

**Maryland General Assembly  
Department of Legislative Services**

**Emergency/Proposed Regulations  
Maryland Department of Health  
(DLS Control No. 24-019)**

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## **Overview and Legal and Fiscal Impact**

These regulations amend emergency regulations adopted by the Maryland Cannabis Administration (MCA) in July 2023 (See DLS Control No. 23-121E) in accordance with Chapters 254 and 255 of 2023. Broadly speaking, the regulations repeal the medical cannabis regulations under COMAR 10.62, the Natalie M. LaPrade Medical Cannabis Commission, combine medical and adult-use cannabis regulations under new COMAR 14.17, the Maryland Cannabis Administration, and establish a comprehensive regulatory framework for the State's adult-use cannabis market and the conversion and issuance of cannabis licenses in the State.

The regulations present no legal issues of concern. However, additional comments have been included in the *Technical Corrections and Special Notes* section of the Legal Analysis below for the consideration of the Joint Committee on Administrative, Executive, and Legislative Review.

While special fund revenues for the Cannabis Regulation and Enforcement Fund (CREF) may be affected (with certain provisions reducing revenues and other provisions potentially increasing revenues, as discussed below), overall, there is no material fiscal impact on State or local agencies.

## **Regulations of COMAR Affected**

### **Maryland Department of Health:**

Natalie Laprade Medical Cannabis Commission: Definitions: COMAR 10.62.01.01  
General Regulations: COMAR 10.62.02.01 through .05  
Certifying Physicians: COMAR 10.62.03.01 through .03  
Patient and Caregiver Registry: COMAR 10.62.04.01 through .06  
Written Certifications: COMAR 10.62.05.01 and .02  
Patient and Caregiver Identification Cards: COMAR 10.62.06.01 through .07  
New Condition Approval Process: COMAR 10.62.07.01 through .06  
Medical Cannabis Grower License: COMAR 10.62.08.01 through .14  
Medical Cannabis Grower Agent: COMAR 10.62.09.01 through .09  
Medical Cannabis Grower Premises: COMAR 10.62.10.01 through .08  
Medical Cannabis Growing Controls: COMAR 10.62.11.01 through .04  
Inventory Control by Grower: COMAR 10.62.12.01 through .09  
Medical Cannabis Shipment Packaging: COMAR 10.62.13.01 and .02  
Licensed Grower Dispensary Facility: COMAR 10.62.14.01 and .02  
Medical Cannabis Grower Quality Control: COMAR 10.62.15.01 through .07  
Independent Testing Laboratory Registration: COMAR 10.62.16.01 through .06  
Complaints, Adverse Events, and Recall: COMAR 10.62.17.01 through .04

Registration of Ancillary Businesses and Security Guard Agencies:  
COMAR 10.62.18.01 through .10  
Medical Cannabis Processor License: COMAR 10.62.19.01 through .12  
Medical Cannabis Processor Agent: COMAR 10.62.20.01 through .09  
Medical Cannabis Processor Premises: COMAR 10.62.21.01 through .07  
Medical Cannabis Processor Operations: COMAR 10.62.22.01 through .06  
Medical Cannabis Concentrates and Medical Cannabis-Infused Products:  
COMAR 10.62.23.01 through .07  
Medical Cannabis Finished Products Packaging: COMAR 10.62.24.01  
Medical Cannabis Dispensary License: COMAR 10.62.25.01 through .13  
Registered Dispensary Agent: COMAR 10.62.26.01 through .09  
Licensed Dispensary Premises: COMAR 10.62.27.01 through .10  
Licensed Dispensary Operations: COMAR 10.62.28.01 through .06  
Licensed Dispensary Packaging and Labeling for Distribution:  
COMAR 10.62.29.01 and .02  
Dispensing Medical Cannabis: COMAR 10.62.30.01 through .09  
Licensed Dispensary Clinical Director: COMAR 10.62.31.01  
Records: COMAR 10.62.32.01 through .03  
Inspection: COMAR 10.62.33.01 through .08  
Discipline and Enforcement: COMAR 10.62.33.01 through .09  
Fee Schedule: COMAR 10.62.35.01  
Academic Research: COMAR 10.62.36.01 through .06  
Edible Cannabis Products: COMAR 10.62.37.01 through .21

## **Maryland Cannabis Administration**

Definitions: COMAR 14.17.01.01  
General Regulations: COMAR 14.17.02.01 through .04  
Social Equity: COMAR 14.17.03.01 through .04  
Medical Cannabis Program: COMAR 14.17.04.01 through .09  
Application Process and Issuance of Licenses: COMAR 14.17.05.01 through .08  
Standard Cannabis Licenses: COMAR 14.17.06.01 through .10  
Micro Licenses: COMAR 14.17.07.01 through .08  
Laboratory Registration and Operations: COMAR 14.17.08.01 through .07  
Other Cannabis Businesses: COMAR 14.17.09.01 through .05  
Cannabis Grower Operations: COMAR 14.17.10.01 through .09  
Cannabis Processor Operations: COMAR 14.17.11.01 through .10  
Cannabis Dispensary Operations: COMAR 14.17.12.01 through .11  
Cannabis Products: COMAR 14.17.13.01 through .11  
Complaints, Enforcement, Record Keeping, and Inspections of Cannabis Businesses:  
COMAR 14.17.14.01 through .06  
Cannabis Business Agents: COMAR 14.17.15.01 through .05  
Cannabis Business Owners: COMAR 14.17.16.01 through .05  
Receivership: COMAR 14.17.17.01 through .07  
Finished Product Packaging: COMAR 14.17.18.01 through .07  
Cannabis Research: COMAR 14.17.19.01 through .05  
Prohibited Acts: COMAR 14.17.20.01 and .02

## **Legal Analysis**

### **Background**

Chapter 403 of 2013 authorized the investigational use of marijuana for medical purposes through research programs operated by academic medical centers in the State. The Act also established the Natalie M. LaPrade Medical Marijuana Commission (MMC), as an independent commission within the Department of Health and Mental Hygiene (now called the Maryland Department of Health (MDH)), to oversee research programs approved for operation. Due to lack of interest among academic medical centers to participate in the program and pressure from patient advocates to make medical marijuana available beyond only those patients participating in a research study, legislation was passed in 2014 to expand the medical marijuana program. This expansion led to increased public interest in MMC, particularly among patient advocates and individuals interested in becoming growers or establishing dispensaries.

Chapter 251 of 2015 renamed MMC to be the Natalie M. LaPrade Medical Cannabis Commission (MMCC) and significantly revised MMCC's purpose and duties. MMCC's new purpose was to develop policies, procedures, guidelines, and regulations to implement programs to make medical cannabis available to qualifying patients in a safe and effective manner.

Chapter 45 of 2022 proposed a constitutional amendment that, when approved by the voters by referendum in the 2022 general election, authorized adult-use cannabis beginning July 1, 2023, subject to legislation passed by the General Assembly regarding the use, distribution, possession, regulation, and taxation of cannabis. Companion legislation required, among other things, the transfer of personnel and certain licensing duties from MMCC to the Alcohol and Tobacco Commission (ATC).

Chapters 254 and 255 of 2023 established the adult-use cannabis industry in the State by: (1) attributing cannabis-related duties to ATC and renaming it the Alcohol, Tobacco, and Cannabis Commission; (2) establishing the Maryland Cannabis Administration (MCA) as an independent unit of State government and as the designated successor to MMCC in matters concerning the regulation of medical cannabis; (3) creating a licensing framework for the regulated sale of cannabis; (4) establishing a sales and use tax on the sale of adult-use cannabis; and (5) creating the Office of Social Equity in the Administration and the Social Equity Partnership Grant Program in the Office of Social Equity.

Chapters 254 and 255 also required MCA to adopt emergency regulations by July 1, 2023 and subsequent nonemergency regulations by July 1, 2024. The nonemergency regulations amend the current emergency regulation and incorporate a number of alterations to Division III of the Alcohol, Tobacco, and Cannabis Article made by Chapter 241 of 2024.

## **Summary of Regulations**

### **In general**

As mentioned above, the regulations amend the emergency regulations that went into effect July 1, 2023 in accordance with Chapters 254 and 255 of 2023, referred to in this analysis as the “current regulations.” The regulations generally establish a comprehensive regulatory framework for the State’s adult-use cannabis market and the conversion and issuance of cannabis licenses in the State. A broad overview of the regulatory provisions, as well as notable changes from the current emergency regulations are described below.

### **Repeal of COMAR 10.62**

The regulations repeal, in their entirety, regulations governing the medical cannabis industry and MMCC under COMAR 10.62 and move medical cannabis regulations under COMAR 14.17, which governs MCA. Provisions relating to medical cannabis are largely the same under new COMAR 14.17 as the provisions governing medical cannabis under COMAR 10.62, however, there are some substantive changes, as well as updates to terminology and cross references.

Notable changes include a repeal of provisions that allowed a grower, processor, or dispensary to compensate a certifying provider upon approval from MCA. Under the regulations, no compensation is allowed. Additionally, under the regulations, patients and caregivers are no longer *required* to purchase identification cards (but are authorized to do so if they choose). Additionally, instead of an annual public hearing to evaluate petitions for a new condition approved for cannabis use, a public hearing will be held as needed, not annually (see COMAR 14.17.04.07). The application process for certifying providers and caregivers is streamlined under the regulations. There are also several changes to the terminology and requirements for licensee premises, including a repeal of a requirement for licensees to have a second, independent alarm system for locations where records are stored.

### **Definitions**

Chapter 14.17.01 establishes definitions for the subtitle. Regulation .01 establishes definitions for “Administration,” “Advisory Council,” “agent,” “cannabis,” “cannabis product,” “cannabis vaporizing device,” “canopy,” “capsules,” “caregiver,” “certifying provider,” “concentrated cannabis product,” “conditional license,” “consumer,” “control,” “clinical director,” “criminal history record check,” “data network,” “delivery service,” “dispensary,” “disproportionately impacted area,” “edible cannabis product,” “electronic manifest,” “green waste,” “grower,” “high potency product,” “home cultivation product,” “incubator space,” “independent testing laboratory,” “infused non-edible cannabis product,” “law enforcement agency,” “licensee,” “liquid edible product,” “micro license,” “neutral age screen,” “on-site consumption establishment,” “owner,” “ownership interest,” “passive investor,” “personal use amount,” “principal officer,” “processing,” “processor,” “qualifying patient,” “registrant,” “residence,” “seed-to-sale tracking system,” “serious adverse event,” “social equity applicant,” “social equity licensee,” “Social Equity Partnership Grant,” “standard license,” “State cannabis

testing laboratory,” “tetrahydrocannabinol,” “tincture,” “usable cannabis,” “usable cannabis product,” “visitor,” and “written certification.”

Several definitions are amended under the regulations, and the definitions for “data network,” “electronic manifest,” “neutral age screen,” “residence,” and “visitor” are new to the regulations.

## **General Regulations**

Chapter 14.17.02 provides general regulations concerning MCA. The regulations specify that MCA is the successor entity to MMCC, and that various notices and changes issued by MMCC are valid and stand as authorized by MCA. Additionally, registrations issued by MMCC are valid until the stated expiration date, as specified. In general, unless otherwise stated, all cannabis that is grown, harvested, processed, transported, delivered, produced, manufactured, or sold in the State must follow the regulations. New to the regulations, there is a blanket requirement under Regulation .02 that all licensees must accurately track, tag, or otherwise record inventory in the seed-to-sale tracking system designated by MCA, as specified.

Regulation .03 addresses medical cannabis license conversion fees, which are required under § 36-403 of the Alcoholic Beverages and Cannabis Article. The regulation establishes details of the fee, duration and transferability of the license, and consequences for failing to meet a payment deadline. New to the regulations, a licensee that fails to meet a conversion fee payment deadline is subject to a fine up to \$5,000 each day past the deadline.

Also new to the regulations, Regulation .04 incorporates MCA’s Technical Authority for Cannabis Testing by reference.

## **Office of Social Equity**

Chapter 14.17.03 concerns the Office of Social Equity, an independent office that functions within MCA. The regulations establish a framework for the Social Equity Partnership Grant Program, which is established by statute, including restrictions on grant amounts that are issued to an operational cannabis licensee with a converted license. Additionally, qualifying partnerships are prohibited from taking certain actions that impair the social equity licensee within the partnership. Violators are subject to certain penalties. Finally, a cannabis licensee must report certain data to the Office of Social Equity within a certain timeframe. These provisions are largely the same as the current emergency regulations.

## **Medical Cannabis Program**

*Broadly:* Chapter 14.17.04 establishes the medical cannabis program within MCA. The current emergency regulations generally reference COMAR 10.62 and require the medical cannabis program to be administered in accordance with COMAR 10.62. Under the regulations, text from COMAR 10.62 (instead of cross references) is incorporated into COMAR 14.17. The text related to the medical cannabis program is largely the same under COMAR 14.17 as previous

COMAR 10.62. Most major changes were described above in the discussion of the repeal of COMAR 10.62, but several additional changes are highlighted below.

*Certifying Providers, Qualifying Patients, and Registered Caregivers:* The regulations authorize MCA to register and discipline certifying providers, require MCA to maintain a registry of qualifying patients and caregivers, establish procedures related to registering patients and caregivers and issuing identification cards, and provide for the issuance and renewal of written certifications. New to the regulations, patients are no longer required to obtain a patient identification card. Thus, related regulations requiring MCA to issue patient identification and caregiver identification cards are repealed.

Cannabis dispensaries are prohibited from selling or dispensing high potency cannabis products to an individual other than a qualified patient or registered caregiver, as specified under COMAR 14.17.13.03.

*Compassionate Use Fund:* Current regulations require MCA to develop regulations to implement the Compassionate Use Fund Program. Regulation .06 establishes eligibility and procedures governing the use of the Compassionate Use Fund, and requests for reimbursement from certifying procedures for the issuance of discounted written certifications to eligible patients. To the extent funds are available, MCA must reimburse a certifying provider for eligible expenses.

*Petition for a New Condition:* Regulation .07 establishes the process to petition for the addition of a new medical condition, treatment, or disease for approved medical cannabis use, which is largely similar to the process under current MDH regulations. Among other things, under the regulation, MCA must conduct a public hearing to evaluate a petition on an as-needed basis, and may issue a summary denial of a petition, without submitting the petition for public comment under specified circumstances.

*Related Requirements for Licensed Dispensaries:* Regulation .05 requires dispensaries to provide a dedicated service line or dedicated hours for medical cannabis patients and conspicuously post information regarding the dedicated service line or hours. Dispensaries may offer further accommodations for medical cannabis patients, including priority access to areas in the dispensary or proximity parking. New to the regulations is a provision that if providing a dedicated service lane, the dispensary must make a good faith effort to prioritize qualifying patients and registered caregivers.

Additionally, Regulation .08 requires a licensed dispensary to appoint at least one individual to function as a clinical director. Clinical directors must meet specified qualifications and requirements, and a clinical director must be onsite or available via electronic communication during a licensed dispensary's hours of operation. However, new to the regulations, there are exemptions from these requirements for a standard dispensary until the licensee has been licensed and operational for at least 24 months, and for micro dispensaries.

*Tax Exemption for Medical Cannabis:* Medical cannabis sold to qualifying patients or registered caregivers is exempt from any sales and use tax assessment.

## **Cannabis Licensing**

*Standard Licenses:* Chapter 14.17.05 specifies the requirements to apply for and obtain a cannabis license. Except as noted below, these requirements are the same as the current regulations. MCA must conduct extensive outreach to small, minority, and women business owners and potential social equity applicants prior to accepting applications. Minimum qualifications, established by MCA, must be communicated to prospective applicants. MCA is authorized to request additional information or supporting documentation from a selected applicant to verify aspects of the application, as specified. The regulations expand on what is authorized to be considered. Licenses are determined by public lottery, each round of which MCA shall announce and describe at least 60 days prior to accepting applications. The application period for each round is 30 days. MCA may award fewer licenses than authorized under law in any licensing round. An applicant not selected by lottery may request that MCA retain its application for subsequent application rounds and may also avail itself of certain hearing rights.

Applicants selected by lottery are issued a conditional license for a period of 18 to 24 months, during which the licensee must complete a supplemental license application to undergo a criminal and financial history background check and take certain actions, including a demonstration of legal control and local zoning and planning approval of the proposed site for the cannabis business. New to the regulations, during the conditional licensing period, the licensee must (1) notify MCA when the licensee establishes legal control of the proposed site and (2) demonstrate adequate capitalization to enable the business to become operational within 6 months of being issued a conditional license. The regulations also specify actions that are restricted under a conditional license, and the circumstances under which MCA may rescind a conditional license. On satisfaction of the supplemental license requirements and payment of the licensing fee, MCA may issue the cannabis license, subject to suspension, fines, restriction, or revocation under specified circumstances.

New to the regulations, MCA is authorized to suspend, fine, restrict, or revoke a license if it is determined that a licensee has not complied with statements in the application, including statements about standards of operation or employment practices related to diversity, equity, and inclusion.

Chapter 14.17.06 establishes the standard terms of licenses, general licensure requirements, and other procedures and requirements for standard cannabis licensees. With the exception of micro licenses, the chapter applies to all standard cannabis licenses authorized by Title 36 of the Alcoholic Beverages and Cannabis Article.

Standard cannabis licenses, including licenses converted under § 36-403 of the Alcoholic Beverages and Cannabis Article, are valid for five years. A licensee is required to comply with all subregulatory guidance issued by MCA, including seed-to-sale tracking system guidance. The regulations address transfers of ownership interests and changes of location of operation and establish procedures for the renewal of standard cannabis licenses, including the denial of renewal under certain circumstances. A licensee is prohibited from registering with the State Department of Assessment and Taxation (SDAT) using a legal name that (1) uses the terms “cannabis,” “marijuana,” or other synonym related to controlled substances, (2) suggests the use of cannabis

as an intoxicant, or (3) incorporates any copyrighted material or trademark or service mark attributable to another entity.

Regulation .04 is amended to *authorize* (rather than require, as under current regulation) MCA to deny transfer of an interest if the transferee or an individual with ownership or control of the transferee has been convicted of or pleaded *nolo contendere* to a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside. Also, new to the regulations, before a transfer, a licensee must conduct a full inventory of all cannabis and cannabis products in a manner prescribed by MCA. Additionally, Regulation .04J outlines the procedures and requirements for issuing employee stock options as part of an employee compensation plan for licensees.

New under Regulation .05, a management company, which is a company that provides management services to a licensee, must be registered by MCA and in good standing with SDAT. As under current regulations, a licensee is required to provide a copy of its management agreement, which must include certain information, to MCA. MCA may deny the management agreement under certain circumstances. New to the regulations, a management agreement under this regulation may not require a licensee to operate under the license in a certain manner. Regulation .05H newly establishes circumstances under which a management agreement constitutes a transfer of control of a license to the management company.

Finally, the regulations specify the authority of and limitations on each standard cannabis licensee – grower, processor, dispensary, incubator space, and on-site consumption. For growers, the square footage of their indoor and outdoor canopy must be reported annually to MCA by October 1. MCA may inspect the licensed premises to verify the reported square footage and, if misrepresented, may impose certain penalties on the licensed grower. New to Regulation .08, which governs standard dispensary licenses, are provisions related to deliveries which are repealed.

*Micro Licenses:* Chapter 14.17.07 applies to micro grower, processor, and dispensary licenses. The regulations incorporate several provisions for standard cannabis licenses under Chapter 14.17.06 relating to licensure and renewal terms, transfers of ownership interests, and changes to location of operations that are applicable to micro licenses as well. The regulations also specify the authority of and limitations on each micro licensee. For micro growers, the canopy limit is established. Micro growers must also report the square footage of their indoor and outdoor canopy to MCA by October 1, annually. MCA may inspect the licensed premises to verify the reported square footage and, if misrepresented, may impose certain penalties on the licensed micro grower.

A micro dispensary licensee is authorized to operate delivery services and prohibited from operating a physical storefront or employing more than 10 individuals. New to the regulations, Regulation .07C establishes restrictions related to a micro dispensary's authorized service area, which is the region in which its license was awarded. A micro dispensary is only authorized to deliver cannabis products to residences and medical facilities in the authorized service area. A micro dispensary may submit a petition to expand its authorized service area, which MCA may approve, deny, or issue temporary approval.



Regulation .06 addresses micro processors and requires, among other things, that micro processors operate in accordance with standard cannabis processor regulations.

Finally, the regulations establish a process to convert a micro license to a standard license, which a licensee can apply for after being operational for at least 24 months in a manner determined by MCA. MCA must reserve enough standard licenses, by license type, to allow a reasonable number of micro licenses to convert to a standard license.

### **Laboratory Registration and Operations**

Chapter 14.17.08 establishes requirements for independent testing laboratories relating to laboratory registration, standards of care, terms and renewal of registrations, operational responsibilities, and transportation of cannabis products. A registration is valid for two years. The regulations also establish independent testing laboratory responsibilities and limitations. For example, an independent testing laboratory is required to adopt MCA-approved standard operating procedures (SOPs) to test cannabis, cannabis concentrate, and any other product that contains more than 0.5 milligrams (mg) of THC per serving or 2.5mg of THC per package that are approved by the accrediting body and MCA. Finally, the regulations incorporate provisions from § 36-204 of the Alcoholic Beverages and Cannabis Article, which requires MCA to operate a State cannabis testing laboratory for certain purposes.

New to the regulations, Regulation .07C authorizes the State Cannabis Testing Laboratory to establish pilot programs to (1) improve public health and safety, (2) review existing regulatory standards, or (3) develop new regulatory standards.

### **Other Cannabis Businesses**

Chapter 14.17.09 governs cannabis registrants, or businesses that provide transportation, disposal, or security services for cannabis licensees. Current regulations refer to these entities as “ancillary businesses.” Under the regulations, they are referred to as cannabis registrants. Registrants must be registered by MCA prior to providing services in the State. The regulations establish standards of operation for different types of cannabis registrants, much of which is incorporated from Chapter 10.62. New to the regulations, MCA is authorized rather than required, to approve a cannabis registration if the business takes specified actions to register and is authorized to deny a registration for any good cause, as determined by MCA.

Under the regulations, Regulation .03, is rewritten to govern the transport of cannabis and cannabis products between licensees and registrants, including requirements for vehicles used to transport cannabis and electronic manifest standards. Much of the requirements are incorporated from related regulations under COMAR 10.62. Among other things, agents are prohibited from wearing any clothing or symbols that may indicate ownership or possession of cannabis and each vehicle used to transport cannabis is required to be operated by at least one registered agent. New to the regulations, all cannabis must be transported in one or more locked and secured storage containers anchored to the inside of the vehicle, not accessible while in transit, and concealed so they are not visible or identifiable from outside the vehicle. Additionally, once the regulations go into effect, a registered transporter business may no longer deliver cannabis to qualifying patients,

registered caregivers, or adult-use consumers. However, micro dispensaries are authorized to make deliveries to adult-use customers, qualifying patients, and registered caregivers, as specified (as discussed above).

Regulation .04 addresses the authority of, limitations, and operational requirements for incubator space licensees.

## **Cannabis Licensee Operations**

*Broadly:* COMAR 14.17.10 through .12 establishes standards, requirements, and restrictions for licensed cannabis grower, processor, and dispensary operations. The current regulations include a number of references to COMAR 10.62 and require cannabis licensees to operate in accordance with various regulations under COMAR 10.62. Under the regulations, text from COMAR 10.62 (instead of cross references) is incorporated into COMAR 14.17. Each licensee chapter establishes license-type specific processes that must be included in a licensee's SOPs. Licensees must train agents on the procedures and have SOPs readily available for review upon request during an MCA inspection. Major changes to specific license type operations are described below.

*Cannabis Grower Operations:* Chapter 14.17.10 incorporates regulatory standards for grower premises, grower controls, inventory controls, and grower quality control from COMAR 10.62 and establishes the requirements for businesses licensed to grow cannabis under a standard grower license or a micro grower license. The chapter also addresses product reservation and trade practice requirements, restrictions and requirements for admitting visitors to the premises, discrepancy, theft, and diversion reporting, and a requirement to establish SOPs.

Among other things, a licensed grower facility must be located in Maryland, conform with local zoning and planning requirements, and conspicuously display its grower license at each premise. A licensed grower facility, including facilities with field or greenhouse cultivation premises, must meet certain security requirements. Prior approval is required before a licensee makes any modifications or renovations to a licensed grow facility.

Regulation .03 establishes cannabis grower control requirements including (1) procedures for receiving materials; (2) growing standards related to horticultural controls and equipment maintenance; (3) inventory and quality controls, which are expanded under the regulations; and (4) sanitation requirements. New to the regulations, if test results indicate that a batch does not meet specifications, the grower must notify MCA within 24 hours. The regulations also establish new sanitation requirements for scales, surfaces, and other equipment used for the purposes of creating usable cannabis products.

Regulation .05 specifies that a grower must accept products returned for destruction as green waste, and otherwise destroy any other product recorded as green waste in accordance with SOPs.

Regulation .06, which is amended under the regulations, establishes requirements related to reserving products for specified entities and other trade practices. More specifically, growers

must make a good faith effort to transfer at least 10% of cannabis grown to (1) licensed processors and dispensaries without a common ownership interest or control with the grower; or (2) social equity licensees. To the extent practicable, when fulfilling this requirement, a grower must prioritize social equity licensees and ensure that equal amounts of cannabis are transferred to licensed processors and dispensaries. For a social equity grower licensee, this requirement can be met by making a good faith effort to transfer at least 10% of cannabis grown to licensed processors and dispensaries without a common ownership interest or control with the social equity grower licensee. MCA is authorized to query the seed-to-sale tracking system to ensure compliance, and growers are subject to a fine and restriction, suspension, or revocation of their license for violations of these requirements.

Growers must investigate and report discrepancies between inventory of stock and the seed-to-sale tracking system as specified, and new to the regulations, a failure to report a discrepancy within one business day may be used as evidence of diversion.

*Cannabis Processor Operations:* Chapter 14.17.11 incorporates regulatory standards for cannabis processor premises (including security standards), processor operations, cannabis product processing, edible product processing, and requirements for concentrates and infused products from COMAR 10.62 and establishes the requirements for businesses licensed to process cannabis under a standard processor or micro processor license. The chapter also addresses standards for products returned for destruction and disposal of green waste, restrictions and requirements for admitting visitors to the premises, discrepancy, theft, and diversion reporting, and a requirement to establish SOPs.

Among other things, processing facilities must be located in Maryland, conform to local zoning and planning requirements, and conspicuously display its processor license. A licensed processor facility must meet certain security requirements. Prior approval is required before a licensee makes any modifications or renovations to a licensed processing facility. Processors must create and enter timely and accurate data into the seed-to-sale tracking system, as specified, and on at least a monthly basis, take stock of physical inventory compared to the stock reflected in the seed-to-sale tracking system. Processors must investigate and report discrepancies between inventory of stock and the seed-to-sale tracking system as specified. A failure to report a discrepancy within one business day may be used as evidence of diversion.

New to the regulations, a licensed processor is authorized to acquire hemp, but any product derived from hemp must comply with MCA regulations, as specified. Also new to the regulations, a licensed processor must notify MCA within 24 hours of receiving test results that a lot does not meet specifications. The regulations also establish new sanitation requirements for scales, surfaces, and other equipment used for the purposes of creating usable cannabis products.

*Cannabis Dispensary Operations:* Chapter 14.17.12 incorporates regulatory standards for dispensary premises from COMAR 10.62 and establishes the requirements for and limitations on businesses licensed to dispense cannabis under a standard dispensary or micro dispensary license. The chapter also establishes procedures and controls for access to licensed premises; security requirements; delivery operations (for micro dispensaries); dispensary operations; coordination of enforcement efforts between MCA and the Comptroller of Maryland; product reservations and

trade practices; products returned for destruction and disposal of green waste; online, telephone, or other remote ordering; hours of operations; reporting of product discrepancies, theft, or diversion; and developing SOPs.

Among other things, standard dispensary facilities must be located in Maryland, conform to local zoning and planning requirements, conspicuously display valid proof of licensure, and provide accommodations for qualifying patients and registered caregivers, as specified. Prior approval is required before a licensee makes any modifications or renovations to standard dispensary premises. Access to a dispensary is restricted to qualifying patients, registered caregivers, and individuals aged 21 and older, but new to the regulations, a dispensary is authorized to admit children younger than age 8 if they are accompanied by a qualifying patient or a registered caregiver. Also new to the regulations, standard dispensaries are authorized to provide curbside and drive-through services to all customers, including adult-use consumers.

Regulation .03 establishes operating requirements for micro dispensaries, including provisions for storage, delivery operations, vehicles, dispensing operations, and seed-to-sale tracking.

The regulations also specify sale limits, circumstances under which a dispensary agent may decline to dispense cannabis to a consumer, and restrictions on the use, storage, and collection of personal information. New to the regulations, a dispensary is prohibited from creating a consumer profile for an adult-use consumer without the customer's consent. Also new to the regulations, a restriction that dispensaries may only operate for 12 hours in a day is repealed, and dispensaries are authorized to conduct sales between 8 a.m. and 11 p.m.

Regulation .11 establishes SOP requirements, and requires a licensed dispensary to use the seed-to-sale tracking system to track their stock from the time it is delivered to the dispensary to the time dispensed and to conduct a monthly physical inventory. Under Regulation .05, MCA is authorized to query the seed-to-sale tracking system, and is required, upon request from the Comptroller to provide information from the system to ensure proper compliance, collection, and assessment of the sales and use tax by dispensaries and on-site consumption establishments.

Regulation .06 establishes product reservation and trade practices requirements for dispensaries. Licensed dispensaries (including micro dispensaries) must make a good faith effort to allow at least 25% of product available for retail sales to be products grown, manufactured, extracted, or otherwise produced by (1) licensees with no common ownership interest or control with the dispensary licensee, or (2) social equity licensees. Similar to the changes made for the product reservation and trade practices compliance for growers, under the regulations, in fulfilling this requirement, a dispensary must prioritize social equity licensees. Social equity licensees must make a good faith effort to allow for at least 25% of product available to be sourced from licensees with no common ownership interest or control with the licensee, as specified.

A licensee may be subject to penalties for failure to comply with certain product reservations and trade practices or failure to pay State taxes.

## **Cannabis Products**

Chapter 14.17.13 addresses cannabis products and describes product restrictions and standards. Generally, the regulations: (1) outline licensing, dosage, appearance, and other requirements for cannabis products (including for edible cannabis products); (2) specify that a dispensary is only authorized to dispense a finished product that meets regulatory labeling and packaging standards, as specified, and that, except for certain usable cannabis products, a licensed dispensary may only obtain finished cannabis products from a licensed grower or processor; (3) specify products that may only be dispensed to qualifying patients and registered caregivers; (4) establish product testing requirements; and (5) establish standards for edible cannabis products, capsule and tincture products, home cultivation products, cannabis vaporizing devices, infused non-edible products, concentrated cannabis products, and usable cannabis products.

Notably, new to the regulations, concentrated cannabis products with a total weight of one gram or less are authorized to be sold to adult-use cannabis customers. Under the current regulations, these concentrated cannabis products may only be sold to medical cannabis customers. Additionally, the height and width limits for seedlings that a dispensary is authorized to sell are increased from six to eight inches.

## **Regulation of Cannabis Businesses and Cannabis Business Agents**

*In General, and Reporting Requirements:* Chapter 14.17.14 governs complaints, enforcement, record keeping, and inspections of cannabis businesses. The regulations require MCA, licensees, and certifying providers to establish a procedure to receive, organize, store, and respond to all complaints regarding any cannabis product and severe adverse events, as specified. The regulations also require a licensee or certifying provider to report complaints regarding the quality or safety of a product, including a report of a serious event to MCA and applicable licensees, as specified. New to the regulations, a requirement for licensees or certifying providers to report *any* complaints or adverse events to MCA is repealed.

*Record Maintenance and Inspections:* Under current regulations, records must be maintained, and inspections must be conducted in accordance with specified provisions of COMAR 10.62. The regulations establish requirements for record keeping and inspections under Chapter 14.17.14, much of which is incorporated from COMAR 10.62. Notable changes include a reduction in the amount of time that licensees must maintain independent records of distributions from five to two years. Additionally, under the regulations, MCA is authorized, instead of required, to inspect all of a cannabis business applicant's premises and operations to ensure conformity with its application, State law, and regulations. The regulations also specify that certain actions such as an untruth or misrepresentation by the business applicant, licensee, registrant, or agent may result in the denial of an application, a civil fine, or the suspension or revocation of a license or registration.

*Discipline and Enforcement:* Regulation .04 establishes discipline and enforcement provisions, which are largely the same as under current regulations. However, in addition to being authorized to fine, suspend, restrict, revoke, or otherwise sanction a licensee or registrant for violating relevant statutory and regulatory provisions, and for other specified violations, MCA is

authorized to take disciplinary actions in response to a material misstatement, omission, misrepresentation, or untruth told by a licensee, registrant, registered agent, or other employee.

*Fines and Suspension Proceedings:* Regulation .05 establishes provisions related to fines and suspension proceedings, and there are a number of changes under the regulations. Of note, fines for violating SOPs, or relevant State, federal, or local laws and regulations, impeding an MCA violation, and making misrepresentations to MCA, as specified, are increased from \$5,000 to \$10,000 per violation. Additionally, MCA is authorized to impose late fees for failure to pay fines in a timely manner, as specified.

*Advertising:* Regulation .06 governs advertising and generally requires all advertisements for cannabis products, businesses, licensees, or other cannabis-related services to comply with advertising standards under §§ 36-901 through 36-903 of the Alcoholic Beverages and Cannabis Article. New to the regulations, penalties for second and third violations of the advertising requirements that occur within 24 months of the preceding violation are increased from \$5,000 to \$10,000, and \$10,000 to \$25,000, respectively. A new \$50,000 fine is established for each subsequent violation that occurs within 24 months of the preceding violation.

*Cannabis Business Agents:* Chapter 14.17.15 establishes requirements for cannabis business agents and individuals who are employed by, volunteer for, or work for a management company. Cannabis agents must be registered with MCA in order to volunteer or work for a licensee or registrant. MCA must issue an identification card to registered agents which must be worn by the agent while present on a licensed or registered premises and renewed every two years. Restrictions and requirements related to disclosures, and the potential denial or revocation of a registration for prospective agents due to the applicant's criminal history are amended under the regulations. Agents must renew identification cards every two years. The regulations establish training requirements for registered agents and procedures for MCA and licensees to follow in the event of the termination of a registered agent. The regulations also establish provisions for a responsible vendor training program, which includes a new process for a person to obtain approval to offer a responsible medical or adult-use cannabis vendor, server, and seller training program.

*Cannabis Business Owners:* Chapter 14.17.16 governs cannabis business owners and establishes procedures and requirements for cannabis business owners when applying for or transferring a cannabis license, including a requirement that applicants and transferees submit to a criminal records history check. The regulations also place restrictions on the ownership and transfer of licenses. Licensees are required to report annually to MCA information on their minority owners and employees. Finally, the regulations authorize MCA to impose fines, suspend or revoke licenses, or force divestiture as penalties for violations of the regulations.

New to the regulations, Regulation .01 establishes conditions of ownership and control of a cannabis business, including that an individual who holds any amount of ownership or control in a cannabis licensee must be at least age 21. Additionally, under the regulation, MCA is authorized to force divestiture of an individual with ownership interest or control from a licensed business if they are convicted or plead *nolo contendere* to a crime involving moral turpitude, as specified. The regulations also establish new requirements for individuals with more than 5% ownership interest or control in a licensed business to notify and report certain legal actions to

MCA, including filing for bankruptcy and conviction of or a plea of *nolo contendere* to a crime involving moral turpitude.

## **Receivership**

Chapter 14.17.17 concerns receivership actions involving cannabis licensees and is substantially modified from the current regulations. Notably, under current regulations, Chapter 14.17.17 contained additional provisions related to standards for security interests in cannabis licenses that are repealed. Under the regulations, any person who files a receivership or trustee action involving a cannabis licensee must provide original notice of the action to MCA. The regulations also specify requirements for selecting an eligible receiver, applying for receivership, responsibilities for receivers, and standards when a receiver is appointed to initiate and oversee the disposition of a cannabis license. Among other things, MCA must terminate a receivership if the receiver commits a material violation: (1) that poses an imminent threat to public health and safety, or (2) that has not been corrected within 45 days after notice of the material violation from MCA. A creditor may select another receiver for MCA approval if the prior receivership is terminated. The regulations also specify that a cannabis license may not be transferred or operated without express approval from MCA.

## **Finished Product Packaging and Labeling**

Chapter 14.17.18 establishes requirements for finished product packaging and labeling for medical and adult-use cannabis products, including edible cannabis products, and cannabis seeds and plants sold for home cultivation. All labels must include specified warnings and product information, and packaging and labeling may not obscure any required warnings, statements, or information. The regulations also establish prohibited packaging and labeling and prohibit cannabis products and labeling from bearing or resembling certain images or statements, including certain images that may appeal to minors. Under the regulations, these prohibitions are closer aligned to statutory requirements under § 36-203.1(c) of the Alcoholic Beverages and Cannabis Article. New to the regulations, information regarding a product's cannabinoid and terpene content may be printed on the inner layer of a label. Additionally, for edible cannabis products, nutritional information may be printed on an inner layer of a label or accessed through a URL or QR code printed on the packaging.

For medical cannabis products, in addition to general packaging and labeling requirements, space must be reserved for a licensed dispensary to attach a personalized label for the qualifying patient. New to the regulations, warning statements that are required for medical cannabis products are authorized to be applied to a sticker or label that can be attached at the point of sale, such as the personalized label.

## **Research and Development**

Chapter 14.17.19 establishes procedures for eligible entities to register with MCA to (1) conduct *bona fide* academic research projects relating to the uses, properties, or composition of cannabis or (2) grow, process, test, and transfer cannabis for research and development

purposes. Registered entities must notify MCA within 30 days of any changes to study protocols, as specified, and research and development entities.

New to the regulations, research and development entities are explicitly required to conduct a study in conformity with study protocols and any additional MCA guidance and must notify MCA within 48 hours of any adverse events. Additionally, these entities must provide MCA with documentation of approval by either the Institutional Review Board or Institutional Animal Care and Use Committee depending on applicability. The regulations also establish requirements that research and development entities must follow with regard to handling of cannabis products used for research and development, including specific procedures and packaging and labeling requirements for edible cannabis research and development.

MCA is authorized to inspect the registered entities for compliance with announced or unannounced inspections and to issue identification cards for individuals associated with registered entities. The regulations establish reporting requirements for registered entities, including that a registered entity must submit an annual report to MCA on the progress and status of any research project and a final report within 30 days of completion of the research project. A registered entity must have MCA's approval before publishing any findings. Finally, the regulations prohibit a registered entity from dispensing, selling, sampling, or distributing cannabis products to individuals outside the scope of the research project or from operating in any way like a licensed grower, processor, or dispensary, as specified. Entities registered under the regulations may not perform any research activities outside of Maryland.

## **Prohibitions**

Chapter 14.17.20 incorporates provisions from §§ 36-1101(c) and 36-1102 of the Alcoholic Beverages and Cannabis Article, which establish prohibitions against certain transactions for cannabis licensees and individuals who are not licensed or registered under COMAR 14.17. Generally, if a person is not registered or licensed under COMAR 14.17, they are prohibited from selling a product that contains more than 0.5 mg of THC per serving or 2.5 mg of THC per package. However, there is an exemption from this prohibition if the product is a hemp-derived tincture that complies with statute, as specified, and the exempted products are tested by an independent testing laboratory.

The regulations also establish sales restrictions, including a prohibition against selling any cannabinoid that is not derived from naturally occurring biological active chemical constituents; however, a licensed business may submit other compounds to the State Reference Laboratory to be considered for sale, distribution, and regulation. Licensed cannabis businesses may not have an alcoholic beverage sales license or allow another business to sell alcohol within its licensed premises. New to the regulations, a licensee may not distribute cannabis to a person if the licensee knows, or has reason to know, that the cannabis itself or the act of distribution to the person does not comply with related statutory and regulatory provisions. Finally, the regulations establish restrictions on providing samples.



## **Fees**

COMAR 14.17.21.02 establishes the fee schedule for: (1) application fees; (2) licensing fees; (3) registration fees; (4) research and development fees; (5) qualifying patient and caregiver fees; (6) micro license conversion fees; (7) edible cannabis product permit fees; and (8) miscellaneous fees. MCA may waive or reduce any of the fees established under Regulation .02 at its discretion.

## **Hearing Procedures**

Chapter 14.17.22 establishes hearing procedures for hearings that MCA is required to conduct by statute or regulation, except those hearings for which specific procedural regulations have been promulgated. The procedures under the chapter are intended to be supplemental to procedures required under the State Government Article, as specified. The chapter grants the right to a hearing to licensees, registrants, agents, owners, or selected applicants that have been subject to an action by MCA other than a notice of intent to summarily suspend or summary suspension. MCA is authorized to delegate its hearing authority to the Office of Administrative Hearings. Changes have been made throughout the chapter to reflect current procedure and statutory requirements.

The regulations also: (1) establish notice requirements, including a notice of agency action and a statement of a right to a hearing when MCA takes an agency action; (2) establish the procedures for filing hearing and postponement requests; (3) provide for a prehearing conference and case resolution process; (4) establish MCA's responsibility to schedule a timely hearing; (5) establish when initial and other pleadings are deemed to be filed; and (6) establish hearing procedures relating to subpoenas, evidence, burden of proof, and hearings conducted by electronic means. MCA must provide notice of final determination that includes certain information.

Finally, the regulations provide that a party may appeal the final determination of MCA within 30 days of receipt of the final determination and the Circuit Court of Anne Arundel County shall be the proper venue for the appeal.

## **Legal Issues**

The regulations present no legal issues of concern.

## **Statutory Authority and Legislative Intent**

MCA cites §§ 1-309.1, 36-101, 36-201 through 36-205, 36-301, 36-302, 36-401 through 36-410, 36-501 through 36-505, 36-601, 36-701, 36-702, 36-801, 36-802, 36-901, 36-902, 36-1001 through 36-1003, and 36-1101 of the Alcoholic Beverages and Cannabis Article as authority for the regulations.

More specifically, § 36-201(f) requires MCA to administer and enforce the provisions of Title 36 of the Alcoholic Beverages and Cannabis Article, the title governing cannabis. Section 36-202(a)(9) requires MCA to adopt regulations necessary to carry out MCA's duties

under Title 36. Section 36-203(c) requires MCA, by July 1, 2024, to adopt nonemergency regulations to carry out MCA's duties under Title 36 and provides a list of the minimum requirements of the regulations. Section 36-203.1(a) requires regulations adopted by MCA to establish potency limits for cannabis sold in the State.

Title 36, Subtitle 4 generally governs cannabis licensing; more specifically, § 36-401(b) requires MCA to adopt regulations requiring licensees with licenses that were converted from medical licenses to adult-use licenses to reserve a specified amount of cannabis for social equity licensees. Section 36-406 requires MCA to adopt regulations to establish a Maryland Incubator Program based on best practices in other states. Section 36-408 requires MCA to adopt regulations that establish registration standards and requirements, standards of care, and the basis and processes for denial, revocation, and suspension of a registration for an independent testing laboratory. Section 36-409 requires MCA to adopt regulations that establish registration standards and requirements for cannabis businesses, and the basis and processes for approval, denial, revocation, and suspension of a cannabis registration.

Section 36-601 requires MCA to adopt regulations that govern the administration and use of the Medical Cannabis Compassionate Use Fund, which provides access to cannabis for individuals enrolled in the Maryland Medical Assistance Program or in the Veterans Affairs Maryland Health Care System.

MCA is authorized under § 36-701 to adopt regulations implementing rules for the purchase of cannabis for academic research. Section 36-1002 requires MCA to adopt regulations establishing the responsible vendor training program and minimum standards for the program as defined under § 36-1001. The remaining cited authority is not relevant to the regulations.

Although not cited by MCA, § 36-903 requires MCA to adopt regulations containing limitations on advertising by cannabis licensees in the State, as defined in statute. With the addition of § 36-903, the relevant cited authority is correct and complete. The regulations comply with the legislative intent of the law.

## **Emergency Status**

MCA requests emergency status beginning April 19, 2024 and expiring July 30, 2024. This emergency period is within the normal time frames approved by the Joint Committee on Administrative, Executive, and Legislative Review. During discussion with the Department of Legislative Services (DLS), MCA indicated the emergency status is necessary to ensure that revised regulations replace current emergency regulations that took effect July 1, 2023. DLS notes that Chapters 254 and 255 of 2023 specify that MCA must adopt nonemergency regulations by July 1, 2024, but are silent on replacing emergency regulations with updated emergency regulations. MCA advises that out of an abundance of caution with respect to statutory deadlines, MCA simultaneously submitted identical emergency and proposed regulations to make every effort for the updated regulations to take effect in a timely fashion.

## **Technical Corrections and Special Notes**

DLS identified several non-substantive errors in the text of the regulations as submitted to the Division of State Documents. These include errors in tabulation, grammar, and phraseology that lacks sufficient clarity. DLS has informed MCA of these issues. Additionally, COMAR 14.17.01, Definitions, is missing from the list of affected chapters of COMAR on the transmittal sheet.

DLS also notes that Chapter 241 of 2024, an emergency departmental bill, made various alterations to provisions that govern the cannabis industry in the State. Among other things, Chapter 241 extends an authorization for an MMCC licensee that converted to a cannabis business license to continue to deliver medical cannabis to qualifying patients from July 1, 2024 until July 1, 2025. This statutory authorization contradicts the restriction in the regulations that prohibits the delivery of cannabis (including the delivery of medical cannabis to qualifying patients) by licensees other than micro dispensaries effective upon the taking effect of the regulations.

## **Fiscal Analysis**

While special fund revenues for the Cannabis Regulation and Enforcement Fund (CREF) may be affected (with certain provisions reducing revenues and other provisions potentially increasing revenues, as discussed below), overall, there is no material fiscal impact on State or local agencies.

## **Agency Estimate of Projected Fiscal Impact**

The regulations generally replace emergency regulations that (1) took effect July 1, 2023, and expire June 30, 2024, and (2) implement certain provisions of Chapters 254 and 255 of 2023 (Senate Bill 516/House Bill 556). The regulations, which also implement Chapters 254 and 255, repeal current regulations under MDH related to the administration of MMCC and recodify them under MCA. The regulations also establish new provisions and clarify, modify, and update current regulations. MCA advises that the regulations do not result in a meaningful fiscal impact. DLS generally concurs and notes that, while there may not be an overall meaningful fiscal impact, some changes result in a minimal net indeterminate impact on special fund revenues for CREF, as discussed in detail below. DLS further notes that new provisions related to the expanded uses of the Compassionate Use Fund were already accounted for in the fiscal and policy notes for Chapters 254 and 255.

## **Adult-use Cannabis Market Sales of Concentrated Cannabis Products**

The regulations authorize the sale of concentrated cannabis products with a total weight of one gram or less in the adult-use cannabis market. Currently, concentrated cannabis products are only authorized to be sold to medical patients and are not sold in the adult-use cannabis market. However, MCA advises that this new authorization is not anticipated to have a material effect on overall adult-use cannabis sales in the State as concentrated cannabis products only represent a small share of the current medical cannabis market and overall adult-use consumers are not expected to materially shift their buying habits based on the authorization. DLS concurs.

## **Medical Patient and Caregiver Identification Cards**

The regulations *authorize* new medical cannabis patients and caregivers that register with MCA to request and obtain an identification card. This is a change from current MDH regulations which *require* new medical patients and caregivers to obtain an identification card upon registering. The fee for an identification card upon registering with MCA is \$25, and the cost to MCA to issue an identification card is \$15. Based on the number of new medical patients who have registered with MCA over the first three quarters of fiscal 2024 (July 2023 through March 2024) since adult-use cannabis became available in the State and accounting for annualization, net CREF special fund revenues could decrease by as much as \$150,000 annually. However, it is unknown how continued growth in the adult-use cannabis market could affect the number of new medical patients and caregivers that register with MCA. Furthermore, some portion of medical patients and caregivers may still choose to obtain an identification card.

## **Fee Revenues**

*Stock Options:* The regulations specifically authorize the use of employee stock options as part of an employee compensation plan and impose a fee of \$500 per individual agent that is being issued stock options at the time of issue. MCA advises that, under current regulations, licensees can already structure a stock option plan through transferring ownership interest to an individual transferee as a passive investor at a fee of \$500 per person. The regulations are intended to streamline a licensee's use of employee stock option compensation plans and, thus, are not anticipated to have a material fiscal impact.

*Registration Fees:* The regulations clarify that the annual business registration fee is \$100 (rather than \$1,000). MCA advises that the registration fee as established in current regulations was an error and that, in practice, the registration fee is \$100. Thus, there is no fiscal impact from this clarification.

The regulations also add the requirement that a “management company” (an entity that provides management services to a licensed entity) must register as a business with MCA before entering into a management agreement with a licensee and must renew that registration annually – in addition to paying the management agreement fee of \$1,000 under current regulations. The annual business registration fee is \$100. MCA advises that there are currently eight management companies (managing 12 licensees) that will be subject to the new annual registration requirement, generating special fund revenues for CREF of \$800 annually.

Further, the regulations specify that laboratory registration fees are biennial; current regulations do not specify a time period. MCA advises, however, that in practice, the registration term for laboratories is two years. Thus, there is no fiscal impact from this specification.

## **Fine Revenues**

*Fines for the Late Payment of Conversion Fees:* The regulations impose a fine of \$5,000 per day that the payment of a conversion fee is late. MCA advises that a small number of converted licensees have failed to pay a conversion fee on time and that the proposed fine is intended to

encourage compliance. Therefore, MCA does not anticipate a material fiscal impact due to the establishment of such a fine. DLS generally concurs and advises that CREF special fund revenues increase to the extent that conversion fees are paid late and MCA imposes the higher authorized fine amount. Any such increase is not anticipated to be meaningful.

*Increased Fines for Noncompliance:* The regulations increase the fine amounts for certain violations, as displayed in **Exhibit 1**.

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**Exhibit 1**  
**Fine Penalties Altered by the Regulations**

<b><u>Prohibited Activity</u></b>	<b><u>Current Fine</u></b>	<b><u>New Fine</u></b>
A licensee or registrant may not substantially deviate from or demonstrate a pattern of deviation from (1) its standard operating procedures; (2) its application; or (3) State, federal, or local law, regulation, or ordinance	\$5,000 per violation	\$10,000 per violation
A licensee or registrant may not (1) violate Title 36 of the Alcoholic Beverages and Cannabis Article; (2) violate MCA regulations; or (3) restrict, limit, or otherwise impede an inspection or investigation by MCA	\$5,000 per violation	\$10,000 per violation
A licensee, registrant, registered agent, or other employee may not make a material misstatement, omission, misrepresentation, or untruth	\$5,000 per violation	\$10,000 per violation
A licensee, registrant, agent, or employee must comply with the requirements of §§ 36-901 through 36-903 of the Alcoholic Beverages and Cannabis Article related to all advertisements for cannabis products, businesses, licensees, or other cannabis-related services	\$1,000: 1st violation \$5,000: 2nd violation within 24 months \$10,000: 3rd violation within 24 months (or subsequent violation)	\$1,000: 1st violation \$10,000: 2nd violation within 24 months \$25,000: 3rd violation within 24 months \$50,000: 4th violation within 24 months (or subsequent violation)

Source: Department of Legislative Services

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MCA advises that the existing fines are too low to elicit compliance by certain licensees and registrants. By increasing fines, MCA seeks to deter violations and anticipates imposing a smaller number of fines at the higher amount (such that, overall, fine revenues are not materially affected). DLS generally concurs and advises that CREF special fund revenues increase to the extent that the higher fines do not deter continued violations. Any such increase is not anticipated to be meaningful.

### **Effect on Distribution of Sales and Use Tax Revenues**

As mentioned above, the regulations are not anticipated to materially affect overall sales of adult-use cannabis and, therefore, the total amount of sales and use tax revenues collected each year. However, the regulations *may* affect the *distribution* of sales and use tax revenues to the extent that the regulations result in an increase or decrease in overall special fund revenues for CREF from other sources.

Current law requires that revenues from the sales and use tax on the sale of adult-use cannabis must first be distributed to CREF to defray MCA's operating and administrative costs. Remaining tax revenues are then distributed as follows: 50% to the State's general fund; 35% to the Community Reinvestment and Repair Fund administered by the Comptroller's Office; 5% to the Cannabis Public Health Fund administered by MDH; 5% to the Cannabis Business Assistance Fund administered by the Department of Commerce; and 5% to counties. Accordingly, any increase or decrease in CREF revenues from the sales and use tax to cover administrative costs has an equal and opposite effect on the amount of tax revenues remaining for distribution under these provisions.

However, to the extent that the regulations increase CREF revenues from other sources that are available to cover administrative costs, the regulations also result in a corresponding increase in general fund revenues, special fund revenues for affected special funds, and county revenues. Conversely, to the extent that the regulations decrease CREF revenues from other sources, the regulations also result in a corresponding decrease in general fund revenues, special fund revenues for affected special funds, and county revenues. Any such effect, if it occurs, is anticipated to be minimal.

### **Impact on Budget**

There is no material impact anticipated on the State operating or capital budget.

### **Agency Estimate of Projected Small Business Impact**

MCA advises that the regulations have minimal or no economic impact on small businesses in the State. MCA also advises that the regulations result in several operational changes for current licensees (57 of which are considered small businesses), but they otherwise do not have a meaningful impact on small businesses. DLS generally concurs and notes that the operational changes include, among other things, (1) extending video surveillance retention for dispensaries from 30 days to 90 days; (2) reducing records retention standards for all licensees from five years to two years; (3) increasing the amount of usable cannabis that a grower may transfer to a

dispensary from 5 pounds to 50 pounds in a single transfer; (4) extending the hours of and removing the 12-hour restriction on operations for dispensaries; and (5) removing the requirement that a dispensary obtain an individual's signature upon pick-up for an order that is placed online.

## **Contact Information**

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