holder may, pursuant to N.J.A.C. 17:30-17.9, apply for injunctive relief against the Commission's final order of revocation in the New Jersey Superior Court, Appellate Division.
    3. The Commission may rescind the order for revocation upon a finding that the license-holder has corrected the conditions that were the basis for the action.

#### § 17:30-17.9. APPEAL RIGHTS

- (a) If the Commission affirms a summary suspension or revocation of a license in an adjudicatory hearing, the Commission shall provide to the suspended or revoked license-holder written notice of the final order of suspension or revocation and the specific reason for the suspension or revocation.
- (b) Disqualification of a license application, denial of a license application upheld by the Commission after an administrative hearing, and summary suspension or revocation of a license affirmed by the Commission shall be considered a final agency decision subject to judicial review as provided in the Rules of the Court by, and of which jurisdiction and venue for such review are vested in, the Superior Court, Appellate Division.
  1. An individual has the right to appeal a final agency decision within 45 days to the New Jersey Superior Court, Appellate Division, Richard J. Hughes Justice Complex, PO Box 006, Trenton, NJ 08625-0006.