CHAPTER 7-A OF THE CONSOLIDATED LAWS
CANNABIS LAW

ARTICLE 1

SHORT TITLE; LEGISLATIVE FINDINGS AND INTENT; DEFINITIONS

Section 1. Short title. This chapter shall be known and may be cited and referred to as the "cannabis law".

§ 2. Legislative findings and intent. The legislature finds that existing marihuana laws have not been beneficial to the welfare of the general public. Existing laws have been ineffective in reducing or curbing marihuana use and have instead resulted in devastating collateral consequences including mass incarceration and other complex generational trauma, that inhibit an otherwise law-abiding citizen's ability to access housing, employment opportunities, and other vital services. Existing laws have also created an illicit market which represents a threat to public health and reduces the ability of the legislature to deter the accessing of marihuana by minors. Existing marihuana laws have disproportionately impacted African-American and Latinx communities.

The intent of this act is to regulate, control, and tax marihuana, heretofore known as cannabis, generate significant new revenue, make substantial investments in communities and people most impacted by cannabis criminalization to address the collateral consequences of such criminalization, prevent access to cannabis by those under the age of twenty-one years, reduce the illegal drug market and reduce violent crime, reduce participation of otherwise law-abiding citizens in the illicit market, end the racially disparate impact of existing cannabis laws, create new industries, protect the environment, improve the state's resiliency to climate change, protect the public health, safety and welfare of the people of the state, increase employment and strengthen New York's agriculture sector.

Nothing in this act is intended to limit the authority of any district, government agency or office or employers to enact and enforce policies pertaining to cannabis in the workplace; to allow driving under the influence of cannabis; to allow individuals to engage in conduct that endangers others; to allow smoking cannabis in any location where smoking tobacco is prohibited; or to require any individual to engage in any conduct that violates federal law or to exempt anyone from any requirement of federal law or pose any obstacle to the federal enforcement of federal law.

The legislature further finds and declares that it is in the best interest of the state to regulate medical cannabis, adult-use cannabis, cannabinoid hemp and hemp extracts under independent entities, known as the cannabis control board and the office of cannabis management.

§ 3. Definitions. Whenever used in this chapter, unless otherwise expressly stated or unless the context or subject matter requires a different meaning, the following terms shall have the representative meanings hereinafter set forth or indicated:

1. "Applicant" unless otherwise specified in this chapter, shall mean a person applying for any cannabis, medical cannabis or cannabinoid hemp license or permit issued by the New York state cannabis control board pursuant to this chapter that: has a significant presence in New York state, either individually or by having a principal corporate location in the state; is incorporated or otherwise organized under the laws of this state; or a majority of the ownership are residents of this state. For the purposes of this subdivision, "person" means an individual, institution, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

2. "Cannabinoid" means the phytocannabinoids found in hemp and does not include synthetic cannabinoids as that term is defined in subdivision (g) of schedule I of section thirty-three hundred six of the public health law.

3. "Cannabinoid hemp" means any hemp and any product processed or derived from hemp, that is used for human consumption provided that when such product is packaged or offered for retail sale to a consumer, it shall not have a concentration of more than three tenths of a percent delta-9 tetrahydrocannabinol.

4. "Cannabinoid hemp processor license" means a license granted by the office to process, extract, pack or manufacture cannabinoid hemp or hemp extract into products, whether in intermediate or final form, used for human consumption.

5. "Cannabis" means all parts of the plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. It does not include hemp, cannabinoid hemp or hemp extract as defined by this section or any drug products approved by the federal Food and Drug Administration.

6. "Cannabis consumer" means a person twenty-one years of age or older acting in accordance with any provision of this chapter.

7. "Cannabis control board" or "board" means the New York state cannabis control board created pursuant to article two of this chapter.

8. "Cannabis flower" means the flower of a plant of the genus Cannabis

that has been harvested, dried, and cured, prior to any processing whereby the plant material is transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients. Cannabis flower excludes leaves and stem.

9. "Cannabis product" or "adult-use cannabis product" means cannabis, concentrated cannabis, and cannabis-infused products for use by a cannabis consumer.

10. "Cannabis-infused products" means products that have been manufactured and contain either cannabis or concentrated cannabis and other ingredients that are intended for use or consumption.

11. "Cannabis trim" means all parts of the plant of the genus Cannabis other than cannabis flower that have been harvested, dried, and cured, but prior to any further processing.

12. "Caring for" means treating a patient, in the course of which the practitioner has completed a full assessment of the patient's medical history and current medical condition.

13. "Certification" means a certification made under this chapter.

14. "Certified medical use" includes the acquisition, cultivation, manufacture, delivery, harvest, possession, preparation, transfer, transportation, or use of medical cannabis for a certified patient, or the acquisition, administration, cultivation, manufacture, delivery, harvest, possession, preparation, transfer, or transportation of medical cannabis by a designated caregiver or designated caregiver facility, or paraphernalia relating to the administration of cannabis, including whole cannabis flower, to treat or alleviate a certified patient's medical condition or symptoms associated with the patient's medical condition.

15. "Certified patient" means a patient who is a resident of New York state or receiving care and treatment in New York state as determined by

the board in regulation, and is certified under this chapter.

16. "Chief equity officer" means the chief equity officer of the office of cannabis management.

17. "Concentrated cannabis" means: (a) the separated resin, whether crude or purified, obtained from cannabis; or (b) a material, preparation, mixture, compound or other substance which contains more than three percent by weight or by volume of total THC, as defined in this section.

18. "Condition" means having one of the following conditions: cancer, positive status for human immunodeficiency virus or acquired immune deficiency syndrome, amyotrophic lateral sclerosis, Parkinson's disease, multiple sclerosis, damage to the nervous tissue of the spinal cord with objective neurological indication of intractable spasticity, epilepsy, inflammatory bowel disease, neuropathies, Huntington's disease, post-traumatic stress disorder, pain that degrades health and functional capability where the use of medical cannabis is an alternative to opioid use, substance use disorder, Alzheimer's, muscular dystrophy, dystonia, rheumatoid arthritis, autism or any other condition certified by the practitioner.

19. "Cultivation" means growing, cloning, harvesting, drying, curing, grading, and trimming of cannabis plants for sale to certain other categories of cannabis license- and permit-holders.

20. "Delivery" means the direct delivery of cannabis products by a retail licensee, microbusiness licensee, or delivery licensee to a cannabis consumer.

21. "Designated caregiver facility" means a facility that registers with the office to assist one or more certified patients with the acquisition, possession, delivery, transportation or administration of medical cannabis and is a: general hospital or residential health care facility operating pursuant to article twenty-eight of the public health law; an adult care facility operating pursuant to title two of article

seven of the social services law; a community mental health residence established pursuant to section 41.44 of the mental hygiene law; a hospital operating pursuant to section 7.17 of the mental hygiene law; a mental hygiene facility operating pursuant to article thirty-one of the mental hygiene law; an inpatient or residential treatment program certified pursuant to article thirty-two of the mental hygiene law; a residential facility for the care and treatment of persons with developmental disabilities operating pursuant to article sixteen of the mental hygiene law; a residential treatment facility for children and youth operating pursuant to article thirty-one of the mental hygiene law; a private or public school; research institution with an internal review board; or any other facility as determined by the board in regulation.

22. "Designated caregiver" means an individual designated by a certified patient in a registry application. A certified patient may designate up to five designated caregivers not counting designated caregiver facilities or designated caregiver facilities' employees.

23. "Designated caregiver facility employee" means an employee of a designated caregiver facility.

24. "Distributor" means any person who sells at wholesale any cannabis product, except medical cannabis, for the sale of which a license is required under the provisions of this chapter.

25. "Executive director" means the executive director of the office of cannabis management.

26. "Form of medical cannabis" means characteristics of the medical cannabis recommended or limited for a particular certified patient, including the method of consumption and any particular strain, variety, and quantity or percentage of cannabis or particular active ingredient, or whole cannabis flower.

27. "Hemp" means the plant Cannabis sativa L. and any part of such plant, including the seeds thereof and all derivatives, extracts,

cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration (THC) of not more than three-tenths of a percent on a dry weight basis. It shall not include "medical cannabis" as defined in this section.

28. "Hemp extract" means all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers derived from hemp, used or intended for human consumption, for its cannabinoid content, with a delta-9 tetrahydrocannabinol concentration of not more than an amount determined by the office in regulation. For the purpose of this article, hemp extract excludes (a) any food, food ingredient or food additive that is generally recognized as safe pursuant to federal law; or (b) any hemp extract that is not used for human consumption. Such excluded substances shall not be regulated pursuant to the provisions of this article but are subject to other provisions of applicable state law, rules and regulations.

29. "Labor peace agreement" means an agreement between an entity and a labor organization that, at a minimum, protects the state's proprietary interests by prohibiting labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the entity.

30. "Laboratory testing facility" means any independent laboratory capable of testing cannabis and cannabis products for adult-use and medical-use; cannabinoid hemp and hemp extract; or for all categories of cannabis and cannabis products as per regulations set forth by the state cannabis control board.

31. "License" means a written authorization as provided under this chapter permitting persons to engage in a specified activity authorized pursuant to this chapter.

32. "Licensee" means an individual or an entity who has been granted a license under this chapter.

33. "Medical cannabis" means cannabis as defined in this section,

intended for a certified medical use, as determined by the board in consultation with the commissioner of health.

34. "Microbusiness" means a licensee that may act as a cannabis producer for the cultivation of cannabis, a cannabis processor, a cannabis distributor and a cannabis retailer under this article; provided such licensee complies with all requirements imposed by this article on licensed producers, processors, distributors and retailers to the extent the licensee engages in such activities.

35. "Nursery" means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis by licensed adult use cannabis cultivators, microbusinesses, cooperatives and registered organizations.

36. "Office" or "office of cannabis management" means the New York state office of cannabis management.

37. "On-site consumption" means the consumption of cannabis in an area licensed as provided for in this chapter.

38. "Package" means any container or receptacle used for holding cannabis or cannabis products.

39. "Permit" means a permit issued pursuant to this chapter.

40. "Permittee" means any person to whom a permit has been issued pursuant to this chapter.

40-a. "Person" means an individual, institution, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other entity.

41. "Practitioner" means a practitioner who is licensed, registered or certified by New York state to prescribe controlled substances within the state. Nothing in this chapter shall be interpreted so as to give

any such person authority to act outside their scope of practice as defined by title eight of the education law. Additionally, nothing in this chapter shall be interpreted to allow any unlicensed, unregistered, or uncertified person to act in a manner that would require a license, registration, or certification pursuant to title eight of the education law.

42. "Processor" means a licensee that extracts concentrated cannabis and/or compounds, blends, extracts, infuses, or otherwise manufactures concentrated cannabis or cannabis products, but not the cultivation of the cannabis contained in the cannabis product.

43. "Registered organization" means an organization registered under article three of this chapter.

44. "Registration" means identifying information of a certified patient or designated caregiver that is electronically filed by a practitioner and confirmed by a registered organization or designated caregiver facility, as provided under this chapter and as determined by the board in regulation.

45. "Registry application" means an application properly completed and filed with the office by a designated caregiver under article three of this chapter.

46. "Retail sale" means to solicit or receive an order for, to keep or expose for sale, and to keep with intent to sell, made by any licensed person, whether principal, proprietor, agent, or employee, of any cannabis, cannabis product, cannabinoid hemp or hemp extract product to a cannabis consumer for any purpose other than resale.

46-a. "Indirect retail sale" means to give any cannabis, cannabis product, cannabinoid hemp, hemp extract product, or any product marketed or labeled as such by any person engaging in a commercial business venture or otherwise providing or offering goods or services to the general public for remuneration for such goods and/or services, where any such cannabis, cannabis product, cannabinoid hemp or hemp extract product, or any product marketed or labeled as such, accompanies (a) the sale of any tangible or intangible property; or (b) the provision of any service, including but not limited to entry to a venue or event, or a benefit of a membership to a club, association, or other organization.

47. "Retailer" means any person who sells at retail any cannabis product, the sale of which a license is required under the provisions of this chapter.

48. "Small business" means small business as defined in section one hundred thirty-one of the economic development law, and shall apply for purposes of this chapter where any inconsistencies exist.

49. "Smoking" means the burning of a lighted cigar, cigarette, pipe or any other matter or substance which contains cannabis including the use of an electronic smoking device that creates an aerosol or vapor.

50. "Social and economic equity applicant" means an individual or an entity who is eligible for priority licensing pursuant to the criteria established in article four of this chapter.

51. "Terminally ill" means an individual has a medical prognosis that the individual's life expectancy is approximately one year or less if the illness runs its normal course.

52. "THC" means Delta-9-tetrahydrocannabinol; Delta-8-tetrahydrocannabinol; Delta-10-tetrahydrocannabinol and the optical isomer of such substances.

53. "Total THC" means the sum of the percentage by weight or volume measurement of tetrahydrocannabinolic acid multiplied by 0.877, plus, the percentage by weight or volume measurement of THC.

54. "Warehouse" means and includes a place in which cannabis products are securely housed or stored.

55. "Wholesale" means to solicit or receive an order for, to keep or

expose for sale, and to keep with intent to sell, made by any licensed person, whether principal, proprietor, agent, or employee of any adult-use, medical-use cannabis or cannabis product, or cannabinoid hemp and hemp extract product for purposes of resale.

ARTICLE 2

NEW YORK STATE CANNABIS CONTROL BOARD

* NB Section heading in this schedule does not match heading of section text

§ 7. Establishment of the cannabis control board or "board". 1. The cannabis control board is hereby created and shall consist of a chairperson nominated by the governor and with the advice and consent of the senate, with one vote, and four other voting board members as provided for in subdivision two of this section.

2. Appointments. In addition to the chairperson, the governor shall have two direct appointments to the board, and the temporary president

of the senate and the speaker of the assembly shall each have one direct appointment to the board. Appointments shall be for a term of three years each and should, to the extent possible, be geographically and demographically representative of the state and communities historically affected by the war on drugs. Board members shall be citizens and permanent residents of this state. The chairperson and the remaining members of such board shall continue to serve as chairperson and members of the board until the expiration of the respective terms for which they were appointed. Upon the expiration of such respective terms the successors of such chairperson and members shall be appointed to serve for a term of three years each and until their successors have been appointed and qualified. The members shall, when performing the work of the board, be compensated at a rate of two hundred sixty dollars per day, together with an allowance for actual and necessary expenses incurred in the discharge of their duties. No member or member's spouse or minor child shall have any interest in an entity regulated by the board.

3. Expenses. Each member of the board shall be entitled to their expenses actually and necessarily incurred by them in the performance of their duties.

4. Removal. Any member of the board may be removed by the governor for good cause after notice and an opportunity to be heard. A statement of the good cause for their removal shall be filed by the governor in the office of the secretary of state.

5. Vacancies; quorum. (A) In the event of a vacancy caused by the death, resignation, removal or inability to perform his or her duties of any board member, the vacancy shall be filled in the manner as the original appointment for the remainder of the unexpired term.

(B)(i) In the event of a vacancy caused by the death, resignation, removal, or inability to act of the chair, the vacancy shall be filled in the same manner as the original appointment for the remainder of the unexpired term. Notwithstanding any other provision of law to the contrary, the governor shall designate one of the remaining board members to serve as acting chairperson for a period not to exceed six months or until a successor chairperson has been confirmed by the senate. Upon the expiration of the six month term, if the governor has nominated a successor chairperson, but the senate has not acted upon the nomination, the acting chairperson can continue to serve as acting chairperson for an additional ninety days or until the governor's successor chairperson nomination is confirmed by the senate, whichever comes first;

(ii) The governor shall provide immediate written notice to the temporary president of the senate and the speaker of the assembly of the designation of a board member as acting chairperson; and

(iii) If (a) the governor has not nominated a successor chairperson upon the expiration of the six month term or (b) the senate does not confirm the governor's successor nomination within the additional ninety days, the board member designated as acting chairperson shall no longer be able to serve as acting chairperson and the governor is prohibited from extending the powers of that acting chairperson or from designating another board member to serve as acting chairperson.

(C) A majority of the voting board members of the board shall constitute a quorum for the purpose of conducting the business thereof and a majority vote of all the members in office shall be necessary for action. Provided, however, that a board member designated as an acting chairperson pursuant to this chapter shall have only one vote for purposes of conducting the business of the cannabis control board.

6. The cannabis control board and office of cannabis management shall have its principal office in the city of Albany, and maintain branch offices in the cities of New York and Buffalo and such other places as it may deem necessary.

The board shall establish appropriate procedures to ensure that hearing officers are shielded from ex parte communications with alleged violators and their attorneys and from other employees of the office of cannabis management and shall take such other steps as it shall deem necessary and proper to shield its judicial processes from unwarranted and inappropriate communications and attempts to influence.

7. Disqualification of members of the board and employees of the

office of cannabis management. No member of the board or any officer, deputy, assistant, inspector or employee or spouse or minor child thereof shall have any interest, direct or indirect, either proprietary or by means of any loan, mortgage or lien, or in any other manner, in or on any premises where cannabis is manufactured or sold; nor shall they have any interest, direct or indirect, in any business wholly or partially devoted to the cultivation, manufacture, distribution, sale, transportation or storage of cannabis, or own any stock in any corporation which has any interest, proprietary or otherwise, direct or indirect, in any premises where cannabis or hemp extract is cultivated or manufactured, distributed, or sold, or in any business wholly or partially devoted to the cultivation, manufacture, distribution, sale, transportation or storage of cannabis or hemp extract or receive any commission or profit whatsoever, direct or indirect, from any person applying for or receiving any license or permit provided for in this chapter, or hold any other public office in the state or in any political subdivision except upon the written permission of the board, such member of the board or office of cannabis management or officer, deputy, assistant, inspector or employee thereof may hold the public office of notary public or member of a community board of education in the city school district of the city of New York. Anyone who violates any of the provisions of this section shall be removed.

§ 8. Establishment of an office of cannabis management. There is hereby established, within the division of alcoholic beverage control, an independent office of cannabis management, which shall have exclusive jurisdiction to exercise the powers and duties provided by this chapter, except as expressly authorized in sections sixteen-a of this article and one hundred thirty-one of this chapter. The office shall exercise its authority by and through an executive director.

§ 9. Executive director. The office shall exercise its authority, other than powers and duties specifically granted to the board, by and through an executive director nominated by the governor and with the advice and consent of the senate. The executive director shall serve for a term of three years and once confirmed, may only be removed for good cause with appropriate notice. The executive director of the state office of cannabis management shall receive an annual salary not to exceed an amount appropriated therefor by the legislature and his or her expenses actually and necessarily incurred in the performance of his or her official duties, unless otherwise provided by the legislature.

§ 10. Powers and duties of the cannabis control board. The cannabis control board or "board" shall have the following functions, powers and duties as provided for in this chapter:

1. Discretion to issue or refuse to issue any registration, license or permit provided for in this chapter, as follows: the chairperson, after receiving a recommendation and relevant application information from the office and providing such information to all board members, shall issue a preliminary determination on whether the license, registration or permit shall be granted, denied, or held for further action. Within fourteen days of the chairperson's preliminary determination, any board member may object to the chairperson's preliminary determination, or request the matter be brought before the full board for consideration. Any preliminary determination by the chairperson shall take effect fourteen days after it has been issued by the chairperson, provided that no board member objects or requests the matter be considered by the full board, as adopted by the board through resolution.

2. Sole discretion to limit, or not to limit, the number of registrations, licenses and permits of each class to be issued within the state or any political subdivision thereof, in a manner that prioritizes social and economic equity applicants with the goal of fifty percent awarded to such applicants, and considers small business opportunities and concerns, avoids market dominance in sectors of the industry, and reflects the demographics of the state.

3. To revoke, cancel or suspend, after notice and an opportunity to be heard, any registration, license, or permit issued under this chapter for a violation of this chapter or any regulation pursuant thereto.

3-a. To impose or recover a civil penalty, as otherwise authorized under this chapter, against any person found to have violated any provision of this chapter, whether or not a registration, license, or permit has been issued to such person pursuant to this chapter.

4. To fix by rule and regulation the standards and requirements of cultivation, processing, packaging, marketing, and sale of medical cannabis, adult-use cannabis and cannabis product, and cannabinoid hemp and hemp extract, including but not limited to, the ability to regulate excipients, and the types, forms, and concentration of products which may be manufactured and/or processed, in order to ensure the health and safety of the public and the use of proper ingredients and methods in the manufacture of all medical, adult-use, cannabinoid hemp and hemp extract to be sold or consumed in the state and to ensure that products are not packaged, marketed, or otherwise sold in a way which targets minors or promotes increased use or cannabis use disorders.

5. To limit or prohibit, at any time of public emergency and without previous notice or advertisement, the cultivation, processing, distribution or sale of any or all cannabis products, medical cannabis or cannabinoid hemp and hemp extract, for and during the period of such emergency.

6. To hold hearings, subpoena witnesses, compel their attendance, administer oaths, to examine any person under oath and in connection therewith to require the production of any books or records relative to the inquiry. A subpoena issued under this section shall be regulated by the civil practice law and rules.

7. To appoint any necessary directors, deputies, counsels, assistants, investigators, and other employees within the limits provided by appropriation. Directors, deputies and counsels, including the chief equity officer, and confidential secretaries to board members shall be in the exempt class of the civil service. The other assistants, investigators and employees of the office shall all be in the competitive class of the civil service and shall be considered for

purposes of article fourteen of the civil service law to be public employees of the state, and shall be assigned to the appropriate bargaining unit. Investigators so employed by the office shall be deemed to be peace officers only for the purposes of enforcing the provisions of this chapter or judgments or orders obtained for violation thereof, with all the powers set forth in section 2.20 of the criminal procedure law. Employees transferred to the office shall be transferred without further examination or qualification to the same or similar titles and shall remain in the same collective bargaining units and shall retain their respective civil service classifications, status and rights pursuant to their collective bargaining units and collective bargaining agreements. Employees serving in positions in newly created titles shall be assigned to the appropriate collective bargaining unit as they would have been assigned to were such titles created prior to the establishment of the office of cannabis management. Any action taken under this subdivision shall be subject to and in accordance with the civil service law. The executive director shall appoint a deputy director for health and safety who shall be a licensed health care practitioner within the state and who shall oversee all clinical aspects of the office.

8. To conduct regulatory inspections of any place of business, including a vehicle used for such business, where medical cannabis, adult-use cannabis, cannabis, cannabis product, cannabinoid hemp, hemp extract products, or any products marketed or labeled as such, are cultivated, processed, stored, distributed or sold by any person holding a registration, license, or permit under this chapter, or by any person who is engaging in activity for which a license would be required under this chapter. For the purposes of this subdivision, "place of business" shall not include a residence or other real property not otherwise held out as open to the public or otherwise being utilized in a business or commercial manner or any private vehicle on or about the same such property, unless probable cause exists to believe that such residence, real property, or vehicle are being used in such business or commercial manner for the activity described herein.

9. To prescribe forms of applications for registrations, licenses and

permits under this chapter and of all reports deemed necessary by the board.

10. To appoint such advisory groups and committees as deemed necessary to provide assistance to the board to carry out the purposes and objectives of this chapter.

11. To exercise the powers and perform the duties in relation to the administration of the board and the office of cannabis management as are necessary but not specifically vested by this chapter, including but not limited to budgetary and fiscal matters.

12. To develop and establish minimum criteria for certifying employees to work in the cannabis industry in positions requiring advanced training and education.

13. To enter into contracts, memoranda of understanding, and agreements as deemed appropriate to effectuate the policy and purpose of this chapter.

14. To advise the office of cannabis management and/or urban development corporation in making low interest or zero-interest loans to qualified social and economic equity applicants as provided for in this chapter.

15. If public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in an order, summary suspension of a license may be ordered, effective on the date specified in such order or upon service of a certified copy of such order on the licensee, whichever shall be later, pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined. In addition, the board may be directed to order the administrative seizure of product, issue a stop order, or take any other action necessary to effectuate and enforce the policy and purpose of this chapter.

16. To draft and provide for public comment and issue regulations,

declaratory rulings, guidance and industry advisories.

17. To draft and provide an annual report on the effectiveness of this chapter. The annual report shall be prepared, in consultation with the division of the budget, the urban development corporation, the department of taxation and finance, the department of health, department of agriculture and markets, office of addiction services and supports, office of mental health, New York state police, department of motor vehicles and the division of criminal justice services. The report shall provide, but not be limited to, the following information:

(a) the number of registrations, licenses, and permits applied for by geographic region of the state; the number of registrations, licenses, and permits approved or denied by geographic region of the state;

(b) the economic and fiscal impacts associated with this chapter, including revenue from licensing or other fees, fines and taxation related to the cultivation, distribution and sale of cannabis for medical and adult-use and cannabinoid hemp and hemp extract in this state;

(c) specific programs and progress made by the cannabis control board and the office of cannabis management in achieving the goals of the social and economic equity plan, and other social justice goals including, but not limited to, restorative justice, minority- and women-owned businesses, distressed farmers and service disabled veterans;

(d) demographic data on owners and employees in the medical cannabis, adult-use cannabis and cannabinoid hemp and hemp extract industry;

(e) impacts to public health and safety, including substance use disorder;

(f) impacts associated with public safety, including, but not limited to, traffic-related issues, law enforcement, under-age prevention in relation to accessing adult-use cannabis, and efforts to eliminate the illegal market for cannabis products in New York;

(g) any other information or data deemed significant; and

(h) the board shall make recommendations regarding the appropriate level of taxation of adult-use cannabis, as well as changes necessary to: improve registration, licensing and permitting; promoting and encouraging social and economic equity applicants; improve and protect the public health and safety of New Yorkers; improve access and availability for substance abuse treatment programs; and any other recommendations deemed necessary and appropriate. Such report shall be published on the office's website and presented to the governor, the majority leader of the senate and the speaker of the assembly, no later than January first, two thousand twenty-three and annually thereafter.

18. When an administrative decision is appealed to the board by an applicant, registered organization, licensee or permittee, issue a final determination of the office.

19. Approve the opening of new license application periods, and when new or additional licenses are made available pursuant to this chapter, provided, however, that the initial adult-use cannabis retail dispensary license application period shall be opened for all applicants at the same time.

20. Approve any price quotas or price controls set by the executive director as provided by this chapter.

21. Approve the office's social and economic equity plan pursuant to section eighty-four of this chapter.

22. To enter into tribal-state compacts and other agreements with the New York state Indian nations and tribes, as defined by section two of the Indian law, authorizing such Indian nations or tribes to acquire, possess, manufacture, sell, deliver, transport, distribute or dispense adult-use cannabis and/or medical cannabis.

23. With the exception of promulgating rules and regulations, the board shall have the power to delegate any functions, powers and duties as provided for in this section to the executive director of the office of cannabis management. Any such delegation shall be through a resolution voted on and approved by the board members.

24. The board shall, two years after the first retail sale pursuant to this chapter, review the impact of licenses issued pursuant to article

four of this chapter with substantial market share for any category of licensure, to determine if such licensees are impairing the achievement of the goals of inclusion of social equity licensees, fairness for small businesses and distressed farmers, adequate supplies of cannabis and prevention of dominant marketplace participation in the cannabis industry. The board may modify the terms of the licensee's license consistent with the determination and to better achieve those goals. Any such modification may be appealed by the licensee for a formal hearing as provided in section seventeen of this article. For any licensee such review shall include violations of New York state labor law and labor peace agreements. Further, an existing collective bargaining agreement shall not be infringed or voided by any licensee who after such review suffers from a reduction in market share.

§ 11. Functions, powers and duties of the executive director; office of cannabis management. The executive director, as authorized by and through this chapter, shall have the following functions, powers and duties as provided for in this chapter:

1. To exercise the powers and perform the duties in relation to the administration of the office of cannabis management as are not specifically vested by this chapter in, or delegated by, the cannabis control board.

2. To keep records in such form as they may prescribe of all registrations, licenses and permits issued and revoked within the state; such records shall be so kept as to provide ready information as to the identity of all licensees including the names of the officers and directors of corporate licensees and the location of all licensed premises. The executive director may contract to furnish copies of the records of licenses and permits of each class and type issued within the state or any political subdivision thereof, for any license or permit year or term of years not exceeding five years.

3. To conduct regulatory inspections of any place of business, including a vehicle used for such business, where cannabis, cannabis

product, cannabinoid hemp, hemp extract products, or any products marketed or labeled as such, are cultivated, processed, manufactured, distributed, stored, or sold, irrespective of whether a registration, license, or permit has been issued under this chapter. For the purposes of this subdivision, "place of business" shall not include a residence or other real property not otherwise held out as open to the public or otherwise being utilized in a business or commercial manner or any private vehicle on or about the same such property, unless probable cause exists to believe that such residence, real property, or vehicle are being used in such business or commercial manner for the activity described herein.

4. To prescribe forms of applications for licenses and permits under this chapter and of all reports deemed necessary by the board.

5. To conduct regulatory inspections of any registered, licensed or permitted place of business, including a vehicle used for such business, where medical cannabis, adult-use cannabis, cannabinoid hemp, hemp extract products, or any products marketed or labeled as such, are cultivated, processed, stored, distributed or sold. For the purposes of this subdivision, "place of business" shall not include a residence or other real property not otherwise held out as open to the public or otherwise being utilized in a business or commercial manner or any private vehicle on or about the same such property, unless probable cause exists to believe that such residence, real property, or vehicle are being used in such business or commercial manner for the activity described herein.

6. To prescribe forms of applications for registrations, licenses and permits under this chapter and of all reports deemed necessary by the board.

7. To delegate the powers provided in this section to such other officers or employees as may be deemed appropriate by the executive director.

8. To exercise the powers and perform the duties as delegated by the

board in relation to the administration of the office as are necessary, including but not limited to budgetary and fiscal matters.

9. To enter into contracts, memoranda of understanding, and agreements to effectuate the policy and purpose of this chapter.

10. To advise and assist the board in carrying out any of its functions, powers and duties.

11. To coordinate across state agencies and departments in order to research and study any changes in cannabis use and the impact that cannabis use and the regulated cannabis industry may have on access to cannabis products, public health, and public safety.

12. To issue guidance and industry advisories.

13. To create and maintain a publicly available directory of the names and locations of persons licensed or registered pursuant to this chapter to engage in retail sales.

14. To create a system whereby persons registered, licensed, or permitted under this chapter can confirm the registration, license, or permit of another person for the purposes of ensuring compliance with this chapter.

15. Beginning January first, two thousand twenty-four and annually thereafter, report on enforcement actions taken under this chapter and the enforcement actions taken by the department of taxation and finance, including the information required to be provided in section four hundred ninety-six-e of the tax law and to submit such annual report to the legislature and post it publicly on its website.

16. To share any and all information obtained from applicants and licensees, as defined in section three of this chapter, to requesting financial institutions for the purpose of consideration and compliance, with the consent of such applicants and licensees.

§ 12. Chief equity officer. The board, by an affirmative vote of at least four members, shall appoint a chief equity officer. The chief equity officer shall receive an annual salary not to exceed an amount appropriated therefor by the legislature and their expenses actually and necessarily incurred in the performance of official duties, unless otherwise provided by the legislature.

1. The chief equity officer shall assist with the development and implementation of, and ensure the cannabis control board and the office of cannabis management's continued compliance with, the social and economic equity plan, required to be developed pursuant to article four of this chapter.

2. The chief equity officer shall establish public education programming dedicated to providing communities that have been impacted by cannabis prohibition with information detailing the licensing process and informing individuals of the support and resources that the office can provide to individuals and entities interested in participating in activity licensed under this chapter.

3. The chief equity officer shall provide a report to the board, no later than January first, two thousand twenty-three, and annually thereafter, of their activities in ensuring compliance with the social and economic equity plan, required to be developed pursuant to article four of this chapter, and the board shall provide such report to the legislature.

§ 13. Rulemaking authority. 1. The board shall perform such acts, prescribe such forms and propose such rules, regulations and orders as it may deem necessary or proper to fully effectuate the provisions of this chapter.

2. The board shall, in consultation with the executive director and the chief equity officer, have the authority to promulgate any and all necessary rules and regulations governing the cultivation, manufacture,

processing, transportation, distribution, testing, delivery, and sale of medical cannabis, adult-use cannabis, and cannabinoid hemp and hemp extract, including but not limited to the registration of organizations authorized to sell medical cannabis, the licensing and/or permitting of adult-use cannabis cultivators, processors, cooperatives, microbusiness, distributors, laboratories, and retailers, and the licensing of cannabinoid hemp and hemp extract producers and processors pursuant to this chapter, including, but not limited to:

(a) prescribing forms and establishing application, reinstatement, and renewal fees;

(b) the qualifications and selection criteria for registration, licensing, or permitting;

(c) the books and records to be created and maintained by all registered organizations, licensees, and permittees, including the reports to be made thereon to the office, and inspection of any and all books and records maintained by any registered organization, licensee, or permittee and on the premises of any registered organization, licensee, or permittee;

(d) methods of producing, processing, and packaging cannabis, medical cannabis, cannabis-infused products, concentrated cannabis, and cannabinoid hemp and hemp extract; conditions of sanitation, and standards of ingredients, quality, and identity of cannabis products cultivated, processed, packaged, or sold by any registered organizations and licensees;

(e) security requirements for medical cannabis and adult-use cannabis retail dispensaries and premises where cannabis products, medical cannabis, and cannabinoid hemp and hemp extract, are cultivated, produced, processed, or stored, and safety protocols for registered organizations, licensees and their employees;

(f) hearing procedures and additional causes for cancellation, suspension, revocation, and/or civil penalties against any person registered, licensed, or permitted by the board; and

(g) the circumstances, manner and process by which an applicant, registered organization, licensee, or permittee, may apply to change or alter its previously submitted or approved owners, managers, members, directors, financiers, or interest holders.

3. The board shall promulgate rules and regulations that are designed to:

(a) prevent the distribution of adult-use cannabis or cannabis product to persons under twenty-one years of age, including the modification of tobacco vaping products for use with cannabis;

(b) prevent the revenue from the sale of cannabis from going to criminal enterprises;

(c) prevent the diversion and inversion of cannabis from this state to other states and from other states into this state, insofar as cannabis remains federally prohibited;

(d) prevent cannabis, hemp, cannabinoid hemp and hemp extract activity that is legal under state law from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

(e) inform the public about the dangers of driving while impaired and the public health consequences associated with the use of cannabis;

(f) prevent the growing of cannabis on public lands;

(g) inform the public about the prohibition on the possession and use of cannabis on federal property; and

(h) establish application, licensing, and permitting processes which ensure all material owners and interest holders are disclosed and that officials or other individuals with control over the approval of an application, permit, or license do not themselves have any interest in an application, license, or permit.

4. The board, in consultation with the department of agriculture and markets and the department of environmental conservation, shall promulgate necessary rules and regulations governing the safe production of cannabis, including environmental and energy standards and restrictions on the use of pesticides and best practices for water and energy conservation.

5. Emergency rules and regulations: In adopting any emergency rule, the board shall comply with the provisions of subdivision six of section two hundred two of the state administrative procedure act and subdivision three of section one hundred one-a of the executive law; provided, however, that notwithstanding the provisions of such laws:

(a) Such emergency rule may remain in effect for no longer than one hundred twenty days, unless within such time the board complies with the provisions of such laws and adopts the rule as a permanent rule;

(b) If, prior to the expiration of a rule adopted pursuant to this paragraph, the board finds that the readoption of such rule on an emergency basis or the adoption of a substantially similar rule on an emergency basis is necessary for the preservation of the public health, safety or general welfare the agency may only readopt the rule on an emergency basis or adopt a substantially similar rule on an emergency basis if on or before the date of such action the board has also submitted a notice of proposed rule making pursuant to subdivision six of section two hundred two of the state administrative procedure act and subdivision three of section one hundred one-a of the executive law. An emergency rule adopted pursuant to this paragraph may remain in effect for no longer than one hundred twenty days;

(c) An emergency rule adopted pursuant to this subdivision or a substantially similar rule adopted on an emergency basis may remain in effect for no longer than one hundred twenty days, but upon the expiration of such one hundred twenty-day period no further readoptions or adoptions of substantially similar rules shall be permitted for a period of one hundred twenty days. Nothing in this subdivision shall preclude the adoption of such rule by submitting a notice of adoption pursuant to subdivision five of section two hundred two of the state administrative procedure act; and

(d) Strict compliance with the provisions of this subdivision shall be required, and any emergency rule or substantially similar rule that does not so comply shall be void and of no legal effect.

6. The board shall have the authority to promulgate regulations governing the appropriate use and licensure of the manufacturing of cannabinoids, or other compounds contained within the cannabis plant, through any method other than planting, growing, cloning, harvesting, or other traditional means of plant agriculture.

§ 14. State cannabis advisory board. 1. The state cannabis advisory board or "advisory board" is established within the office of cannabis management and directed to work in collaboration with the cannabis control board and the executive director to advise and issue recommendations on the use of medical cannabis, adult-use cannabis and cannabinoid hemp and hemp extract in the state of New York, and shall govern and administer the New York state community grants reinvestment fund pursuant to section 99-kk of the state finance law.

2. The state cannabis advisory board shall consist of thirteen voting appointed members, along with a representative from the department of environmental conservation, the department of agriculture and markets, the office of children and family services, the department of labor, the department of health, the division of housing and community renewal, the office of addiction services and supports, and the department of education, serving as non-voting ex-officio members. The governor shall have seven appointments, the temporary president of the senate and the speaker of the assembly shall each have three appointments to the board. The members shall be appointed to each serve three year terms and in the event of a vacancy, the vacancy shall be filled in the manner of the original appointment for the remainder of the term. The appointed members and representatives shall receive no compensation for their services but shall be allowed their actual and necessary expenses incurred in the performance of their duties as board members.

3. Advisory board members shall have statewide geographic representation that is balanced and diverse in its composition. Appointed members shall have an expertise in public and behavioral health, substance use disorder treatment, effective rehabilitative treatment for adults and juveniles, homelessness and housing, economic development, environmental conservation, job training and placement, criminal justice, and drug policy. Further, the advisory board shall include residents from communities most impacted by cannabis prohibition, people with prior drug convictions, the formerly incarcerated, and representatives from the farming industry, cannabis industry, and organizations serving communities impacted by past federal and state drug policies.

4. The chairperson of the advisory board and the vice chairperson shall be elected from among the members of the advisory board by the

members of such advisory board. The vice chairperson shall represent the advisory board in the absence of the chairperson at all official advisory board functions.

5. The advisory board shall make recommendations to the cannabis control board, the office and the legislature on cannabis and hemp cultivation, processing, distribution, transport, social and economic equity in the cannabis and hemp industries, criminal justice, public health and safety concerns, law enforcement related to cannabis and cannabis products, and on the testing and sale of cannabis and cannabis products.

6. The advisory board shall meet as frequently as its business may require. The advisory board shall enact and from time to time may amend bylaws in relation to its meetings and the transaction of its business. A majority of the total number of voting members which the board would have were there no vacancies, shall constitute a quorum and shall be required for the board to conduct business. All meetings of the advisory board shall be conducted in accordance with the provisions of article seven of the public officers law.

§ 15. Disposition of moneys received for license fees. The board shall establish a scale of application, licensing, and renewal fees, based upon the cost of enforcing this chapter and the size of the cannabis business being licensed, as follows:

1. The board shall charge each registered organization, licensee and permittee a registration, licensure or permit fee, and renewal fee, as applicable. The fees may vary depending upon the nature and scope of the different registration, licensure and permit activities.

2. The total fees assessed pursuant to this chapter shall be set at an amount that will generate sufficient total revenue to, at a minimum, fully cover the total costs of administering this chapter.

3. All registration and licensure fees shall be set on a scaled basis

by the board, dependent on the size and capacity of the business and for social and economic equity applicants such fees may be assessed to accomplish the goals of this chapter.

4. The board shall deposit all fees collected in the New York state cannabis revenue fund established pursuant to section ninety-nine-ii of the state finance law.

§ 16. Violations of cannabis laws or regulations; penalties and injunctions. 1. Any person who violates, disobeys or disregards any term or provision of this chapter or of any lawful notice, order or regulation pursuant thereto for which a civil penalty is not otherwise expressly prescribed in this chapter by law, may be liable to the people of the state for a civil penalty of not to exceed five thousand dollars for each such violation or subsequent violation. In assessing the civil penalty under this subdivision, the board or office, as may be applicable shall take into consideration the nature of such violation and shall assess a penalty that is proportionate to the violation.

2. The penalty provided for in subdivision one of this section may be recovered by an action or proceeding in a court of competent jurisdiction brought by the board or the office, as may be applicable, or by the attorney general at the request of the board or the office.

3. Such civil penalty may be released or compromised by the board or the office, as may be applicable, before the matter has been referred to the attorney general, and where such matter has been referred to the attorney general, any such penalty may be released or compromised and any action or proceeding commenced to recover the same may be settled and discontinued by the attorney general with the consent of the board.

4. It shall be the duty of the attorney general upon the request of the board or office, as may be applicable, to bring an action or proceeding against any person who violates, disobeys or disregards any term or provision of this chapter or of any lawful notice, order or regulation pursuant thereto for any relief authorized under this

chapter, including equitable and/or injunctive relief and the recovery of civil penalties; provided, however, that the board or executive director shall furnish the attorney general with such material, evidentiary matter or proof as may be requested by the attorney general for the prosecution of such an action or proceeding.

5. It is the purpose of this section to provide additional and cumulative remedies, and nothing herein contained shall abridge or alter rights of action or remedies now or hereafter existing, nor shall any provision of this section, nor any action done by virtue of this section, be construed as estopping the state, persons or municipalities in the exercising of their respective rights.

6. The board or the office, as may be applicable, shall forward any final findings of a violation under this chapter to any other statewide licensing agency where such findings were entered against a business holding any other such license, for any such other licensing agency to review the findings to determine if there has been a violation of any such license issued by such agency.

7. Any request for a temporary closing order or a temporary restraining order to be issued without notice in connection with an action or proceeding brought pursuant to this section or section sixteen-a of this article or section one hundred thirty-eight-a of this chapter may be filed under temporary seal pending order of the court granting or refusing a preliminary injunction and until further order of the court, and the clerk shall provide a sealed index number upon request of the office or the attorney general. If temporary sealing cannot be implemented via the court's electronic filing system, such action or proceeding shall be permitted by the court to be filed through hard copy.

*** § 16-a. Emergency relief.** Following service of an order issued by the office of cannabis management requiring immediate cessation of unlicensed activity under this chapter, by a local government pursuant to a local law authorized by section one hundred thirty-one of this chapter or pursuant to an order issued under section 7-552 of the administrative code of the city of New York, the office of cannabis management, or the attorney general, at the request of and on behalf of the office, or any county attorney, corporation counsel, or local government authorized pursuant to subdivision eight of this section to bring and maintain a civil proceeding in accordance with the procedures set forth in this section, may bring and maintain a civil proceeding in the supreme court of the county in which the building or premises is located to permanently enjoin such unlicensed activity when conducted, maintained, or permitted in such building or premises, occupied as a place of business as described in subdivision eight of section ten of this chapter, in violation of subdivision one or one-a of section one hundred twenty-five of this chapter or subdivision eight of section one hundred thirty-two of this chapter, which shall constitute an unlicensed activity that presents a danger to the public health, safety, and welfare, and shall also enjoin the person or persons conducting or maintaining such unlicensed activity, in accordance with the following procedures:

1. Proceeding for permanent injunction. (a) To the extent known, the owner, lessor, and lessee of a building or premises wherein the unlicensed activity is being conducted, maintained, or permitted shall be made defendants in the proceeding. The venue of such proceeding shall be in the county where the unlicensed activity is being conducted, maintained, or permitted or in any venue where a respondent is located. The existence of an adequate remedy at law shall not prevent the granting of temporary or permanent relief pursuant to this section.

(b) The proceeding shall name as defendants the building or premises wherein the unlicensed activity is being conducted, maintained, or permitted, by describing it by tax lot and street address and at least one of the owners of some part of or interest in the property.

(c) In rem jurisdiction shall be complete over the building or premises wherein the unlicensed activity is being conducted, maintained, or permitted by affixing the notice of petition or order to show cause to the door of the building or premises and by mailing the notice of petition or order to show cause by certified or registered mail, return receipt requested, to one of the owners of some part of or interest in the property. Proof of service shall be filed within two days thereafter with the clerk of the court designated in the notice of petition or as set by the court in the order to show cause. In any county where e-filing is unavailable, proof of service may be mailed to the clerk. Service shall be complete upon such filing or mailing.

(d) Defendants, other than the building or premises wherein the unlicensed activity is being conducted, maintained, or permitted, shall be served with the notice of petition or order to show cause as provided in the civil practice law and rules or pursuant to court order. No more than thirty days prior to such service, the office shall mail a copy, by certified mail, of any order to cease and desist relating to the unlicensed activity at the building or premises to the person in whose name the real estate affected by the proceeding is recorded in the office of the city register or the county clerk, as the case may be, who shall be presumed to be the owner thereof. Such mailing shall constitute notice to the owner and shall be deemed to be complete upon such mailing by the office as provided above. No more than fifteen days prior to such service, the office, the attorney general, at the request of and on behalf of the office of cannabis management, or any local government authorized pursuant to subdivision eight of this section shall verify the ongoing occupancy of any natural person who is a tenant of record and alleged to have caused or permitted the unlicensed activity in the building or premises wherein the unlicensed activity is alleged to have been conducted, maintained, or permitted.

(e) With respect to any proceeding commenced or to be commenced pursuant to this section by the office of cannabis management or the attorney general, at the request of and on behalf of the office, may file a notice of pendency pursuant to the provisions of article sixty-five of the civil practice law and rules.

(f) The person in whose name the real estate affected by the proceeding is recorded in the office of the city register or the county clerk, as the case may be, shall be presumed to be the owner thereof. Upon being served in a proceeding under this section, such owner shall, to the extent known, provide to the office of cannabis management, within three days, the names of any other owners, lessors and lessees of the building or premises that is the subject of the proceeding. Thereafter, such owners, lessors and lessees may be made parties to the proceeding.

(g) Whenever there is evidence that a person was the manager, operator, supervisor or, in any other way, in charge of the premises, at the time the unlicensed activity was being conducted, maintained, or permitted, such evidence shall be presumptive that they were an agent or employee of the owner or lessee of the building or premises.

(h) A defendant shall furnish to any other party, within five days after a demand, a verified statement identifying:

(i) If the responding party is a natural person, such party's: (1) full legal name; (2) date of birth; (3) current home or business street address; and (4) a unique identifying number from: (A) an unexpired passport; (B) an unexpired state driver's license; or (C) an unexpired identification card or document issued by a state or local government agency or tribal authority for the purpose of identification of that individual;

(ii) If the responding party is a partnership, limited liability partnership, limited liability company, or other unincorporated association, including a for profit or not-for-profit membership organization or club, the information required pursuant to subparagraph (i) of this paragraph for each of its partners or members, as well as the state or other jurisdiction of its formation;

(iii) If the responding party is a corporation, its state or other jurisdiction of incorporation, principal place of business, and any state or other jurisdiction of which that party is a citizen;

(iv) If the responding party is not an individual, in addition to any information provided pursuant to subparagraphs (ii) and (iii) of this paragraph, and to the extent not previously provided, each beneficial owner of the responding party by: (1) full legal name; (2) date of birth; (3) current home or business street address; and (4) a unique identifying number from: (A) an unexpired passport; (B) an unexpired state driver's license; or (C) an unexpired identification card or document issued by a state or local government agency or tribal authority for the purpose of identification of that individual. As used in this subparagraph, the term "beneficial owner" shall have the same meaning as defined in 31 U.S.C. § 5336(a)(3), as amended, and any regulations promulgated thereunder.

(i) If a finding is made that the defendant has conducted, maintained, or permitted the unlicensed activity a penalty, to be included in the judgment, may be awarded in an amount not to exceed ten thousand dollars for each day it is found that the defendant intentionally conducted, maintained or permitted the unlicensed activity. With regard to any defendant conducting the referenced unlicensed activity, any such penalties may be awarded in addition to any penalties that may be imposed pursuant to section one hundred thirty-two of this chapter. Upon recovery, such penalty shall be paid to the office of cannabis management, or to the county attorney, corporation counsel, or local government that has been authorized pursuant to subdivision eight of this section to bring and maintain a civil proceeding in accordance with the procedures set forth in this section.

2. Preliminary injunction. (a) Pending a proceeding for a permanent injunction pursuant to this section the court may grant a preliminary injunction enjoining the unlicensed activity and the person or persons conducting, maintaining, or permitting the unlicensed activity from further conducting, maintaining, or permitting the unlicensed activity, where the public health, safety or welfare immediately requires the granting of such injunction. A temporary closing order may be granted pending a hearing for a preliminary injunction where it appears by clear and convincing evidence that unlicensed activity within the scope of this section is being conducted, maintained, or permitted and that the public health, safety or welfare immediately requires the granting of a temporary closing order. A temporary restraining order may be granted pending a hearing for a preliminary injunction.

(b) A preliminary injunction shall be enforced by the office or, at the request of the office, the attorney general. At the request of the office, a police officer or peace officer with jurisdiction may also enforce the preliminary injunction.

(c) The office or the attorney general shall show, by affidavit and such other evidence as may be submitted, that there is a cause of action for a permanent injunction abating unlicensed activity.

3. Temporary closing order. (a) If, on a motion for a preliminary injunction alleging unlicensed activity as described in this section in a building or premises used for commercial purposes only, the office or

the attorney general demonstrates by clear and convincing evidence that such unlicensed activity is being conducted, maintained, or permitted and that the public health, safety, or welfare immediately requires a temporary closing order, a temporary order closing such part of the building or premises wherein such unlicensed activity is being conducted, maintained, or permitted may be granted without notice, pending order of the court granting or refusing the preliminary injunction and until further order of the court. Any such closing order may also include a preservation order authorizing issuance of subpoenas to third parties to preserve all off site electronic business records. Upon granting a temporary closing order, the court shall direct the holding of a hearing for the preliminary injunction at the earliest possible time but no later than three business days from the granting of such order; a decision on the motion for a preliminary injunction shall be rendered by the court within four business days after the conclusion of the hearing.

(b) Unless the court orders otherwise, a temporary closing order together with the papers upon which it was based and a notice of hearing for the preliminary injunction shall be personally served, in the same manner as a summons as provided in the civil practice law and rules.

(c) A temporary closing order shall only be issued prior to a hearing on a preliminary injunction if the premises that is the subject of the closure order is used for commercial purposes only.

(d) No temporary closing order shall be issued against any building or premises where, in addition to the unlicensed activity which is alleged, activity that is licensed or otherwise lawful remains in place, unless the licensed or otherwise lawful activity is a de minimis part of the business. In addition, no temporary closing order shall be issued against any building or premises which is used in part as residence and pursuant to local law or ordinance is zoned and lawfully occupied as a residence.

4. Temporary restraining order. (a) If, on a motion for a preliminary injunction alleging unlicensed activity as described in this section in a building or premises used for commercial purposes, the office or the attorney general demonstrates by clear and convincing evidence that such unlicensed activity is being conducted, maintained, or permitted and

that the public health, safety, or welfare immediately requires a temporary restraining order, a temporary restraining order may be granted without notice restraining the defendants and all persons from removing or in any manner interfering with the furniture, fixtures and movable property used in conducting, maintaining or permitting such unlicensed activity, including cannabis, cannabis product, cannabinoid hemp or hemp extract product, or any product marketed or labeled as such and from further conducting, maintaining or permitting such unlicensed activity, pending order of the court granting or refusing the preliminary injunction and until further order of the court. Any such temporary restraining order may also include a preservation order authorizing issuance of subpoenas to third parties to preserve all off site electronic business records. Upon granting a temporary restraining order, the court shall direct the holding of a hearing for the preliminary injunction at the earliest possible time but no later than three business days from the granting of such order; a decision on the motion for a preliminary injunction shall be rendered by the court within thirty calendar days after the conclusion of the hearing.

(b) Unless the court orders otherwise, a temporary restraining order and the papers upon which it was based and a notice of hearing for the preliminary injunction shall be personally served, in the same manner as a summons as provided in the civil practice law and rules, upon any agent, employee, or other representative of the defendant business present at the time the temporary restraining order is effectuated.

5. Temporary closing order; temporary restraining order; additional enforcement procedures. (a) If on a motion for a preliminary injunction, the office of cannabis management or the attorney general submits evidence warranting both a temporary closing order and a temporary restraining order, the court shall grant both orders.

(b) Upon the request of the office, any police officer or peace officer with jurisdiction may assist in the enforcement of a temporary closing order and temporary restraining order. Any reference to police officer or peace officer in this subdivision and subdivisions six and seven of this section shall also include any investigator employed by the office of the attorney general.

(c) The police officer or peace officer serving a temporary closing order or a temporary restraining order shall forthwith make and return to the court an inventory of personal property situated in and used in conducting, maintaining, or permitting the unlicensed activity within the scope of this chapter and shall enter upon the building or premises for such purpose. Such inventory shall be taken in any manner which is deemed likely to evidence a true and accurate representation of the personal property subject to such inventory including, but not limited to photographing such personal property, except that any cash found on the premises during such inventory shall be inventoried, seized, and secured off premises pending further order of the court. Any police officer or peace officer, or any representative of the office, shall be permitted to review and copy records.

(d) The police officer or peace officer serving a temporary closing order shall, upon service of the order, command all persons present in the building or premises to vacate the premises forthwith. Upon the building or premises being vacated, the premises shall be securely locked and all keys delivered to the officer serving the order who thereafter may deliver the keys to the fee owner, lessor, or lessee of the building or premises involved. If the fee owner, lessor, or lessee is not at the building or premises when the order is being executed, the officer shall securely padlock the premises and retain the keys until the fee owner, lessor, or lessee of the building is ascertained, in which event, the officer may deliver the keys to such owner, lessor, or lessee or retain them pending further order of the court.

(e) Upon service of a temporary closing order or a temporary restraining order, the police officer or peace officer shall post a copy thereof in a conspicuous place or upon one or more of the principal doors at entrances of such premises where the unlicensed activity is being conducted, maintained, or permitted. In addition, where a temporary closing order has been granted, the officer shall affix, in a conspicuous place or upon one or more of the principal doors at entrances of such premises, a printed notice that the premises have been closed by court order, which notice shall contain the legend "closed by court order" in block lettering of sufficient size to be observed by anyone intending or likely to enter the premises, the date of the order, the court from which issued, and the name of the officer or agency posting the notice. In addition, where a temporary restraining order has been granted, the police officer or peace officer shall affix, in the same manner, a notice similar to the notice provided for in relation to a temporary closing order except that the notice shall state that certain described activity is prohibited by court order and that removal of property is prohibited by court order. Mutilation or removal of such a posted order or such a posted notice while it remains in force, in addition to any other punishment prescribed by law, shall be punishable, on conviction, by a fine of not more than five thousand dollars or by imprisonment not exceeding ninety days, or by both, provided such order or notice contains therein a notice of such penalty. Any police officer or peace officer with jurisdiction may, upon the request of the office, assist in the enforcement of this section.

6. Temporary closing order; temporary restraining order; defendant's remedies. (a) A temporary closing order or a temporary restraining order may be vacated, upon notice to the office and to any county attorney, corporation counsel, or local government that may have been authorized pursuant to subdivision eight of this section to bring and maintain the proceeding in accordance with the procedures set forth in this section, if a defendant who is the fee owner, lessor, or lessee of the building or premises shows by affidavit and such other proof as may be submitted that the unlicensed activity within the scope of this chapter has been abated and that they are also not affiliated with the person who is conducting the unlicensed activity. An order vacating a temporary closing order or a temporary restraining order shall include a provision authorizing the office, or any county attorney, corporation counsel, or local government, as applicable, to inspect the building or premises which is the subject of a proceeding pursuant to this subdivision, periodically without notice, during the pendency of the proceeding for the purpose of ascertaining whether or not the unlicensed activity has been resumed. Any police officer or peace officer with jurisdiction may, upon the request of the office, assist in the enforcement of an inspection provision of an order vacating a temporary closing order or temporary restraining order.

(b) A temporary closing order or a temporary restraining order may be vacated by the court, upon notice to the office, or any county attorney, corporation counsel, or local government, as applicable, when a defendant entitled to request vacatur pursuant to paragraph (a) of this subdivision gives an undertaking and the court is satisfied that the public health, safety, or welfare will be protected adequately during the pendency of the proceeding. The undertaking shall be in an amount equal to the assessed valuation of the building or premises where the unlicensed activity is being conducted, maintained, or permitted or in such other amount as may be fixed by the court. The defendant shall pay to the office and the attorney general, in the event a judgment of permanent injunction is obtained, their actual costs, expenses and disbursements in bringing and maintaining the proceeding. In addition, the defendant shall pay to the local government or law enforcement agency that provided assistance in enforcing any order of the court issued pursuant to a proceeding brought under this section, its actual costs, expenses and disbursements in assisting with the enforcement of the proceeding.

7. Permanent injunction. (a) A judgment awarding a permanent injunction pursuant to this chapter shall direct that any illicit cannabis, cannabis product, cannabinoid hemp or hemp extract product, or any product marketed or labeled as such seized shall be turned over to the office of cannabis management or their authorized representative. The judgment may further direct any police officer or peace officer with jurisdiction to seize and remove from the building or premises all material, equipment, and instrumentalities used in the creation and maintenance of the unlicensed activity and shall direct the sale by the sheriff of any such property in the manner provided for the sale of personal property under execution pursuant to the provisions of the civil practice law and rules, if the estimated value of the property exceeds the estimated lawful expenses of such sale, or the disposal of the property if the estimated value of the property does not exceed the estimated lawful expenses of such sale. The net proceeds of any such sale, after deduction of the lawful expenses involved, shall be paid to the general fund of the state.

(b) A judgment awarding a permanent injunction pursuant to this chapter may direct the closing of the building or premises by any police officer or peace officer with jurisdiction to the extent necessary to abate the unlicensed activity and shall direct any police officer or peace officer with jurisdiction to post a copy of the judgment and a printed notice of such closing conforming to the requirements of this chapter. The closing directed by the judgment shall be for such period as the court may direct but in no event shall the closing be for a period of more than one year from the posting of the judgment provided for in this section. If the owner shall file a bond in the value of the property ordered to be closed and submits proof to the court that the unlicensed activity has been abated and will not be created, maintained, or permitted for such period of time as the building or premises has been directed to be closed in the judgment, and also submits proof that they are also not affiliated with the person who is conducting the unlicensed activity, the court may vacate the provisions of the judgment that direct the closing of the building or premises. A closing by a police officer or peace officer with jurisdiction pursuant to the provisions of this section shall not constitute an act of possession, ownership, or control by such police officer or peace officer of the closed premises.

(c) Upon the request of the office of cannabis management or its authorized representative, or any county attorney, corporation counsel, or local government authorized pursuant to subdivision eight of this section to bring and maintain a civil proceeding in accordance with the procedures set forth in this section, any police officer or peace officer with jurisdiction may assist in the enforcement of a judgment awarding a permanent injunction entered in a proceeding brought pursuant to this chapter.

(d) A judgment rendered awarding a permanent injunction pursuant to this chapter shall be and become a lien upon the building or premises named in the petition in such proceeding, such lien to date from the time of filing a notice of lis pendens in the office of the clerk of the county wherein the building or premises is located. Every such lien shall have priority before any mortgage or other lien that exists prior to such filing except tax and assessment liens.

(e) A judgment awarding a permanent injunction pursuant to this chapter shall provide, in addition to the costs and disbursements allowed by the civil practice law and rules, upon satisfactory proof by affidavit or such other evidence as may be submitted, the actual costs, expenses and disbursements of the office and the attorney general, or of any county attorney, corporation counsel, or local government authorized pursuant to subdivision eight of this section to bring and maintain a civil proceeding in accordance with the procedures set forth in this section, in bringing and maintaining the proceeding.

8. Civil proceedings. In addition to the authority granted in this section to the office of cannabis management and the attorney general, any county attorney, corporation counsel, or local government in which such building or premises is located may, seven days or more after providing notice to the office of cannabis management, bring and maintain a civil proceeding in the supreme court of the county in which the building or premises is located to permanently enjoin the unlicensed activity described in this section and the person or persons conducting or maintaining such unlicensed activity, in accordance with the procedures set forth in this section. The office shall be permitted to intervene as of right in any such proceeding. Any such governmental entity which obtains a permanent injunction pursuant to this chapter shall be awarded, in addition to the costs and disbursements allowed by the civil practice law and rules, upon satisfactory proof by affidavit or such other evidence as may be submitted, any penalties awarded pursuant to paragraph (i) of subdivision one or paragraph (e) of subdivision five of this section and the actual costs, expenses and disbursements in bringing and maintaining the proceeding. The authority provided by this subdivision shall be in addition to, and shall not be deemed to diminish or reduce, any rights of the parties described in this section for any violation pursuant to this chapter or any other law.

* NB Repealed May 1, 2028

§ 17. Formal hearings; notice and procedure. 1. The board, or any person designated by them for this purpose, may issue subpoenas and administer oaths in connection with any hearing or investigation under or pursuant to this chapter, and it shall be the duty of the board and any persons designated by them for such purpose to issue subpoenas at the request of and upon behalf of the respondent.

2. The board and those designated by them shall not be bound by the laws of evidence in the conduct of hearing proceedings, but the determination shall be founded upon preponderance of evidence to sustain it.

3. Notice and right of hearing as provided in the state administrative procedure act shall be served at least fifteen days prior to the date of the hearing, provided that, whenever because of danger to the public health, safety or welfare it appears prejudicial to the interests of the people of the state to delay action for fifteen days or with respect to a violation of subdivision one or one-a of section one hundred twenty-five of this chapter, the board may serve the respondent with an order requiring certain action, the cessation of certain activities, or the sealing of a premises immediately or within a specified period of less than fifteen days, in accordance with the provisions of this chapter. Whenever a notice of violation or order has been served, including an order to seal, the respondent shall be provided an opportunity to request a hearing pursuant to the procedures established by the office and in accordance with the state administrative procedure act and the provisions of this chapter.

4. Service of notice of hearing or order shall be made by personal service or by registered or certified mail. Where service, whether by personal service or by registered or certified mail, is made upon an incompetent, partnership, or corporation, it shall be made upon the person or persons designated to receive personal service by article three of the civil practice law and rules.

5. Upon a demand by the office, a respondent shall furnish to the office, within five days after a demand, or sooner if the hearing is scheduled less than five days from the date of demand, a verified statement setting forth:

(a) If the respondent is a natural person, the respondent's: (i) full legal name; (ii) date of birth; (iii) current home or business street address; and (iv) a unique identifying number from: (1) an unexpired passport; (2) an unexpired state driver's license; or (3) an unexpired identification card or document issued by a state or local government agency or tribal authority for the purpose of identification of that individual;

(b) If the respondent is a partnership, limited liability partnership, limited liability company, or other unincorporated association, including a for profit or not-for-profit membership organization or club, the information required pursuant to paragraph (a) of this subdivision for all of its partners or members, as well as the state or other jurisdiction of its formation;

(c) If the respondent is a corporation, its state or other jurisdiction of incorporation, principal place of business, and any state or other jurisdiction of which the respondent is a citizen;

(d) If the respondent is not an individual, in addition to any information provided pursuant to paragraphs (b) and (c) of this subdivision, and to the extent not previously provided, each beneficial owner of the respondent by: (i) full legal name; (ii) date of birth; (iii) current home or business street address; and (iv) a unique identifying number from: (1) an unexpired passport; (2) an unexpired state driver's license; or (3) an unexpired identification card or document issued by a state or local government agency or tribal authority for the purpose of identification of that individual. As used in this section, the term "beneficial owner" shall have the same meaning as defined in 31 U.S.C. § 5336(a)(3), as amended, and any regulations promulgated thereunder.

6. Prior to a hearing, the office may, at its discretion, request a stay of any proceeding and the board or those designated by them shall grant such request. The initiation of any action, by or on behalf of the office, in state or federal court on matters directly or indirectly related to the subject of any pending administrative proceeding shall, upon a request by the office, provide sufficient basis for an immediate stay of such administrative proceeding.

7. At a hearing, that to the greatest extent practicable shall be reasonably near the respondent, the respondent may appear personally, shall have the right of counsel, and may cross-examine witnesses against him or her and produce evidence and witnesses on his or her behalf.

8. Following a hearing, the board may make appropriate determinations and issue a final order in accordance therewith. Any such order may include financial penalties as well as injunctive relief, including an order to seal a premises in accordance with section one hundred thirty-eight-b of this chapter. The respondent and the office shall have thirty days to submit a written appeal to the board. If any party fails to submit a written appeal within thirty days of the determination of the board the order shall be final.

9. The board may adopt, amend and repeal administrative rules and regulations governing the procedures to be followed with respect to hearings, investigations, and other administrative enforcement actions taken pursuant to this chapter, including any such enforcement actions taken against persons not registered, licensed, or permitted under this chapter. Such rules shall be consistent with the policy and purpose of this chapter and the effective and fair enforcement of its provisions.

10. The provisions of this section shall be applicable to all hearings held pursuant to this chapter, except where other provisions of this chapter applicable thereto are inconsistent therewith, in which event such other provisions shall apply.

§ 18. Ethics, transparency and accountability. No member of the board or office or any officer, deputy, assistant, inspector or employee, or spouse or minor child of such member, officer, assistant, inspector or employee thereof shall have any interest, direct or indirect, either proprietary or by means of any loan, mortgage or lien, or in any other manner, in or on any premises where adult-use cannabis, medical cannabis or cannabinoid hemp and hemp extract is cultivated, processed, distributed or sold; nor shall he or she have any interest, direct or indirect, in any business wholly or partially devoted to the cultivation, processing, distribution, sale, transportation or storage of adult-use cannabis, medical cannabis or cannabinoid hemp and hemp extract, or own any stock in any corporation which has any interest, proprietary or otherwise, direct or indirect, in any premises where adult use cannabis, medical cannabis or cannabinoid hemp and hemp extract is cultivated, processed, distributed or sold, or in any business wholly or partially devoted to the cultivation, processing, distribution, sale, transportation or storage of adult-use cannabis, medical cannabis or cannabinoid hemp and hemp extract, or receive any commission or profit whatsoever, direct or indirect, from any person applying for or receiving any license or permit provided for in this chapter, or hold any other elected public office in the state or in any political subdivision. After notice and opportunity to be heard, anyone found to have knowingly violated any of the provisions of this section shall, after notice, be removed and shall divest themselves of such direct or indirect interests, in addition to any other penalty provided by law.

§ 19. Public health and education campaign. The office, in consultation with the commissioners of the department of health, office of addiction services and supports, and office of mental health, shall develop and implement a comprehensive public health monitoring, surveillance and education campaign regarding the legalization of adult-use cannabis and the impact of cannabis use on public health and safety. The public health and education campaign shall also include general education to the public about the cannabis law, including the potential risks associated with patronizing unlicensed retail locations, or otherwise procuring cannabis product, cannabinoid hemp or hemp extract product through persons not authorized by the office.

§ 20. Establish uniform policies and best practices. The office shall engage in activities with other states, territories, or jurisdictions in order to coordinate and establish uniform policies and best practices in cannabis regulation. These activities shall prioritize coordination with neighboring and regional states, and may include, but not be limited to, establishing working groups related to laboratory testing, product safety, taxation, road safety, compliance and adherence with federal policies which promote or facilitate cannabis research, commerce and/or regulation, and any other issues identified by the executive director.

ARTICLE 3

MEDICAL CANNABIS

§ 30. Certification of patients. 1. A patient certification may only be issued if:

(a) the patient has a condition, which shall be specified in the patient's health care record;

(b) the practitioner by training or experience is qualified to treat the condition;

(c) the patient is under the practitioner's continuing care for the condition; and

(d) in the practitioner's professional opinion and review of past treatments, the patient is likely to receive therapeutic or palliative benefit from the primary or adjunctive treatment with medical use of cannabis for the condition.

2. The certification shall include: (a) the name, date of birth and address of the patient; (b) a statement that the patient has a condition

and the patient is under the practitioner's care for the condition; (c) a statement attesting that all requirements of subdivision one of this section have been satisfied; (d) the date; and (e) the name, address, telephone number, and the signature of the certifying practitioner. The board may require by regulation that the certification shall be on a form provided by the office. The practitioner may state in the certification that, in the practitioner's professional opinion, the patient would benefit from medical cannabis only until a specified date. The practitioner may state in the certification that, in the practitioner's professional opinion, the patient is terminally ill and that the certification shall not expire until the patient dies.

3. In making a certification, the practitioner may consider the form of medical cannabis the patient should consume, including the method of consumption and any particular strain, variety, and quantity or percentage of cannabis or particular active ingredient, and appropriate dosage. The practitioner may state in the certification any recommendation or limitation the practitioner makes, in his or her professional opinion, concerning the appropriate form or forms of medical cannabis and dosage.

4. The practitioner shall give the certification to the certified patient or the certified patient's designated caregiver, and place a copy in the patient's health care record. Such certification shall include information sufficient for a registered organization to confirm that the certification is valid in accordance with section thirty-two of this article and as determined by the board in regulation. The board may, by rules and regulations, establish a code, including but not limited to quick response (QR) code, for each practitioner to provide a certified patient or their designated caregiver with, to present to a registered organization to obtain medical cannabis or medical cannabis products from a registered organization.

5. No practitioner shall issue a certification under this section for themselves.

6. A certification shall expire two years after the date the

certification is signed by the practitioner, except as provided for in subdivision seven of this section.

7. (a) The practitioner may state in the certification that, in the practitioner's professional opinion, the patient would benefit from medical cannabis only until a specified earlier date, upon which the certification shall expire; (b) the practitioner may state on the certification that the patient is terminally ill and the certification will not expire until the patient dies; (c) the practitioner may reissue the certification to terminate the certification on an earlier date; (d) the certification may state any recommendation or limitation by the practitioner as to the form or forms of medical cannabis or dosage for the certified patient; (e) a practitioner may extend the expiration date of a certification prior to the certification's expiration; (f) if a certification has expired and the practitioner determines that the patient would benefit from medical cannabis, the certification shall be reissued; and (g) the board shall make regulations to implement this subdivision.

8. Prior to issuing a certification a practitioner must complete appropriate training as determined by the board in regulation. For the purposes of this article a person's status as a practitioner is deemed to be a "license" for the purposes of section thirty-three hundred ninety of the public health law and shall be subject to the same revocation process.

§ 31. Lawful medical use. The possession, acquisition, use, delivery, transfer, transportation, or administration of medical cannabis by a certified patient, designated caregiver or the employees of a designated caregiver facility, for certified medical use, shall be lawful under this article provided that:

1. the cannabis or concentrated cannabis that may be possessed by a certified patient shall not exceed the greater of the quantities authorized in section 222.05 of the penal law or a sixty-day supply, provided that during the last seven days of any sixty-day period, the

certified patient may also possess up to such amount for the next sixty-day period, consistent with any guidance and regulations issued by the board;

2. the cannabis or concentrated cannabis that may be possessed by a designated caregiver shall not exceed the greater of the quantities authorized in section 222.05 of the penal law or a sixty-day supply for the certified patient, provided that during the last seven days of any sixty-day period, the certified patient may also possess up to such amount for the next sixty-day period;

3. the cannabis that may be possessed by designated caregiver facilities does not exceed the quantities referred to in subdivision one of this section for each certified patient under the care or treatment of the facility;

4. the form or forms of medical cannabis that may be possessed by the certified patient, designated caregiver or designated caregiver facility pursuant to a certification shall be in compliance with any recommendation or limitation by the practitioner as to the form or forms of medical cannabis or dosage for the certified patient in the certification;

5. the medical cannabis shall be kept in the original package in which it was dispensed under this article, except for the portion removed for immediate consumption for certified medical use by the certified patient; and

6. in the case of a designated caregiver facility, the employee assisting the patient has been designated as such by the designated caregiver facility.

§ 32. Validating medical cannabis certifications. 1. When presented with a certification from a practitioner, registered organizations shall confirm certifications and government-issued photo identifications, pursuant to subdivision four of section thirty of this article, of certified patients and designated caregivers upon the production of such documentation by the certified patient or designated caregiver as determined by the board in regulation.

2. Registered organizations shall validate patient certifications and designated caregiver registrations in a manner determined by the office. The authorized representative of a registered organization shall designate and authorize specific employees to conduct the validation.

(a) When dispensing medical cannabis, authorized registered organization employees shall not dispense any medical cannabis to a certified patient or a designated caregiver unless the certified patient or designated caregiver presents to the authorized registered organization employee a valid certification from a practitioner and a valid government-issued photo identification, which the authorized registered organization employee shall use to validate that such person is eighteen years of age or older and capable of consent as documented on the certification, provided that such valid government-issued photo identification is issued by the commissioner of motor vehicles, a local government agency within the state, the federal government, any United States territory, commonwealth or possession, the District of Columbia, a state government within the United States, or is a valid passport issued by the United States government or any other country, or is an identification card issued by the armed forces of the United States.

(b) The authorized representative of the registered organization shall promptly notify the office if at any time any unauthorized person accesses patient certification or designated caregiver data, if there is evidence of tampering or fraud, or any other circumstances as determined by the board in regulation.

2-a. A certified patient may designate a caregiver. The designation of the caregiver and registration of the caregiver shall be determined by the board in regulation. The designated caregiver application or renewal application shall include:

(a) the name, address, and date of birth of the designated caregiver, and other individual identifying information required by the board;

(b) the name and date of birth for each certified patient the designated caregiver is designated to care for;

(c) if the designated caregiver is a cannabis research license holder under this chapter, the name of the organization conducting the research, the address, phone number, name of the individual leading the research or appropriate designee, and other identifying information required by the board;

(d) a statement that a false statement made in the application is punishable under section 210.45 of the penal law;

(e) the date of the application and the signature, which may be electronic, of the designated caregiver; and

(f) upon approval of the designated caregiver application, the office shall provide the designated caregiver with a code, including but not limited to a quick response (QR) code, that the designated caregiver must present to the registered organization when obtaining medical cannabis product or products.

3. Where a certified patient is under the age of eighteen or otherwise incapable of consent:

(a) The certifying practitioner must obtain consent from the person legally authorized to make health care decisions on behalf of the patient for the use of medical cannabis product or products and any device used for its administration.

(b) At least one designated caregiver is required to be provided upon certification of the patient. The designated caregiver shall be: (i) a parent or legal guardian of the certified patient; (ii) a person designated by a parent or legal guardian; (iii) an employee of a designated caregiver facility, including a cannabis research license holder; or (iv) an appropriate person approved by the office upon a sufficient showing that no parent or legal guardian is appropriate or available.

4. No person may be a designated caregiver if the person is under eighteen years of age unless a sufficient showing is made to the office that the person should be permitted to serve as a designated caregiver. The requirements for such a showing shall be determined by the board.

5. No person may be a designated caregiver for more than four certified patients at one time; provided, however, that this limitation

shall not apply to a designated caregiver facility, or cannabis research license holder as defined by this chapter.

6. If a certified patient wishes to change or terminate their designated caregiver, for whatever reason, the certified patient shall notify the office as soon as practicable. The office shall issue a notification in a manner determined by the office to the designated caregiver that their registration is invalid and shall promptly remove such designated caregiver's registration from the registry. The newly designated caregiver must comply with all requirements set forth in this section.

7. A certified patient shall notify their practitioner of any change in their name or address and the practitioner shall update the certification accordingly.

8. A designated caregiver who has been issued a registration shall notify the office of any change in their name or address in a manner determined by the office.

9. If a certified patient or designated caregiver willfully violates any provision of this article as determined by the board, their certification, and in the case of the designated caregiver, their registration may be suspended or revoked. This may be in addition to any other penalty that would apply.

10. The maintenance and access of records pertaining to certifications, registrations, certified patients and designated caregivers shall be in compliance with the federal health insurance portability and accountability act of 1996, and with all privacy and confidentiality protections afforded to individuals under the law. Information obtained by the office under this article shall be confidential and exempt from disclosure under article six of the public officers law.

11. Any practitioner or registered organization authorized representative or employee who is found to have knowingly and

fraudulently manipulated certified patient or designated caregiver information, or whose knowing and negligent behavior or knowing actions directly related to their duties pursuant to this section results in a serious threat to the health and safety of a certified patient or patients, is guilty of a class A misdemeanor. In the case that this misdemeanor complaint has been filed against a practitioner, the board or office may additionally refer any relevant internal findings to the department of health or the state education department if the board or office concludes the violation may warrant professional disciplinary intervention.

§ 32-a. Medical cannabis patient reciprocity. 1. Subject to the provisions of this article and the rules and regulations of the board promulgated thereunder, medical cannabis patients from other states within the United States, United States territories, commonwealths or possessions, or the District of Columbia are authorized to obtain medical cannabis or medical cannabis products from a registered organization, provided such patient is deemed a certified patient or is registered as a medical cannabis patient in their home state or jurisdiction and presents proof of such certification or registration and a valid government-issued photo identification to a registered organization. Such registered organization shall then validate such patient and dispense medical cannabis pursuant to the procedures determined by the board in regulation.

2. Medical cannabis patients from other states or jurisdictions of the United States who obtain medical cannabis from a registered organization in this state pursuant to subdivision one of this section shall comply with:

(a) all provisions of this chapter and all rules and regulations promulgated thereunder; and

(b) articles one hundred seventy-nine and two hundred twenty-two of the penal law.

3. Certified patients in New York shall be authorized to obtain medical cannabis or medical cannabis products from other states and

jurisdictions of the United States in accordance with the requirements set forth by such state or other United States jurisdiction.

§ 33. Registration as a designated caregiver facility. 1. To obtain, amend or renew a registration as a designated caregiver facility, the facility shall file a registry application with the office. The registry application or renewal application shall include:

(a) the facility's full name and address;

(b) operating certificate or license number where appropriate;

(c) name, title, and signature of an authorized facility representative;

(d) a statement that the facility agrees to secure and ensure proper handling of all medical cannabis products;

(e) an acknowledgement that a false statement in the application is punishable under section 210.45 of the penal law; and

(f) any other information that may be required by the board.

2. Prior to issuing or renewing a designated caregiver facility registration, the office may verify the information submitted by the applicant. The applicant shall provide, at the office's request, such information and documentation, including any consents or authorizations that may be necessary for the office to verify the information.

3. The office shall approve, deny or determine incomplete or inaccurate an initial or renewal application within thirty days of receipt of the application. If the application is approved within the thirty-day period, the office shall issue a registration as soon as is reasonably practicable.

4. An applicant shall have thirty days from the date of a notification of an incomplete or factually inaccurate application to submit the materials required to complete, revise or substantiate information in the application. If the applicant fails to submit the required materials within such thirty-day time period, the application shall be denied by the office.

5. Registrations issued under this section shall remain valid for two years from the date of issuance.

§ 34. Registered organizations. 1. A registered organization shall be a for-profit business entity or not-for-profit corporation organized for the purpose of acquiring, possessing, manufacturing, selling, delivering, transporting, distributing or dispensing cannabis for certified medical use.

2. The acquiring, possession, manufacture, sale, delivery, transporting, distributing or dispensing of medical cannabis by a registered organization under this article in accordance with its registration under this article or a renewal thereof shall be lawful under this chapter.

3. Each registered organization shall contract with an independent laboratory permitted by the board to test the medical cannabis produced by the registered organization. The board shall approve the laboratories used by the registered organization, including sampling and testing protocols and standards used by the laboratories, and may require that the registered organization use a particular testing laboratory. The board is authorized to issue regulations requiring the laboratory to perform certain tests and services.

4. (a) A registered organization may lawfully, in good faith, sell, deliver, distribute or dispense medical cannabis to a certified patient or designated caregiver upon presentation to the registered organization of a valid certification and valid government-issued photo identification for that certified patient or designated caregiver, pursuant to section thirty-two of this article. When presented with the certification, the registered organization shall provide to the certified patient or designated caregiver a receipt, which may be electronic, which shall state: the name, address, and registry identification number of the registered organization; the name and registry identification number of the certified patient and the designated caregiver, if any; the date the cannabis was sold; and the

form and the quantity of medical cannabis sold. The registered organization shall retain any copies of registry identification cards used by certified patients or designated caregivers prior to the effective date of the chapter of the laws of two thousand twenty-five that amended this paragraph and the receipt for six years following the effective date of the chapter of the laws of two thousand twenty-five that amended this paragraph and shall make such records available to the office upon request.

(b) The proprietor of a registered organization shall file or cause to be filed any dispensing receipt and certification information with the office by electronic means on a real-time basis as the board shall require by regulation. When filing dispensing receipt and certification information electronically pursuant to this paragraph, the proprietor of the registered organization shall dispose of any electronically recorded information in such manner as the board shall by regulation require.

5. (a) No registered organization may sell, deliver, distribute or dispense to any certified patient or designated caregiver a quantity of medical cannabis larger than that individual would be allowed to possess under this chapter.

(b) When dispensing medical cannabis to a certified patient or designated caregiver, the registered organization shall not dispense an amount greater than the amounts authorized in section thirty-one of this article.

(c) Medical cannabis dispensed to a certified patient or designated caregiver by a registered organization shall conform to any recommendation or limitation by the practitioner as to the form or forms of medical cannabis or dosage for the certified patient.

6. When a registered organization sells, delivers, distributes or dispenses medical cannabis to a certified patient or designated caregiver, it shall provide to that individual a safety insert, developed by the registered organization subject to regulations issued by the board and include, but not be limited to, information on:

(a) methods for administering medical cannabis,

(b) any potential dangers stemming from the use of medical cannabis,

(c) how to recognize what may be problematic usage of medical cannabis and obtain appropriate services or treatment for problematic usage, and

(d) other information as determined by the board.

7. Registered organizations shall not be managed by or employ anyone who has been convicted within three years of the date of hire, of any felony related to the functions or duties of operating a business, except that if the board determines that the manager or employee is otherwise suitable to be hired, and hiring the manager or employee would not compromise public safety, the board shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the manager or employee, and shall evaluate the suitability of the manager or employee based on the evidence found through the review. In determining which offenses are substantially related to the functions or duties of operating a business, the board shall include, but not be limited to, the following:

(a) a felony conviction involving fraud, money laundering, forgery and other unlawful conduct related to owning and operating a business; and

(b) a felony conviction for hiring, employing or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance, or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor.

A felony conviction for the sale or possession of drugs, narcotics, or controlled substances is not substantially related. This subdivision shall only apply to managers or employees who come into contact with or handle medical cannabis.

8. Manufacturing of medical cannabis by a registered organization shall only be done in a secure facility located in New York state, which may include a greenhouse. The board shall promulgate regulations establishing requirements for such facilities.

9. Dispensing of medical cannabis by a registered organization shall only be done in an indoor, enclosed, secure facility located in New York state. The board shall promulgate regulations establishing requirements for such facilities.

10. A registered organization may contract with a person or entity to provide facilities, equipment or services that are ancillary to the registered organization's functions or activities under this article including, but not limited to, shipping, maintenance, construction, repair, and security, provided that the person or entity shall not perform any function or activity directly involving the planting, growing, tending, harvesting, processing, or packaging of cannabis plants, medical cannabis, or medical cannabis products being produced by the registered organization; or any other function directly involving manufacturing or retailing of medical cannabis. All laws and regulations applicable to such facilities, equipment, or services shall apply to the contract. The registered organization and other parties to the contract shall each be responsible for compliance with such laws and regulations under the contract. The board may make regulations consistent with this article relating to contracts and parties to contracts under this subdivision.

11. A registered organization shall, based on the findings of an independent laboratory, provide documentation of the quality, safety and clinical strength of the medical cannabis manufactured or dispensed by the registered organization to the office and to any person or entity to which the medical cannabis is sold or dispensed.

12. A registered organization shall be deemed to be a "health care provider" for the purposes of title two-D of article two of the public health law.

13. Medical cannabis shall be dispensed to a certified patient or designated caregiver in a sealed and properly labeled package. The labeling shall contain: (a) the information required to be included in the receipt provided to the certified patient or designated caregiver by the registered organization; (b) the packaging date; (c) any applicable date by which the medical cannabis should be used; (d) a warning stating, "This product is for medicinal use only. Women should not consume during pregnancy or while breastfeeding except on the advice of the certifying health care practitioner, and in the case of

breastfeeding mothers, including the infant's pediatrician. This product might impair the ability to drive. Keep out of reach of children."; (e) the amount of individual doses contained within; and (f) a warning that the medical cannabis must be kept in the original container in which it was dispensed.

14. The board is authorized to make rules and regulations restricting the advertising and marketing of medical cannabis.

15. A registered organization shall operate in accordance with minimum operating and recordkeeping requirements determined by the board in regulation.

§ 35. Registering of registered organizations. 1. (a) An applicant for registration as a registered organization under section thirty-four of this article shall include such information prepared in such manner and detail as the board may require, including but not limited to:

(i) a description of the activities in which it intends to engage as a registered organization;

(ii) that the applicant:

(A) is of good moral character;

(B) possesses or has the right to use sufficient land, buildings, and other premises, which shall be specified in the application, and equipment to properly carry on the activity described in the application, or in the alternative posts a bond of not less than two million dollars;

(C) is able to maintain effective security and control to prevent diversion, abuse, and other illegal conduct relating to the cannabis; and

(D) is able to comply with all applicable state laws and regulations relating to the activities in which it intends to engage under the registration;

(iii) that the applicant has entered into a labor peace agreement with a bona fide labor organization that is actively engaged in representing or attempting to represent the applicant's employees and the maintenance of such a labor peace agreement shall be an ongoing material condition of certification;

(iv) the applicant's status as a for-profit business entity or not-for-profit corporation; and

(v) the application shall include the name, residence address and title of each of the officers and directors and the name and residence address of any person or entity that is a member of the applicant. Each such person, if an individual, or lawful representative if a legal entity, shall submit an affidavit with the application setting forth:

(A) any position of management, interest or ownership during the preceding ten years of a ten per centum or greater interest in any other cannabis business, or applicant, located in or outside this state, manufacturing or distributing drugs including indirect management, interest, or ownership of parent companies, subsidiaries, or affiliates;

(B) whether such person or any such business has been convicted of a felony or had a registration or license suspended or revoked in any administrative or judicial proceeding, and if applicable, the history of violations or administrative penalties with respect to any license to cultivate, manufacture, distribute or sell adult-use cannabis or medical cannabis; and

(C) such other information as the board may reasonably require.

2. The applicant shall be under a continuing duty to report to the office any change in facts or circumstances reflected in the application or any newly discovered or occurring fact or circumstance which is required to be included in the application.

3. (a) The board shall grant a registration or amendment to a registration under this section if they are satisfied that:

(i) the applicant will be able to maintain effective control against diversion of cannabis;

(ii) the applicant will be able to comply with all applicable state laws;

(iii) the applicant and its officers are ready, willing and able to properly carry on the manufacturing or distributing activity for which a registration is sought;

(iv) the applicant possesses or has the right to use sufficient land, buildings and equipment to properly carry on the activity described in the application;

(v) it is in the public interest that such registration be granted, including but not limited to:

(A) whether the number of registered organizations in an area will be adequate or excessive to reasonably serve the area;

(B) whether the registered organization is a minority and/or woman owned business enterprise, a service-disabled veteran-owned business, or from communities disproportionally impacted by the enforcement of cannabis prohibition;

(C) whether the registered organization provides education and outreach to practitioners;

(D) whether the registered organization promotes the research and development of medical cannabis and patient outreach;

(E) the affordability of medical cannabis products offered by the registered organization;

(F) whether the registered organization is culturally, linguistically, and medically competent to provide services to unserved and underserved areas; and

(G) whether the registered organization promotes racial, ethnic, and gender diversity in their workforce;

(vi) the applicant and its managing officers are of good moral character;

(vii) the applicant has entered into a labor peace agreement with a bona fide labor organization that is actively engaged in representing or attempting to represent the applicant's employees; and the maintenance of such a labor peace agreement shall be an ongoing material condition of registration; and

(viii) the applicant satisfies any other conditions as determined by the board.

(b) If the board is not satisfied that the applicant should be issued a registration, he or she shall notify the applicant in writing of those factors upon which further evidence is required. Within thirty days of the receipt of such notification, the applicant may submit additional material to the board or demand a hearing, or both.

(c) The fee for a registration under this section shall be an amount determined by the board in regulations; provided, however, if the registration is issued for a period greater than two years the fee shall be increased, pro rata, for each additional month of validity.

(d) Registrations issued under this section shall be effective only for the registered organization and shall specify:

(i) the name and address of the registered organization;

(ii) which activities of a registered organization are permitted by the registration;

(iii) the land, buildings and facilities that may be used for the permitted activities of the registered organization; and

(iv) such other information as the board shall reasonably provide to assure compliance with this article.

(e) Upon application of a registered organization, a registration may be amended to allow the registered organization to relocate within the state or to add or delete permitted registered organization activities or facilities. The fee for such amendment shall be determined by the board in regulation and be based off the administrative burden to process and review the amendment by the office, provided no fee shall be greater than two thousand dollars.

4. A registration issued under this section shall be valid for two years from the date of issue, except that in order to facilitate the renewals of such registrations, the board may upon the initial application for a registration, issue some registrations which may remain valid for a period of time greater than two years but not exceeding an additional eleven months.

5. (a) An application for the renewal of any registration issued under this section shall be filed with the board not more than six months nor less than four months prior to the expiration thereof. A late-filed application for the renewal of a registration may, in the discretion of the board, be treated as an application for an initial license.

(b) The application for renewal shall include such information prepared in the manner and detail as the board may require, including but not limited to:

(i) any material change in the circumstances or factors listed in subdivision one of this section; and

(ii) every known charge or investigation, pending or concluded during the period of the registration, by any governmental or administrative agency with respect to:

(A) each incident or alleged incident involving the theft, loss, or possible diversion of medical cannabis manufactured or distributed by the applicant; and

(B) compliance by the applicant with the laws of the state with respect to the cultivation, manufacture, distribution, or sale of medical cannabis or adult-use cannabis, where applicable.

(c) An applicant for renewal shall be under a continuing duty to report to the board any change in facts or circumstances reflected in the application or any newly discovered or occurring fact or circumstance which is required to be included in the application and to obtain approval prior to any material change in management, interest or ownership.

(d) If the board is not satisfied that the registered organization applicant is entitled to a renewal of the registration, the board shall within a reasonably practicable time as determined by the executive director, serve upon the registered organization or its attorney of record in person or by registered or certified mail an order directing the registered organization to show cause why its application for renewal should not be denied. The order shall specify in detail the respects in which the applicant has not satisfied the board that the registration should be renewed.

(e) Within a reasonably practicable time as determined by the board of such order, the applicant may submit additional material to the board or demand a hearing or both; if a hearing is demanded the board shall fix a date as soon as reasonably practicable.

6. (a) The board shall renew a registration unless he or she determines and finds that:

(i) the applicant is unlikely to maintain or be able to maintain effective control against diversion;

(ii) the applicant is unlikely to comply with all state laws applicable to the activities in which it may engage under the registration;

(iii) it is not in the public interest to renew the registration because the number of registered organizations in an area is excessive to reasonably serve the area;

(iv) the applicant has either violated or terminated its labor peace agreement; or

(v) the applicant has substantively violated the laws of another jurisdiction, in which they operate or have operated a cannabis license or registration, related to the operation of a cannabis business.

(b) For purposes of this section, proof that a registered organization, during the period of its registration, has failed to maintain effective control against diversion, violates any provision of this article, or has knowingly or negligently failed to comply with applicable state laws relating to the activities in which it engages under the registration, may constitute grounds for suspension, termination or limitation of the registered organization's registration or as determined by the board. The registered organization shall also be under a continuing duty to report to the office any material change or fact or circumstance to the information provided in the registered organization's application.

7. The board may suspend or terminate the registration of a registered organization, on grounds and using procedures under this article relating to a license, to the extent consistent with this article. The board shall suspend or terminate the registration in the event that a registered organization violates or terminates the applicable labor peace agreement. Conduct in compliance with this article which may violate conflicting federal law, shall not be grounds to suspend or terminate a registration.

8. A registered organization that manufactures medical cannabis may have no more than four dispensing sites wholly owned and operated by such registered organization. Such registered organization may have an additional four dispensing sites; provided, however, that the first two additional dispensing sites shall be located in underserved or unserved geographic locations, as determined by the board. The board shall ensure that such registered organizations and dispensing sites are geographically distributed across the state and that their ownership reflects the demographics of the state.

9. In coordination with the chief equity officer the board shall

register additional registered organizations to provide services to unserved and underserved areas of the state. Pursuant to the social and economic equity plan established by section eighty-seven of this chapter, those additional registered organizations shall be reflective of the demographics of the state, be representative of communities disproportionately impacted by cannabis prohibition, and be culturally, linguistically, and medically competent to serve unserved and underserved areas of the state. The board shall actively promote racial, ethnic, and gender diversity when registering additional registered organizations.

§ 36. Reports of registered organizations. 1. The board shall, by regulation, require each registered organization to file reports by the registered organization during a particular period. The board shall determine the information to be reported and the forms, time, and manner of the reporting.

2. The board shall, by regulation, require each registered organization to adopt and maintain security, tracking, record keeping, record retention and surveillance systems, relating to all medical cannabis at every stage of acquiring, possession, manufacture, sale, delivery, transporting, distributing, or dispensing by the registered organization, subject to regulations of the board.

§ 37. Evaluation; research programs; report by board. 1. The board may provide for the analysis and evaluation of the operation of this article. The board may enter into agreements with one or more persons, not-for-profit corporations or other organizations, for the performance of an evaluation of the implementation and effectiveness of this article.

2. The board may develop, seek any necessary federal approval for, and carry out research programs relating to medical use of cannabis. Participation in any such research program shall be voluntary on the part of practitioners, patients, and designated caregivers.

3. The board shall collect data and publish information related to the medical use of cannabis under this article and make appropriate recommendations in its annual report.

§ 38. Cannabis research license. 1. The board shall establish a cannabis research license that permits a licensee to produce, process, purchase and/or possess cannabis for the following limited research purposes:

(a) to test chemical potency and composition levels;

(b) to conduct clinical investigations of cannabis-derived drug products;

(c) to conduct research on the efficacy and safety of administering cannabis as part of medical treatment; and

(d) to conduct genomic or agricultural research.

2. As part of the application process for a cannabis research license, an applicant must submit to the board a description of the research that is intended to be conducted as well as the amount of cannabis to be grown or purchased. The board shall review an applicant's research project and determine whether it meets the requirements of subdivision one of this section. In addition, the board shall assess the application based on the following criteria:

(a) project quality, study design, value, and impact;

(b) whether the applicant has the appropriate personnel, expertise, facilities and infrastructure, funding, and human, animal, or other approvals in place to successfully conduct the project; and

(c) whether the amount of cannabis to be grown or purchased by the applicant is consistent with the project's scope and goals. If the office determines that the research project does not meet the requirements of subdivision one of this section, the application must be denied.

3. A cannabis research licensee may only sell cannabis grown or within its operation to other cannabis research licensees. The board may revoke a cannabis research license for violations of this section.

4. A cannabis research licensee may contract with an institution of higher education, including but not limited to a hospital within the state university of New York, to perform research in conjunction with such institution. All research projects, entered into under this section must be approved by the board and meet the requirements of subdivision one of this section.

5. In establishing a cannabis research license, the board may adopt regulations on the following:

(a) application requirements;

(b) cannabis research license renewal requirements, including whether additional research projects may be added or considered;

(c) conditions for license revocation;

(d) security measures to ensure cannabis is not diverted to purposes other than research;

(e) amount of plants, useable cannabis, cannabis concentrates, or cannabis-infused products a licensee may have on its premises;

(f) licensee reporting requirements;

(g) conditions under which cannabis grown by licensed cannabis producers and other product types from licensed cannabis processors may be donated to cannabis research licensees; and

(h) any additional requirements deemed necessary by the board.

6. A cannabis research license issued pursuant to this section must be issued in the name of the applicant and specify the location at which the cannabis researcher intends to operate, which must be within the state of New York.

7. The application fee for a cannabis research license shall be determined by the board on an annual basis and may be based on the size, scope and duration of the research proposed.

8. Each cannabis research licensee shall issue an annual report to the board. The board shall review such report and make a determination as to whether the research project continues to meet the research qualifications under this section.

§ 39. Registered organizations and adult-use cannabis. The board shall have the authority to grant some or all of the registered organizations registered with the department of health and currently registered and in good standing with the office, the ability to obtain adult-use cannabis licenses pursuant to article four of this chapter subject to any fees, rules or conditions prescribed by the board in regulation.

§ 40. Relation to other laws. 1. The provisions of this article shall apply, except that where a provision of this article conflicts with another provision of this chapter, this article shall apply.

2. Medical cannabis shall not be deemed to be a "drug" for purposes of article one hundred thirty-seven of the education law.

§ 41. Home cultivation of medical cannabis. 1. Certified patients eighteen years of age or older may cultivate cannabis for personal medical use. Designated caregivers eighteen years of age or older, caring for certified patients either younger than eighteen years of age or whose physical or cognitive impairments prevent them from cultivating cannabis, may cultivate cannabis for use by such patients, provided that no other caregiver is growing for said patient or patients. Cultivation under this section shall be in accordance with section 222.15 of the penal law and any regulations made by the board, provided that the maximum number of cannabis plants a designated caregiver is authorized to grow is proportionately increased for each patient they are growing for.

2. Nothing in this section shall be construed to permit any certified patient or designated caregiver to sell any cultivated cannabis produced by any cannabis plant which is or was cultivated for a certified patient pursuant to this section to any other person, even if the certified patient no longer needs or wants such cannabis; provided however, a certified patient or designated caregiver shall be authorized to give

such cultivated cannabis to another certified patient in the amounts authorized by section thirty-one of this article. Any certified patient or designated caregiver who is found to be selling such cultivated cannabis for compensation or other remuneration may be subject to any relevant penalties in this chapter, the penal law, and the tax law.

§ 42. Protections for the medical use of cannabis. 1. Certified patients, designated caregivers, designated caregiver facilities and employees of designated caregiver facilities, practitioners, registered organizations and the employees of registered organizations, and cannabis researchers shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, solely for the certified medical use or manufacture of cannabis, or for any other action or conduct in accordance with this article.

2. Being a certified patient shall be deemed to be having a "disability" under article fifteen of the executive law, section forty-c of the civil rights law, sections 240.00, 485.00, and 485.05 of the penal law, and section 200.50 of the criminal procedure law. This subdivision shall not bar the enforcement of a policy prohibiting an employee from performing his or her employment duties while impaired by a controlled substance. This subdivision shall not require any person or entity to do any act that would put the person or entity in direct violation of federal law or cause it to lose a federal contract or funding.

3. The fact that a person is a certified patient and/or acting in accordance with this article, shall not be a consideration in a proceeding pursuant to applicable sections of the domestic relations law, the social services law and the family court act.

4. (a) Certifications, certification forms and any certified patient or designated caregiver information contained within a database shall be deemed exempt from public disclosure under sections eighty-seven and

eighty-nine of the public officers law. Upon specific request by a certified patient to the office, the office shall verify the requesting patient's status as a valid certified patient to the patient's school or employer or other designated party, to ensure compliance with the protections afforded by this section.

(b) The name, contact information, and other information relating to practitioners certifying patients under this article shall be public information and shall be maintained on the board's website accessible to the public in searchable form. However, if a practitioner notifies the board in writing that they do not want their name and other information disclosed, that practitioner's name and other information shall thereafter not be public information or maintained on the board's website, unless the practitioner cancels the request.

5. A person currently under parole, probation or other state or local supervision, or released on bail awaiting trial may not be punished or otherwise penalized for conduct allowed under this article.

6. Employees who use medical cannabis shall be afforded the same rights, procedures and protections that are available and applicable to injured workers under the workers' compensation law, or any rules or regulations promulgated thereunder, when such injured workers are prescribed medications that may prohibit, restrict, or require the modification of the performance of their duties.

§ 43. Regulations. The board shall promulgate regulations to implement this article. The cannabis advisory board may make recommendations to the board.

§ 44. Suspend; terminate. Based upon the recommendation of the board, executive director and/or the superintendent of state police that there is a risk to the public health or safety, the governor may immediately suspend or terminate all licenses issued to registered organizations.

§ 45. Pricing. Registered organizations shall submit documentation to the executive director of any change in pricing per dose for any medical cannabis product within fifteen days of such change. Prior approval by the executive director shall not be required for any such change; provided however that the board is authorized to modify the price per dose for any medical cannabis product if necessary to maintain public access to appropriate medication.

ARTICLE 4
ADULT-USE CANNABIS

80. Adult-use cultivators, processors or distributors not to be interested in retail dispensaries.
81. Packaging, labeling, and administration of adult-use cannabis products.
82. Laboratory testing.
83. Provisions governing the cultivation and processing of adult-use cannabis.
84. Provisions governing the distribution of adult-use cannabis.
85. Provisions governing adult-use cannabis retail dispensaries.
86. Adult-use cannabis advertising and marketing.
87. Social and economic equity, minority and women-owned businesses, distressed farmers and service-disabled veterans; incubator program.
88. Data collection and reporting.
89. Regulations.

§ 61. License application. 1. Any person may apply to the board for a license to cultivate, process, distribute, deliver or dispense cannabis within this state for sale. Such application shall be in writing and verified and shall contain such information as the board shall require. Such application shall be accompanied by a check or draft for the amount required by this article for such license. If the board shall approve the application, it shall issue a license in such form as shall be determined by its rules. Such license shall contain a description of the licensed premises and in form and in substance shall be a license to the person therein specifically designated to cultivate, process, distribute, deliver or dispense cannabis in the premises therein specifically licensed.

2. Except as otherwise provided in this article, a separate license shall be required for each facility at which cultivation, processing, distribution or retail dispensing is conducted.

3. An applicant shall not be denied a license under this article based

solely on a conviction for a violation of article two hundred twenty or section 240.36 of the penal law, prior to the date article two hundred twenty-one of the penal law took effect, a conviction for a violation of article two hundred twenty-one of the penal law, or a conviction for a violation of article two hundred twenty-two of the penal law after the effective date of this chapter.

§ 62. Information to be requested in applications for licenses. 1. The board shall have the authority to prescribe the manner and form in which an application must be submitted to the office for licensure under this article.

2. The board is authorized to adopt regulations, including by emergency rule, establishing information which must be included on an application for licensure under this article. Such information may include, but is not limited to: information about the applicant's identity, including racial and ethnic diversity; ownership and investment information, including the corporate structure; evidence of good moral character, including the submission of fingerprints by the applicant to the division of criminal justice services; information about the premises to be licensed; financial statements; and any other information prescribed by regulation.

3. All license applications shall be signed by the applicant (if an individual), by a managing member (if a limited liability company), by an officer (if a corporation), or by all partners (if a partnership). Each person signing such application shall verify or affirm it as true under the penalties of perjury.

4. All license or permit applications shall be accompanied by a check, draft or other forms of payment as the board may require or authorize in the amount required by this article for such license or permit.

5. If there are any proposed changes, after the filing of the application or the granting of a license or permit, in any of the facts required to be set forth in such application, a supplemental statement

giving notice of such proposed change, cost and source of money involved in the change, duly verified or affirmed, shall be filed with the board at least thirty days prior to such proposed change. Failure to do so shall, if willful and deliberate, be cause for denial or revocation of the license.

6. In giving any notice, or taking any action in reference to a registered organization or licensee of a licensed premises, the board may rely upon the information furnished in such application and in any supplemental statement connected therewith, and such information may be presumed to be correct, and shall be binding upon registered organizations, licensee or licensed premises as if correct. All information required to be furnished in such application or supplemental statements shall be deemed material in any prosecution for perjury, any proceeding to revoke, cancel or suspend any license, and in the board's final determination to approve or deny the license.

7. The board may waive the submission of non-material information or documentation described in this section, the waiver of which would not be inconsistent with the purposes and goals set forth in this article, for any category of license or permit, provided that it shall not be permitted to waive the requirement for submission of any such category of information solely for an individual applicant or applicants.

8. The board pursuant to regulation, may wholly prohibit and/or prescribe specific criteria under which it will consider and allow limited transfers or changes of ownership, interest, or control during the registration or license application period and/or up to two years after an approved applicant commences licensed activities.

§ 63. Fees. 1. The board shall have the authority to charge applicants for licensure under this article a non-refundable application fee. Such fee may be based on the type of licensure sought, cultivation and/or production volume, or any other factors deemed reasonable and appropriate by the board to achieve the policy and purpose of this chapter.

1-a. (a) In addition to any other fee authorized by this chapter, there shall be a special licensing fee for a registered organization adult-use cultivator processor, distributor retail dispensary license issued pursuant to section sixty-eight-a of this article. Such fee shall be used to fund social and economic equity and incubator assistance pursuant to this article and paragraph (c) of subdivision three of section ninety-nine-ii of the state finance law.

(b) For purposes of this subdivision, "co-located adult-use retail dispensary" shall mean an adult-use retail dispensary operated by a registered organization at one of such registered organization's medical dispensary premises pursuant to section sixty-eight-a of this article.

(c) Such special fee shall be paid as follows:

(i) three million dollars at the time the registered organization adult-use cultivator processor distributor retail dispensary license is issued;

(ii) four million dollars within one hundred eighty days of the opening of the licensee's second co-located adult-use retail dispensary;

(iii) four million dollars within thirty days of the first one hundred million dollars in revenue generated by the registered organization adult-use cultivator processor distributor retail dispensary; and

(iv) four million dollars within thirty days of the second one hundred million dollars in revenue generated by the registered organization adult-use cultivator processor distributor retail dispensary.

(d) Provided, however, that the board shall not allow registered organizations to dispense adult-use cannabis from more than three of their medical cannabis dispensing locations. The timing and manner in which registered organizations may be granted such authority shall be determined by the board in regulation.

(e) Failure to make any payment required by paragraph (c) of this subdivision will result in the suspension of the registered organization's authority to operate co-located adult-use dispensaries until such payment is acknowledged by the office.

(f) Failure to make any payment required by paragraph (c) of this subdivision will result, in the event of the expiration of the license, in a denial of the renewal of the license.

(g) In the event that a registered organization adult-use cultivator processor distributor retail dispensary license expires, or is cancelled, revoked or otherwise terminated, the registered organization shall not be required to make any payments required by this subdivision that become due after the date of such expiration, cancellation, revocation or other termination of the license.

(h) A registered organization adult-use cultivator processor distributor retail dispensary license approved or issued pursuant to the provisions of section sixty-eight-a of this article prior to the effective date of the chapter of the laws of two thousand twenty-five that added this paragraph shall be subject to the amendments made by such chapter.

* (i) The office shall determine the special license fees due, if any, for any co-located adult-use dispensaries operating on the effective date of the chapter of the laws of two thousand twenty-five that added this paragraph, provided that:

(i) any payment made prior to such effective date by a registered organization shall be credited as a payment toward any fee due or that shall become due under this subdivision, as amended by the chapter of the laws of two thousand twenty-five; and

(ii) if there is a balance due for a co-located adult-use dispensary upon such effective date, after applying the credit provided for in this paragraph, the office shall determine the timing and manner by which such balance shall be paid by the registered organization.

* NB Repealed February 3, 2026

2. The board shall have the authority to charge licensees a biennial license fee. Such fee shall be based on the amount of cannabis to be cultivated, processed, distributed and/or dispensed by the licensee or the gross annual receipts of the licensee for the previous license period, and any other factors deemed reasonable and appropriate by the board.

3. The board shall waive or reduce fees pursuant to this section for social and economic equity applicants.

§ 64. Selection criteria. 1. The board shall develop regulations for use by the office in determining whether or not an applicant should be granted the privilege of an initial adult-use cannabis license, based on, but not limited to, the following criteria:

(a) the applicant is a social and economic equity applicant;

(b) the applicant will be able to maintain effective control against the illegal diversion or inversion of cannabis;

(c) the applicant will be able to comply with all applicable state laws and regulations;

(d) the applicant and its officers are ready, willing, and able to properly carry on the activities for which a license is sought including with assistance from the social and economic equity and incubator program, if applicable;

(e) where appropriate and applicable, the applicant possesses or has the right to use sufficient land, buildings, and equipment to properly carry on the activity described in the application or has a plan to do so if qualifying as a social and economic equity applicant;

(f) the applicant qualifies as a social and economic equity applicant or sets out a plan for benefiting communities and people disproportionally impacted by enforcement of cannabis laws;

(g) it is in the public interest that such license be granted, taking into consideration, but not limited to, the following criteria:

(i) that it is a privilege, and not a right, to cultivate, process, distribute, and sell adult-use cannabis;

(ii) the number, classes, and character of other licenses in proximity to the location and in the particular municipality, subdivision thereof or geographic boundary as established by the board;

(iii) evidence that all necessary licenses and permits have been or will be obtained from the state and all other relevant governing bodies;

(iv) effect of the grant of the license on pedestrian or vehicular traffic, and parking, in proximity to the location;

(v) the existing noise level at the location and any increase in noise level that would be generated by the proposed premises;

(vi) the ability to increase climate resiliency and minimize or eliminate adverse environmental impacts, including but not limited to water usage, energy usage, carbon emissions, waste, pollutants, harmful chemicals and single use plastics;

(vii) the effect on the production, price and availability of cannabis and cannabis products;

(viii) the applicant's history of violations and compliance with the laws of another jurisdiction, in which they operate or have operated a cannabis license or registration, related to the operation of a cannabis business;

(ix) the applicant's history of violations related to the operation of a business, including but not limited to, violations related to labor laws, federal occupational safety and health law and tax compliance; and

(x) any other factors specified by law or regulation that are relevant to determine that granting a license would promote public convenience and advantage, public health and safety and the public interest of the state, county or community.

(h) the applicant and its managing officers are of good moral character and do not have an ownership or controlling interest in more licenses or permits than allowed by this chapter, or any regulations promulgated hereunder;

(i) the applicant has entered into a labor peace agreement with a bona-fide labor organization that is actively engaged in representing or attempting to represent the applicant's employees, and the maintenance of such a labor peace agreement shall be an ongoing material condition of licensure. In evaluating applications from entities with twenty-five or more employees, the office shall give consideration to whether applicants have entered into an agreement with a statewide or local bona-fide building and construction trades organization for construction work on its licensed facilities;

(j) the applicant will contribute to communities and people disproportionately harmed by enforcement of cannabis laws through including, but not limited to, the social responsibility framework as provided in section sixty-six of this article and report these contributions to the board;

(k) if the application is for an adult-use cultivator or processor license, the environmental and energy impact, including compliance with energy standards, of the facility to be licensed;

(l) the applicant satisfies any other conditions as determined by the board;

(m) if the applicant is a registered organization, the organization's maintenance of effort in manufacturing and/or dispensing and/or research of medical cannabis for certified patients and caregivers; and

(n) whether the applicant or its managing officers have been found to have engaged in activities in violation of this chapter.

2. If the board is not satisfied that the applicant should be issued a license, the executive director shall notify the applicant in writing of the specific reason or reasons recommended by the board for denial.

3. The state cannabis advisory board shall have the authority to recommend to the board the number of licenses issued pursuant to this article to ensure a competitive market where no licensee is dominant in the statewide marketplace or in any individual category of licensing, to actively promote and potentially license social and economic equity applicants, and carry out the goals of this chapter.

§ 65. Limitations of licensure; duration. 1. No license of any kind may be issued to a person under the age of twenty-one years, nor shall any licensee employ anyone under the age of eighteen years. Any employee eighteen years of age or older but under twenty-one years of age may not have direct interaction with customers inside a licensed retail store.

2. (a) No licensee shall sell, deliver, or give away or cause or permit or procure to be sold, delivered or given away any cannabis or cannabis product to any person, actually or apparently, under the age of twenty-one years or any visibly intoxicated person.

(b) It shall be an affirmative defense that such person had produced a photographic identification card apparently issued by a governmental entity and that the cannabis had been sold, delivered or given to such person in reasonable reliance upon such identification. In evaluating the applicability of such affirmative defense, the board shall take into consideration any written policy or training adopted and implemented by the licensee to prevent sales to minors.

3. No licensee or permittee shall knowingly sell, deliver or give away or cause or permit or procure to be sold, delivered or given away to a lawful cannabis consumer any amount of cannabis which they know would

cause the lawful cannabis consumer to be in violation of this chapter or possession limits established by article two hundred twenty-two of the penal law.

4. The board, on the recommendation of the office shall have the authority to limit, by canopy, plant count, square footage or other means, the amount of cannabis allowed to be grown, processed, distributed or sold by a licensee.

5. All licenses under this article shall expire two years after the date of issue.

§ 66. License renewal. 1. Each license, issued pursuant to this article, may be renewed upon application therefore by the licensee and the payment of the fee for such license as prescribed by this article. In the case of applications for renewals, the board may dispense with the requirements of such statements as it deems unnecessary in view of those contained in the application made for the original license, but in any event the submission of photographs of the licensed premises shall be dispensed with, provided the applicant for such renewal shall file a statement with the board to the effect that there has been no alteration of such premises since the original license was issued. The board may make such rules as it deems necessary, not inconsistent with this chapter, regarding applications for renewals of licenses and permits and the time for making the same.

2. Each applicant must submit to the office documentation of the racial, ethnic, and gender diversity of the applicant's employees and owners prior to a license being renewed. In addition, the board shall consult with the chief equity officer and executive director to create a social responsibility framework agreement that fosters racial, ethnic, and gender diversity in their workplace and make the adherence to such agreement a conditional requirement of license renewal.

3. The board shall provide an application for renewal of a license issued under this article not less than ninety days prior to the

expiration of the current license.

4. The board may only issue a renewal license upon receipt of the prescribed renewal application and renewal fee from a licensee if, in addition to the criteria in this section, the licensee's license is not under suspension and has not been revoked.

5. Each applicant must maintain a labor peace agreement with a bona-fide labor organization that is actively engaged in representing or attempting to represent the applicant's employees and the maintenance of such a labor peace agreement shall be an ongoing material condition of licensure.

6. Each applicant must provide evidence of the execution of their plan for benefitting communities and people disproportionally impacted by cannabis law enforcement required for initial licensing pursuant to section sixty-four of this article.

§ 67. Amendments; changes in ownership and organizational structure.

1. Licenses issued pursuant to this article shall specify:

(a) the name and address of the licensee;

(b) the activities permitted by the license;

(c) the land, buildings and facilities that may be used for the licensed activities of the licensee;

(d) a unique license number issued by the board to the licensee; and

(e) such other information as the board shall deem necessary to assure compliance with this chapter.

2. Upon application of a licensee to the board, a license may be amended to allow the licensee to relocate within the state, to add or delete licensed activities or facilities, or to amend the ownership or organizational structure of the entity that is the licensee. The board shall establish a fee for such amendments.

3. A license shall become void by a change in ownership, substantial corporate change or location without prior written approval of the

board. The board may promulgate regulations allowing for certain types of changes in ownership without the need for prior written approval.

4. For purposes of this section, "substantial corporate change" shall mean:

(a) for a corporation, a change of fifty-one percent or more of the officers and/or directors, or a transfer of fifty-one percent or more of stock of such corporation, or an existing stockholder obtaining fifty-one percent or more of the stock of such corporation; or

(b) for a limited liability company, a change of fifty-one percent or more of the managing members of the company, or a transfer of fifty-one percent or more of ownership interest in said company, or an existing member obtaining a cumulative of fifty-one percent or more of the ownership interest in said company; or

(c) for a partnership, a change of fifty-one percent or more of the managing partners of the company, or a transfer of fifty-one percent or more of ownership interest in said company, or an existing member obtaining a cumulative of fifty-one percent or more of the ownership interest in said company.

§ 68. Adult-use cultivator license. 1. An adult-use cultivator's license shall authorize the acquisition, possession, distribution, cultivation and sale of cannabis from the licensed premises of the adult-use cultivator by such licensee to duly licensed processors in this state. The board may establish regulations allowing licensed adult-use cultivators to perform certain types of minimal processing without the need for an adult-use processor license.

2. For purposes of this section, cultivation shall include, but not be limited to, the agricultural production practices of planting, growing, cloning, harvesting, drying, curing, grading and trimming of cannabis.

3. A person holding an adult-use cultivator's license may apply for, and obtain, one processor's license and one distributor's license solely for the distribution of their own products.

4. A person holding an adult-use cultivator's license may not also hold a retail dispensary license pursuant to this article and no adult-use cannabis cultivator shall have a direct or indirect interest, including by stock ownership, interlocking directors, mortgage or lien, personal or real property, management agreement, share parent companies or affiliated organizations, or any other means, in any premises licensed as an adult-use cannabis retail dispensary or in any business licensed as an adult-use cannabis retail dispensary or in any registered organization registered pursuant to article three of this chapter.

5. No person may have a direct or indirect financial or controlling interest in more than one adult-use cultivator license issued pursuant to this chapter, provided that one adult-use cultivator license may authorize adult-use cultivation in more than one location pursuant to criteria established by the board in regulation.

§ 68-a. Registered organization adult-use cultivator processor distributor retail dispensary license. 1. A registered organization cultivator processor distributor retail dispensary license shall have the same authorization and conditions as adult-use cultivator, adult-use processor, adult-use distributor and adult-use retail dispensary licenses issued pursuant to this article provided, however that the location of its adult-use dispensaries shall be limited to only three of the organization's medical dispensaries' premises and facilities authorized pursuant to article three of this chapter, and that it may only distribute its own products. Provided further that such registered organization shall maintain its medical cannabis license and continue offering medical cannabis to a degree established by regulation of the board. Such license does not qualify such organization for any other adult-use license.

2. A person holding a registered organization adult-use cultivator processor distributor retail dispensary license may not also hold another retail dispensary license pursuant to this article and no registered organization adult-use cultivator processor distributor retail dispensary shall have a direct or indirect interest, including by

stock ownership, interlocking directors, mortgage or lien, personal or real property, management agreement, share parent companies or affiliated organizations, or any other means, in any premises licensed as an adult-use cannabis retail dispensary or in any business licensed as an adult-use cannabis retail dispensary.

§ 68-b. Registered organization adult-use cultivator, processor and distributor license. A registered organization cultivator, processor and distributor license shall have the same authorization and conditions as an adult-use cultivator, processor, and distributor license, provided, however, that such license does not qualify such organization for any other adult-use license and may only authorize the distribution of the licensee's own products.

§ 69. Adult-use processor license. 1. A processor's license shall authorize the acquisition, possession, processing and sale of cannabis from the licensed premises of the adult-use cultivator by such licensee to duly licensed processors or distributors. A person holding an adult-use processor's license may apply for, and obtain, one distributor's license solely for the distribution of their own products.

2. For purposes of this section, processing shall include, but not be limited to, blending, extracting, infusing, packaging, labeling, branding and otherwise making or preparing cannabis products. Processing shall not include the cultivation of cannabis.

3. No processor shall be engaged in any other business on the premises to be licensed; except that a person issued an adult-use cannabis cultivator, processor, and/or distributor license or a processor who has also been issued a hemp grower license by the department of agriculture and markets or a cannabinoid hemp processor license under this chapter may hold and operate all issued licenses on the same premises.

4. No cannabis processor licensee may hold more than one cannabis processor license provided a single license may authorize processor

activities at multiple locations, as set out in regulations by the board.

5. No adult-use cannabis processor shall have a direct or indirect interest, including by stock ownership, interlocking directors, mortgage or lien, personal or real property, management agreement, share parent companies or affiliated organizations or any other means, in any premises licensed as an adult-use cannabis retail dispensary or in any business licensed as an adult-use cannabis retail dispensary or in any registered organization registered pursuant to article three of this chapter.

6. Adult-use processor licensees are subject to minimum operating requirements as determined by the board in regulation.

§ 70. Adult-use cooperative license. 1. A cooperative license shall authorize the acquisition, possession, cultivation, processing, distribution and sale from the licensed premises of the adult-use cooperative by such licensee to duly licensed distributors, on-site consumption sites, registered organization and/or retail dispensaries; but not directly to cannabis consumers.

2. To be licensed as an adult-use cooperative, the cooperative must:

(a) be comprised of residents of the state of New York as a limited liability company or limited liability partnership under the laws of the state, or an appropriate business structure as determined and authorized by the board;

(b) subordinate capital, both as regards control over the cooperative undertaking, and as regards the ownership of the pecuniary benefits arising therefrom;

(c) be democratically controlled by the members themselves on the basis of one vote per member;

(d) vest in and allocate with priority to and among the members of all increases arising from their cooperative endeavor in proportion to the members' active participation in the cooperative endeavor; and

(e) the cooperative must operate according to the seven cooperative principles published by the International Cooperative Alliance in nineteen hundred ninety-five.

3. A cooperative member shall be a natural person and shall not be a member of more than one adult-use cooperative licensed pursuant to this section.

4. No natural person or member of an adult-use cooperative license may have a direct or indirect financial or controlling interest in any other adult-use cannabis license issued pursuant to this chapter.

5. No adult-use cannabis cooperative shall have a direct or indirect interest, including by stock ownership, interlocking directors, mortgage or lien, personal or real property, or any other means, in any premises licensed as an adult-use cannabis retail dispensary or in any business licensed as an adult-use cannabis retail dispensary pursuant to this chapter.

6. The board shall promulgate regulations governing cooperative licenses, including, but not limited to, the establishment of canopy limits on the size and scope of cooperative licensees, and other measures designed to incentivize the use and licensure of cooperatives.

§ 71. Adult-use distributor license. 1. A distributor's license shall authorize the acquisition, possession, distribution and sale of cannabis from the licensed premises of a licensed adult-use cultivator, processor, adult-use cooperative, microbusiness, or registered organization authorized pursuant to this chapter to sell adult-use cannabis, to duly licensed retail dispensaries and on-site consumption sites.

2. No distributor shall have a direct or indirect economic interest in any microbusiness, adult-use retail dispensary, adult-use on-site consumption licensee or in any registered organization registered pursuant to article three of this chapter. This restriction shall not prohibit a registered organization authorized pursuant to section

thirty-nine of this chapter, from being granted licensure by the board to distribute adult-use cannabis products cultivated and processed by the registered organization to licensed adult-use retail dispensaries.

3. Any distributor with a direct or indirect interest in a licensed cultivator or processor, shall only distribute cannabis or cannabis products cultivated and/or processed by such licensee.

4. Nothing in subdivision two of this section shall prevent a distributor from charging an appropriate fee, authorized by the board, for the distribution of cannabis, including based on the volume of cannabis distributed.

5. Adult-use distributor licensees are subject to minimum operating requirements as determined by the board in regulation.

§ 72. Adult-use retail dispensary license. 1. A retail dispensary license shall authorize the acquisition, possession, sale and delivery of cannabis from the licensed premises of the retail dispensary by such licensee to cannabis consumers.

2. No person may have a direct or indirect financial or controlling interest in more than three adult-use retail dispensary licenses issued pursuant to this chapter.

3. No person holding a retail dispensary license may also hold an adult-use cultivation, processor, microbusiness, cooperative or distributor license pursuant to this article or be registered as a registered organization pursuant to article three of this chapter, except for such organizations licensed pursuant to sections sixty-eight-a and sixty-eight-b of this article.

4. No retail license shall be granted for any premises, unless the applicant shall be the owner thereof, or shall be able to demonstrate possession of the premises within thirty days of final approval of the license through a lease, management agreement or other agreement giving

the applicant control over the premises, in writing, for a term not less than the license period.

5. With the exception of delivery or microbusiness licensees, no premises shall be licensed to sell cannabis products, unless said premises shall be located in a store, the principal entrance to which shall be from the street level and located on a public thoroughfare in premises which may be occupied, operated or conducted for business, trade or industry.

6. (a) No premises with a license issued pursuant to this section, or section sixty-eight-a of this article, or section seventy-three of this article that allows for the retail sale of adult-use cannabis, shall be located on the same street and within five hundred feet of a building containing a school.

(b) No premises with a license issued pursuant to this section, or section sixty-eight-a of this article, or section seventy-three of this article that allows for the retail sale of adult-use cannabis, shall be located on the same street and within two hundred feet of a building exclusively occupied as a house of worship.

(c) The measurements in paragraphs (a) and (b) of this subdivision are to be taken in straight lines from the center of the nearest entrance of the premises sought to be licensed to the center of the nearest entrance of such school or house of worship.

(d) For purposes of this subdivision: (i) The word "entrance" shall mean: (A) a door of a school regularly used to give ingress to students of the school; (B) a door of a house of worship regularly used to give ingress to the general public attending the house of worship; or (C) a door of the premises sought to be licensed regularly used to give ingress to customers of such premises.

(ii) A door which has no exterior hardware, or which is used solely as an emergency or fire exit, or for maintenance or delivery purposes, or which leads directly to a part of a building not regularly used by students of the school, the general public attending the house of worship, or customers of the premises sought to be licensed, is not deemed an "entrance".

(iii) If the school, house of worship or premises sought to be licensed is set back from a public thoroughfare, the walkway or stairs leading to any such door shall be deemed an entrance; and the measurement shall be taken to the center of the walkway or stairs at the point where it meets the building line or public thoroughfare.

(e)(i) For purposes of paragraph (b) of this subdivision, a building occupied as a house of worship does not cease to be "exclusively" occupied as such by incidental uses that are not of a nature to detract from the predominant character of the building as a house of worship.

(ii) Such uses include, but are not limited to: (A) the conduct of legally authorized games of bingo or other games of chance held as a means of raising funds for the not-for-profit religious organization which conducts services at the house of worship or for other not-for-profit organizations or groups; (B) use of the building for fund-raising performances by or benefitting the not-for-profit religious organization which conducts services at the house of worship or other not-for-profit organizations or groups; (C) the use of the building by other religious organizations or groups for religious services or other purposes; (D) the conduct of social activities by or for the benefit of the congregants of the house of worship; (E) the use of the building for meetings held by organizations or groups providing bereavement counseling to persons having suffered the loss of a loved one, or providing advice or support for conditions or diseases including, but not limited to, alcoholism, drug addiction, cancer, cerebral palsy, Parkinson's disease, or Alzheimer's disease; (F) the use of the building for blood drives, health screenings, health information meetings, yoga classes, exercise classes or other activities intended to promote the health of the congregants or other persons; and (G) use of the building by non-congregant members of the community for private social functions.

(iii) The building occupied as a house of worship does not cease to be "exclusively" occupied as such where the not-for-profit religious organization occupying the house of worship accepts the payment of funds to defray costs related to another party's use of the building.

(f) No renewal of a license shall be denied because of the restrictions in paragraphs (a) or (b) of this subdivision.

(g) When evaluating an application for compliance with this subdivision, the proximity of the premises sought to be licensed to a school or house of worship shall be determined based on the date such applicant submits its location to the office.

§ 73. Microbusiness license. 1. A microbusiness license shall authorize the limited cultivation, processing, distribution, delivery, and dispensing of their own adult-use cannabis and cannabis products.

2. A microbusiness licensee may not hold any direct or indirect interest in any other license in this chapter and may only distribute its own cannabis and cannabis products to dispensaries.

3. The size, scope and eligibility criteria of a microbusiness shall be determined in regulation by the board in consultation with the executive director and the chief equity officer. The granting of such licenses shall promote social and economic equity applicants as provided for in this chapter.

§ 74. Delivery license. A delivery license shall authorize the delivery of cannabis and cannabis products by licensees independent of another adult-use cannabis license, provided that each delivery licensee may have a total of no more than twenty-five individuals, or the equivalent thereof, providing full-time paid delivery services to cannabis consumers per week under one license. For the purposes of this section the state cannabis advisory board shall provide recommendations to the board for the application process, license criteria, and scope of licensed activities for this class of license. No person may have a direct or indirect financial or controlling interest in more than one delivery license. The granting of such licenses shall promote social and economic equity applicants as provided for in this chapter.

§ 75. Nursery license. 1. A nursery license shall authorize the production, sale and distribution of clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis by licensed adult-use cultivators, cooperatives, microbusinesses or registered organizations.

For the purposes of this section, the office shall provide recommendations to the board for the application process, license criteria and scope of licensed activities for this class of license. The granting of such licenses shall promote social and economic equity applicants as provided for in this chapter.

2. A person or entity holding an adult-use cultivator's license may apply for, and obtain, one nursery license to sell directly to other cultivators, cooperatives, microbusinesses, or registered organizations.

§ 76. Notification to municipalities of adult-use retail dispensary or on-site consumption license. 1. Not less than thirty days nor more than two hundred seventy days before filing an application for licensure as an adult-use retail dispensary or registered organization adult-use cultivator processor distributor retail dispensary or an on-site consumption licensee, an applicant shall notify the municipality in which the premises is located of such applicant's intent to file such an application.

2. Such notification shall be made to the clerk of the village, town or city, as the case may be, wherein the premises is located. For purposes of this section:

(a) notification need only be given to the clerk of a village when the premises is located within the boundaries of the village; and

(b) in the city of New York, the community board established pursuant to section twenty-eight hundred of the New York city charter with jurisdiction over the area in which the premises is located shall be considered the appropriate public body to which notification shall be given.

3. Such notification shall be made in such form as shall be prescribed by the rules of the board.

4. When a city, town, or village, and in New York city a community board, expresses an opinion for or against the granting of such registration, license or permit application, any such opinion shall be

deemed part of the record upon which the office makes its recommendation to the board to grant or deny the application and the board shall respond in writing to such city, town, village or community board with an explanation of how such opinion was considered in the granting or denial of an application.

5. Such notification shall be made by: (a) certified mail, return receipt requested; (b) overnight delivery service with proof of mailing; or (c) personal service upon the offices of the clerk or community board.

6. The board shall require such notification to be on a standardized form that can be obtained on the internet or from the board and such notification to include:

(a) the trade name or "doing business as" name, if any, of the establishment;

(b) the full name of the applicant;

(c) the street address of the establishment, including the floor location or room number, if applicable;

(d) the mailing address of the establishment, if different than the street address;

(e) the name, address and telephone number of the attorney or representative of the applicant, if any;

(f) a statement indicating whether the application is for:

(i) a new establishment;

(ii) a transfer of an existing licensed business;

(iii) a renewal of an existing license; or

(iv) an alteration of an existing licensed premises;

(g) if the establishment is a transfer or previously licensed premises, the name of the old establishment and such establishment's registration or license number;

(h) in the case of a renewal or alteration application, the registration or license number of the applicant; and

(i) the type of license.

§ 77. Adult-use on-site consumption license; provisions governing

on-site consumption licenses. 1. No applicant shall be granted an adult-use on-site consumption license for any premises, unless the applicant shall be the owner thereof, or shall be in possession of said premises under a lease, in writing, for a term not less than the license period except, however, that such license may thereafter be renewed without the requirement of a lease as provided in this section. This subdivision shall not apply to premises leased from government agencies; provided, however, that the appropriate administrator of such government agency provides some form of written documentation regarding the terms of occupancy under which the applicant is leasing said premises from the government agency for presentation to the office at the time of the license application. Such documentation shall include the terms of occupancy between the applicant and the government agency, including, but not limited to, any short-term leasing agreements or written occupancy agreements.

2. No person may have a direct or indirect financial or controlling interest in more than three adult-use on-site consumption licenses issued pursuant to this chapter.

3. No person holding an adult-use on-site consumption license may also hold an adult-use retail dispensary, cultivation, processor, microbusiness, cooperative or distributor license pursuant to this article or be registered as a registered organization pursuant to article three of this chapter.

4. No applicant shall be granted an adult-use on-site consumption license for any premises within five hundred feet of school grounds as such term is defined in the education law or two hundred feet from a house of worship.

5. The board may consider any or all of the following in determining whether public convenience and advantage and the public interest will be promoted by the granting of an adult-use on-site consumption license at a particular location:

(a) that it is a privilege, and not a right, to cultivate, process, distribute, and sell cannabis;

(b) the number, classes, and character of other licenses in proximity to the location and in the particular municipality or subdivision thereof;

(c) evidence that all necessary licenses and permits have been obtained from the state and all other governing bodies;

(d) whether there is a demonstrated need for spaces to consume cannabis;

(e) effect of the grant of the license on pedestrian or vehicular traffic, and parking, in proximity to the location;

(f) the existing noise level at the location and any increase in noise level that would be generated by the proposed premises; and

(g) any other factors specified by law or regulation that are relevant to determine that granting a license would promote public convenience and advantage and the public interest of the community.

6. If the board shall disapprove an application for an on-site consumption license, it shall state and file in its offices the reasons therefor and shall notify the applicant thereof. Such applicant may thereupon apply to the board for a review of such action in a manner to be prescribed by the rules of the board.

7. No adult-use cannabis on-site consumption licensee shall keep upon the licensed premises any adult-use cannabis products except those purchased from a licensed adult-use distributor; registered organization adult-use cultivator processor distributor retail dispenser; registered organization adult-use cultivator, processor and distributor; cooperative, or microbusiness authorized to sell adult-use cannabis, and only in containers approved by the board. Such containers shall have affixed thereto such labels as may be required by the rules of the board. No adult-use on-site consumption licensee shall reuse, refill, tamper with, adulterate, dilute or fortify the contents of any container of cannabis products as received from the manufacturer or distributor.

8. No adult-use on-site consumption licensee shall sell, deliver or give away, or cause or permit or procure to be sold, delivered or given away any cannabis for consumption on the premises where sold in a container or package containing a quantity or number of servings more

than authorized by the board.

9. No adult-use on-site consumption licensee shall suffer, permit or promote activities or events on its premises wherein any person shall use such premises for activities including, but not limited to, gambling, exposing or simulating, contests, or fireworks that are prohibited by subdivision six, six-a, six-b, six-c or seven of section one hundred six of the alcoholic beverage control law or any other similar activities the board deems to be prohibited.

10. No premises licensed to sell adult-use cannabis for on-site consumption under this chapter shall be permitted to have any opening or means of entrance or passageway for persons or things between the licensed premises and any other room or place in the building containing the licensed premises, or any adjoining or abutting premises, unless ingress and egress is restricted by an employee, agent of the licensee, or other method approved by the board of controlling access to the facility.

11. Each adult-use on-site consumption licensee shall keep and maintain upon the licensed premises, adequate records of all transactions involving the business transacted by such licensee which shall show the amount of cannabis products, in an applicable metric measurement, purchased by such licensee together with the names, license numbers and places of business of the persons from whom the same were purchased, the amount involved in such purchases, as well as the sales of cannabis products made by such licensee. The board is hereby authorized to promulgate rules and regulations permitting an on-site licensee operating two or more premises separately licensed to sell cannabis products for on-site consumption to inaugurate or retain in this state methods or practices of centralized accounting, bookkeeping, control records, reporting, billing, invoicing or payment respecting purchases, sales or deliveries of cannabis products, or methods and practices of centralized receipt or storage of cannabis products within this state without segregation or earmarking for any such separately licensed premises, wherever such methods and practices assure the availability, at such licensee's central or main office in this state,

of data reasonably needed for the enforcement of this chapter. Such records shall be available for inspection by any authorized representative of the board.

12. All licensed adult-use on-site consumption premises shall be subject to inspection by any peace officer, acting pursuant to his or her special duties, or police officer and by the duly authorized representatives of the board, during the hours when the said premises are open for the transaction of business.

13. An adult-use on-site consumption licensee shall not provide cannabis products to any person under the age of twenty-one. No person under the age of twenty-one shall be permitted on the premises of a cannabis on-site consumption facility.

14. The provisions of article thirteen-E of the public health law restricting the smoking or vaping of cannabis shall not apply to adult-use on-site consumption premises.

§ 78. Record keeping and tracking. 1. The board shall, by regulation, require each licensee pursuant to this article to adopt and maintain security, tracking, record keeping, record retention and surveillance systems, relating to all cannabis at every stage of acquiring, possession, manufacture, sale, delivery, transporting, testing or distributing by the licensee, subject to regulations of the board.

2. Every licensee shall keep and maintain upon the licensed premises, adequate books and records of all transactions involving the licensee and sale of its products, which shall include, but is not limited to, all information required by any rules promulgated by the board. Such regulations may require the utilization of an approved seed-to-sale tracking system compiling a licensee's cannabis inventory and transaction data.

§ 79. Inspections and ongoing requirements. All licensed or permitted premises, regardless of the type of premises, and all records including but not limited to financial statements and corporate documents, shall be subject to inspection by the office, by the duly authorized representatives of the board, by any peace officer acting pursuant to his or her special duties, or by a police officer. The board shall make reasonable accommodations so that ordinary business is not interrupted and safety and security procedures are not compromised by the inspection. A person who holds a license or permit must make himself or herself, or an agent thereof, available and present for any inspection required by the board. Such inspection may include, but is not limited to, ensuring compliance by the licensee or permittee with all of the requirements of this article, the regulations promulgated pursuant thereto, and other applicable state and local building codes, fire, health, safety, and other applicable regulations.

§ 80. Adult-use cultivators, processors or distributors not to be interested in retail dispensaries. 1. It shall be unlawful for any person authorized to cultivate, process, or distribute under this article to:

(a) be interested directly or indirectly in any premises where any cannabis product is sold at retail, including for on-site consumption; or in any business devoted wholly or partially to the sale or delivery of any cannabis product at retail, including for on-site consumption, by stock ownership, interlocking directors, mortgage or lien or any personal or real property, or by any other means;

(b) make, or cause to be made, any loan to any person engaged in the manufacture or sale of any cannabis product at wholesale or retail;

(c) make any gift or render any service of any kind whatsoever, directly or indirectly, to any person licensed under this chapter which in the judgment of the board may influence such licensee to purchase the product of such cultivator or processor or distributor; or

(d) enter into any contract or agreement with any retail, on-site consumption or delivery licensee whereby such licensee agrees to confine his or her sales to cannabis products manufactured or sold by one or more such cultivator or processors or distributors. Any such contract or agreement shall be void and subject the licenses of all parties concerned to revocation for cause and any applicable administrative enforcement and penalties.

2. The provisions of this section shall not prohibit a registered organization authorized pursuant to section thirty-nine or sixty-eight-a of this chapter, or microbusiness authorized pursuant to section seventy-three of this chapter, from cultivating, processing, or selling adult-use cannabis under this article, at facilities wholly owned and operated by such registered organization or microbusiness, subject to any conditions, limitations or restrictions established by this chapter.

3. The board shall develop rules and regulations in regard to this section.

§ 81. Packaging, labeling, and administration of adult-use cannabis products. 1. The board is hereby authorized to promulgate rules and regulations governing the advertising, branding, marketing, packaging, labeling and unconventional methods of administration or ingestion, of cannabis products, sold or possessed for sale in New York state, including rules pertaining to the accuracy of information and rules restricting marketing and advertising to youth.

2. Such regulations shall include, but not be limited to, requiring that:

(a) packaging meets requirements similar to the federal "poison prevention packaging act of 1970," 15 U.S.C. Sec 1471 et seq.;

(b) prior to delivery or sale at a retailer, cannabis and cannabis products shall be labeled according to regulations and placed in a resealable, child-resistant package; and

(c) packages, labels, shapes and products shall not be made to be attractive to or target persons under the age of twenty-one.

3. Such regulations shall include requiring labels warning consumers of any potential impact on human health resulting from the consumption of cannabis products that shall be affixed to those products when sold, if such labels are deemed warranted by the board and may establish

standardized and/or uniform packaging and labeling requirements for adult-use products.

4. Such rules and regulations shall establish methods and procedures for determining serving sizes for cannabis products, active cannabis concentration per serving size, and number of servings per container or package, and the methods of separating or clearly delineating servings within a container or package. Such regulations may also require a nutritional or supplement fact panel that incorporates data regarding serving sizes and potency thereof.

5. Such rules and regulations shall establish approved product types and forms and establish an application and review process to determine the suitability of new product types and forms, taking into consideration the consumer and public health and safety implications of different product varieties, manufacturing processes, product types and forms, the means and methods of administration associated with specific product types, and any other criteria identified by the board for consideration to protect public health and safety.

6. Such regulations shall also require product labels to accurately display the total THC of each product.

7. The packaging, sale, marketing, branding, advertising, labeling or possession by any licensee of any cannabis product not labeled or offered in conformity with rules and regulations promulgated in accordance with this section shall be grounds for the imposition of a fine, and/or the suspension, revocation or cancellation of a license in accordance with the provisions of this chapter.

§ 82. Laboratory testing. 1. Every processor of adult-use cannabis shall contract with an independent laboratory permitted pursuant to section one hundred twenty-nine of this chapter, to test the cannabis products it produces pursuant to rules and regulations prescribed by the office. The board may assign an approved testing laboratory, which the processor of adult-use cannabis must use, and may establish consortia with neighboring states, to inform best practices, and share laboratory data.

2. Adult-use cannabis processors, microbusinesses, cooperatives and registered organizations shall make laboratory test reports available to licensed distributors, retail dispensaries, and on-site consumption sites for all cannabis products manufactured by the processor or licensee.

3. Licensed retail dispensaries shall maintain accurate documentation of laboratory test reports for each cannabis product offered for sale to cannabis consumers. Such documentation shall be made publicly available by the licensed retail dispensary.

4. Onsite laboratory testing by licensees is permissible subject to regulation; however, such testing shall not be certified by the board and does not exempt the licensee from the requirements of quality assurance testing at a testing laboratory pursuant to this section.

5. An owner of a cannabis laboratory testing permit shall not hold a license, or interest in a license, in any other category within this article and shall not own or have ownership interest in a registered organization registered pursuant to article three of this chapter or a cannabinoid hemp processor license pursuant to article five of this chapter.

6. The board shall have the authority to require any licensee under this article to submit cannabis or cannabis products to one or more independent laboratories for testing and the board may promulgate regulations related to all aspects of third-party testing and quality assurance including but not limited to:

(a) minimum testing and sampling requirements;
(b) testing and sampling methodologies;
(c) testing reporting requirements;
(d) retesting; and
(e) product quarantine, hold, recall, and remediation.

§ 83. Provisions governing the cultivation and processing of adult-use cannabis. 1. Cultivation and processing of cannabis shall comply with regulations promulgated by the board governing minimum requirements for adult-use cultivators, nurseries, processors, microbusinesses, cooperatives, registered organizations, and registered organization cultivators.

2. No cultivator or processor of adult-use cannabis shall sell, or agree to sell or deliver in the state any cannabis products, as the case may be, except in originally sealed containers containing quantities in accordance with size standards pursuant to rules adopted by the board. Such containers shall have affixed thereto such labels or other means of tracking and identification as may be required by the rules of the board.

3. No cultivator or processor of adult-use cannabis shall furnish or cause to be furnished to any licensee, any exterior or interior sign, printed, painted, electric or otherwise, except as authorized by the board. The board may make such rules as it deems necessary to carry out the purpose and intent of this subdivision.

4. Cultivators of adult-use cannabis consistent with protecting public health and safety, shall comply with plant cultivation regulations, standards, and guidelines consistent with the provisions applicable to hemp, cannabinoid hemp, and hemp extract and issued by the board, in consultation with the department of environmental conservation and the department of agriculture and markets. Such regulations, standards, and guidelines shall be guided by sustainable farming principles and practices such as organic, regenerative, and integrated pest management models to the extent possible, and shall restrict whenever possible, the use of pesticides to those that are registered by the department of environmental conservation or that specifically meet the United States environmental protection agency registration exemption criteria for minimum risk, used in compliance with rules, regulations, standards and guidelines issued by the department of environmental conservation for pesticides.

5. No cultivator or processor of adult-use cannabis shall transport any cannabis products, except in vehicles owned and operated by such cultivator or processor, or hired by such cultivator or processor and operated by a trucking or transportation company registered with the office, and shall only make deliveries at the licensed premises of the purchaser.

6. No cultivator or processor of adult-use cannabis, including an adult-use cannabis cooperative, microbusiness, or registered organization may offer any incentive, payment or other benefit to a licensed cannabis distributor or retail dispensary in return for carrying the cultivator, processor, cooperative, microbusiness or registered organization products, or preferential shelf placement.

7. All cannabis products shall be processed in accordance with good manufacturing practices for the product category, pursuant to either Part 111 or Part 117 of Title 21 of the Code of Federal Regulations, as may be modified by the board in regulation.

8. No processor of adult-use cannabis shall produce any product which, in the discretion of the board, is designed to appeal to anyone under the age of twenty-one years.

9. The use or integration of alcoholic beverages or nicotine in cannabis products is strictly prohibited.

10. The board shall promulgate regulations governing the minimum requirements for the secure transport of adult-use cannabis.

§ 84. Provisions governing the distribution of adult-use cannabis. 1. No distributor shall sell, or agree to sell or deliver any cannabis products, as the case may be, in any container, except in a sealed package. Such containers shall have affixed thereto such labels as may be required by the rules of the board.

2. No distributor shall deliver any cannabis products, except in vehicles owned and operated by such distributor, or hired and operated by such distributor from a trucking or transportation company registered with the board, and shall only make deliveries at the licensed premises of the purchaser.

3. Each distributor shall keep and maintain upon the licensed premises, adequate books and records of all transactions involving the business transacted by such distributor, which shall show the amount of cannabis products purchased by such distributor and the total THC content of purchased cannabis products as reflected on the product labels together with the names, license numbers and places of business of the persons from whom the same was purchased and the amount involved in such purchases, as well as the amount of cannabis products sold by such distributor together and the total THC content of cannabis products sold as reflected on the final product labels, with the names, addresses, and license numbers of such purchasers and any other information required in regulation. Each sale shall be recorded separately on a numbered invoice, which shall have printed thereon the number, the name of the licensee, the address of the licensed premises, and the current license number. Such distributor shall deliver to the purchaser a true duplicate invoice stating the name and address of the purchaser, the quantity of cannabis products, the total THC content of cannabis products sold as reflected on the product labels, description by brands and the price of such cannabis products, and a true, accurate and complete statement of the terms and conditions on which such sale is made. Such books, records and invoices shall be kept for a period of five years and shall be available for inspection by any authorized representative of the board.

4. No distributor shall furnish or cause to be furnished to any licensee, any exterior or interior sign, printed, painted, electric or otherwise, unless authorized by the board.

5. No distributor shall provide any discount, rebate or customer loyalty program to any licensed retailer, except as otherwise authorized by the board.

6. The board is authorized to promulgate regulations establishing a maximum margin for which a distributor may mark up a cannabis product for sale to a retail dispensary. Any adult-use cannabis product sold by a distributor for more than the maximum markup allowed in regulation, shall be unlawful.

7. Each distributor shall keep and maintain upon the licensed premises, adequate books and records to demonstrate the distributor's actual cost of doing business, using accounting standards and methods regularly employed in the determination of costs for the purpose of federal income tax reporting, for the total operation of the licensee. Such books, records and invoices shall be kept for a period of five years and shall be available for inspection by any authorized representative of the office for use in determining the maximum markup allowed in regulation pursuant to subdivision six of this section.

§ 85. Provisions governing adult-use cannabis retail dispensaries. 1. No cannabis retail licensee shall sell, deliver, or give away or cause or permit or procure to be sold, delivered or given away any cannabis to any person, actually or apparently, under the age of twenty-one years or, any visibly intoxicated person.

2. Valid proof of age is required for each transaction. No licensee, or agent or employee of such licensee shall accept as written evidence of age by any such person for the purchase of any cannabis or cannabis product, any documentation other than: (a) a valid driver's license or non-driver identification card issued by the commissioner of motor vehicles, the federal government, any United States territory, commonwealth or possession, the District of Columbia, a state government within the United States or a provincial government of the dominion of Canada, or (b) a valid passport issued by the United States government or any other country, or (c) an identification card issued by the armed forces of the United States. Upon the presentation of such driver's license or non-driver identification card issued by a governmental entity, such licensee or agent or employee thereof may perform a

transaction scan as a precondition to the sale of any cannabis or cannabis product. Nothing in this section shall prohibit a licensee or agent or employee from performing such a transaction scan on any of the other documents listed in this subdivision if such documents include a bar code or magnetic strip that may be scanned by a device capable of deciphering any electronically readable format. In instances where the information deciphered by the transaction scan fails to match the information printed on the driver's license or non-driver identification card presented by the card holder, or if the transaction scan indicates that the information is false or fraudulent, the attempted purchase of the cannabis or cannabis product shall be denied.

3. No cannabis retail licensee shall sell alcoholic beverages, nor have or possess a license or permit to sell alcoholic beverages, on the same premises where cannabis products are sold.

4. No sign of any kind printed, painted or electric, advertising any brand shall be permitted on the exterior or interior of such premises, except by permission of the board.

5. No cannabis retail licensee shall sell or deliver any cannabis products to any person with knowledge of, or with reasonable cause to believe, that the person to whom such cannabis products are being sold, has acquired the same for the purpose of selling or giving them away in violation of the provisions of this chapter or in violation of the rules and regulations of the board.

6. All premises licensed under this section shall be subject to inspection by any peace officer described in subdivision four of section 2.10 of the criminal procedure law acting pursuant to his or her special duties, or police officer or any duly authorized representative of the board. All licensees shall be subject to reasonable inspection by the office and a person who holds a license must make himself or herself, or an agent thereof, available and present for any inspection required by the office. The office shall make reasonable accommodations so that ordinary business is not interrupted, and safety and security procedures are not compromised by the inspection.

7. No cannabis retail licensee shall be interested, directly or indirectly, in any cultivator, processor, distributor or microbusiness operator licensed pursuant to this article, by stock ownership, interlocking directors, mortgage or lien on any personal or real property or by any other means. Any lien, mortgage or other interest or estate, however, now held by such retailer on or in the personal or real property of such manufacturer or distributor, which mortgage, lien, interest or estate was acquired on or before December thirty-first, two thousand nineteen, shall not be included within the provisions of this subdivision; provided, however, the burden of establishing the time of the accrual of the interest comprehended by this subdivision, shall be upon the person who claims to be entitled to the protection and exemption afforded hereby.

8. No cannabis retail licensee shall make or cause to be made any loan to any person engaged in the cultivation, processing or distribution of cannabis pursuant to this article.

9. Each cannabis retail licensee shall designate the price of each item of cannabis by attaching to or otherwise displaying immediately adjacent to each such item displayed in the interior of the licensed premises where sales are made a price tag, sign or placard setting forth the price at which each such item is offered for sale therein.

10. No person licensed to sell cannabis products at retail, shall allow or permit any gambling, or offer any gambling on the licensed premises, or allow or permit illicit drug activity on the licensed premises.

11. All adult-use dispensing facilities shall make educational materials and resources available to cannabis consumers at the point of sale, as prescribed by the board.

12. The board is authorized, to promulgate regulations governing licensed adult-use dispensing facilities, including but not limited to, the hours of operation, size and location of the licensed facility,

types and concentration of product servings offered and establishing a minimum and maximum margin for retail dispensary markups of cannabis product or products before selling to a cannabis consumer. It shall be unlawful for any retail dispensary to sell any adult-use cannabis product for less than the minimum markup allowed in regulation.

§ 86. Adult-use cannabis advertising and marketing. 1. The board shall promulgate rules and regulations governing the form and content of advertising and marketing of licensed cannabis and any cannabis products or services.

2. The board shall promulgate regulations for advertising and marketing content including but not limited to explicit rules prohibiting advertising that:

(a) is false, deceptive, or misleading;

(b) promotes overconsumption;

(c) depicts consumption;

(d) is designed in any way to appeal to children or other minors;

(e) is within or is readily observed within five hundred feet of the perimeter of a school grounds, playground, child day care providers, public park, or library;

(f) is in public transit vehicles and stations;

(g) is in the form of an unsolicited internet pop-up;

(h) is on publicly owned or operated property;

(i) makes medical claims or promotes adult-use cannabis for a medical or wellness purpose;

(j) promotes or implements discounts, coupons, or other means of selling adult-use cannabis products below market value or whose discount would subvert local and state tax collections;

(k) is in the form of a billboard; or

(l) fails to satisfy any other advertising or marketing rule or regulations promulgated by the board related to marketing or advertising, not inconsistent with this chapter.

3. The board shall promulgate explicit rules prohibiting all marketing strategies and implementation including, but not limited to, branding,

packaging, labeling, location of cannabis retailers, and advertisements that are designed to:

(a) appeal to persons less then twenty-one years of age and/or populations at-risk of increased adverse health consequences as determined by the board in regulation; or

(b) disseminate false or misleading information to customers.

4. The board shall promulgate regulations requiring that:

(a) all advertisements and marketing accurately and legibly identify the party or other business responsible for its content; and

(b) any broadcast, cable, radio, print and digital communications advertisements only be placed where the audience is reasonably expected to be twenty-one years of age or older, as determined by reliable, up-to-date audience composition data. The burden of proving this requirement lies with the party that has paid for or facilitated the advertisement.

5. The board may establish procedures to review and enforce advertising and marketing requirements.

§ 87. Social and economic equity, minority and women-owned businesses, distressed farmers and service-disabled veterans; incubator program. 1. The board, in consultation with the chief equity officer and executive director, and after receiving public input shall create and implement a social and economic equity plan and actively promote applicants from communities disproportionately impacted by cannabis prohibition, and promote racial, ethnic, and gender diversity when issuing licenses for adult-use cannabis related activities, including mentoring potential applicants, by prioritizing consideration of applications by applicants who are from communities disproportionately impacted by the enforcement of cannabis prohibition or who qualify as a minority or women-owned business, distressed farmers, or service-disabled veterans. Such qualifications shall be determined by the board, with recommendations from the state cannabis advisory board, the chief equity officer and executive director, by regulation.

2. The board's social and economic equity plan shall also promote diversity in commerce, ownership and employment, and opportunities for social and economic equity in the adult-use cannabis industry. A goal shall be established to award fifty percent of adult-use cannabis licenses to social and economic equity applicants and ensure inclusion of:

(a) individuals from communities disproportionately impacted by the enforcement of cannabis prohibition;

(b) minority-owned businesses;

(c) women-owned businesses;

(d) minority and women-owned businesses, as defined in paragraph (d) of subdivision five of this section;

(e) distressed farmers, as defined in subdivision five of this section; and

(f) service-disabled veterans.

3. The social and economic equity plan shall require the consideration of additional criteria in its licensing determinations. Under the social and economic equity plan, extra priority shall be given to applications that demonstrate that an applicant:

(a) is a member of a community disproportionately impacted by the enforcement of cannabis prohibition;

(b) has an income lower than eighty percent of the median income of the county in which the applicant resides; and

(c) was convicted of a marihuana-related offense prior to the effective date of this chapter, or had a parent, guardian, child, spouse, or dependent, or was a dependent of an individual who, prior to the effective date of this chapter, was convicted of a marihuana-related offense.

4. The board in consultation with the cannabis advisory board and the chief equity officer, shall also create an incubator program to encourage social and economic equity applicants to apply and, if granted an adult-use cannabis license, permit or registration, the program shall provide direct support in the form of counseling services, education, small business coaching and financial planning, and compliance assistance.

5. For the purposes of this section, the following definitions shall apply:

(a) "Minority-owned business" shall mean a business enterprise, including a sole proprietorship, partnership, limited liability company or corporation that is:

(i) at least fifty-one percent owned by one or more minority group members;

(ii) an enterprise in which such minority ownership is real, substantial and continuing;

(iii) an enterprise in which such minority ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise;

(iv) an enterprise authorized to do business in this state and independently owned and operated; and

(v) an enterprise that is a small business.

(b) "Minority group member" shall mean a United States citizen or permanent resident noncitizen who is and can demonstrate membership in one of the following groups:

(i) black persons having origins in any of the black African racial groups;

(ii) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American of either Indian or Hispanic origin, regardless of race;

(iii) Native American or Alaskan native persons having origins in any of the original peoples of North America; or

(iv) Asian and Pacific Islander persons having origins in any of the far east countries, south east Asia, the Indian subcontinent or the Pacific islands.

(c) "Women-owned business" shall mean a business enterprise, including a sole proprietorship, partnership, limited liability company or corporation that is:

(i) at least fifty-one percent owned by one or more United States citizens or permanent resident noncitizens who are women;

(ii) an enterprise in which the ownership interest of such women is real, substantial and continuing;

(iii) an enterprise in which such women ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise;

(iv) an enterprise authorized to do business in this state and independently owned and operated; and

(v) an enterprise that is a small business.

(d) A firm owned by a minority group member who is also a woman may be defined as a minority-owned business, a women-owned business, or both.

(e) "Distressed farmer" shall mean: (i) a New York state resident or business enterprise, including a sole proprietorship, partnership, limited liability company or corporation, that meets the small farm classification developed by the Economic Research Service of the United States Department of Agriculture, has filed a schedule F with farm receipts for the last three years, qualifies for an agriculture assessment and meets other qualifications defined in regulation by the board to demonstrate that they operate a farm operation as defined in section three hundred one of the agriculture and markets law and has been disproportionately impacted, including but not limited to incurring operating losses, by low commodity prices and faces the loss of farmland through development or suburban sprawl and meets any other qualifications as defined in regulation by board; or (ii) a New York state resident or business enterprise, including a sole proprietorship, partnership, limited liability company or corporation, that is a small farm operator and a member of a group that has been historically underrepresented in farm ownership and meets any other qualifications as defined in regulation by board.

(f) "Service-disabled veterans" shall mean persons qualified under article three of the veterans' services law.

(g) "Communities disproportionately impacted" shall mean, but not be limited to, a history of arrests, convictions, and other law enforcement practices in a certain geographic area, such as, but not limited to, precincts, zip codes, neighborhoods, and political subdivisions, reflecting a disparate enforcement of cannabis prohibition during a certain time period, when compared to the rest of the state. The board shall, with recommendations from the state cannabis advisory board, the chief equity officer and executive director, issue guidelines to determine how to assess which communities have been disproportionately impacted and how to assess if someone is a member of a community disproportionately impacted.

6. The board shall actively promote applicants that foster racial, ethnic, and gender diversity in their workforce.

7. Licenses issued under the social and economic equity plan shall not be transferred or sold within the first three years of issue, except to a qualified social and economic equity applicant and with the prior written approval of the board. In the event a social and economic equity applicant seeks to transfer or sell their license at any point after issue and the transferee is to a person or entity that does not qualify as a social and economic equity applicant, the transfer agreement shall require the new license holder to pay to the board any outstanding amount owed by the transferor to the board as repayment of any loan issued by the board as well as any other fee or assessment as determined by the board.

§ 88. Data collection and reporting. The board shall collect demographic data on owners and employees in the adult-use cannabis industry and shall annually publish such data in its annual report.

§ 89. Regulations. The board shall promulgate regulations with recommendations from the state cannabis advisory board to implement this article.

ARTICLE 5

CANNABINOID HEMP AND HEMP EXTRACT

§ 90. Definitions. As used in this article, the following terms shall have the following meanings, unless the context clearly requires otherwise:

1. "Cannabinoid" means the phytocannabinoids found in hemp and does not include synthetic cannabinoids as that term is defined in subdivision (g) of schedule I of section thirty-three hundred six of the public health law.

2. "Cannabinoid hemp" means any hemp and any product processed or derived from hemp, that is used for human consumption provided that when such product is packaged or offered for retail sale to a consumer, it shall not have a concentration of more than three tenths of one percent delta-9 tetrahydrocannabinol.

3. "Used for human consumption" means intended by the manufacturer or distributor to be: (a) used for human consumption for its cannabinoid content; or (b) used in, on or by the human body for its cannabinoid

content.

4. "Hemp" means the plant Cannabis sativa L. and any part of such plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration (THC) of not more than three-tenths of a percent on a dry weight basis. It shall not include "medical cannabis" as defined in section three of this chapter.

5. "Hemp extract" means all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers derived from hemp, used or intended for human consumption, for its cannabinoid content, with a delta-9 tetrahydrocannabinol concentration of not more than an amount determined by the board in regulation. For the purpose of this article, hemp extract excludes (a) any food, food ingredient or food additive that is generally recognized as safe pursuant to federal law; or (b) any hemp extract that is not used for human consumption. Such excluded substances shall not be regulated pursuant to the provisions of this article but are subject to other provisions of applicable state law, rules and regulations.

6. "License" means a license issued pursuant to this article.

7. "Cannabinoid hemp processor license" means a license granted by the board to process, extract, pack or manufacture cannabinoid hemp or hemp extract into products, whether in intermediate or final form, used for human consumption.

8. "Processing" means extracting, preparing, treating, modifying, compounding, manufacturing or otherwise manipulating cannabinoid hemp to concentrate or extract its cannabinoids, or creating product, whether in intermediate or final form, used for human consumption. For purposes of this article, processing does not include: (a) growing, cultivation, cloning, harvesting, drying, curing, grinding or trimming when authorized pursuant to article twenty-nine of the agriculture and markets law; or

(b) mere transportation, such as by common carrier or another entity or individual.

9. "Cannabinoid hemp flower" means the flower of the plant Cannabis sativa L. that has been harvested, dried, and cured, with a delta-9 tetrahydrocannabinol concentration of not more than three-tenths of one percent, on a dry weight basis, prior to any processing.

10. "Cannabinoid hemp flower product" means cannabinoid hemp flower that has been minimally processed consistent with the requirements of this article, intended for retail sale to consumers.

§ 91. Rulemaking authority. The board may make regulations pursuant to this article for the processing, distribution, marketing, transportation and sale of cannabinoid hemp and hemp extracts used for human consumption, which may include, but not be limited to:

1. Specifying forms, establishing application, reasonable administration and renewal fees, or license duration;

2. Establishing the qualifications and criteria for licensing, as authorized by law;

3. The books and records to be created and maintained by licensees and lawful procedures for their inspection;

4. Any reporting requirements;

5. Methods and standards of processing, labeling, packaging and marketing of cannabinoid hemp, hemp extract and products derived therefrom;

6. Procedures for how cannabinoid hemp, hemp extract or ingredients, additives, or products derived therefrom can be deemed as acceptable for sale in the state;

7. Provisions governing the modes and forms of administration, including inhalation;

8. Procedures for determining whether cannabinoid hemp, hemp extract or ingredients, additives, or products derived therefrom produced outside the state or within the state meet the standards and requirements of this article and can therefore be sold within the state;

9. Procedures for the granting, cancellation, revocation or suspension of licenses, consistent with the state administrative procedures act;

10. Restrictions governing the advertising and marketing of cannabinoid hemp, hemp extract and products derived therefrom;

11. Any other regulations necessary to implement this article;

12. Nothing in this article shall prevent the sale of cannabinoid hemp flower; provided however, that any cannabinoid hemp flower product sold shall be limited to a person over twenty-one years of age and shall be subject to regulations promulgated by the board; provided further that such regulations shall not unduly restrict the availability of cannabinoid hemp flower; and

13. Any cannabinoid hemp flower product clearly labeled or advertised for the purposes of smoking, or in the form of a cigarette, cigar, or pre-roll, or packaged or combined with other items designed to facilitate smoking such as rolling papers or pipes, shall only be offered for sale in adult-use cannabis retail dispensaries licensed pursuant to article four of this chapter.

§ 92. Cannabinoid hemp processor license. 1. Persons processing cannabinoid hemp or hemp extract used for human consumption, whether in intermediate or final form, shall be required to obtain a cannabinoid hemp processor license from the board.

2. A cannabinoid hemp processor license authorizes one or more

specific activities related to the processing of cannabinoid hemp into products used for human consumption, whether in intermediate or final form, and the distribution or sale thereof by the licensee. Nothing herein shall prevent a cannabinoid hemp processor from processing, extracting and processing hemp products not to be used for human consumption.

3. Persons authorized to grow hemp pursuant to article twenty-nine of the agriculture and markets law are not authorized to engage in processing of cannabinoid hemp or hemp extract without first being licensed as a cannabinoid hemp processor under this article.

4. This article shall not apply to hemp, cannabinoid hemp, hemp extracts or products derived therefrom that are not used for human consumption. This article also shall not apply to hemp, cannabinoid hemp, hemp extracts or products derived therefrom that have been deemed generally recognized as safe pursuant to federal law.

5. The board shall have the authority to set reasonable fees for such license, to limit the activities permitted by such license, to establish the period during which such license is authorized, which shall be two years or more, and to make rules and regulations necessary to implement this section.

6. Any person holding an active research partnership agreement with the department of agriculture and markets, authorizing that person to process cannabinoid hemp, shall be awarded licensure under this section, provided that the research partner is actively performing research pursuant to such agreement and is able to demonstrate compliance with this article, as determined by the board, after notice and an opportunity to be heard.

§ 93. Cannabinoid hemp retailer license. 1. Retailers selling cannabinoid hemp, in final form to consumers within the state, shall be required to obtain a cannabinoid hemp retailer license from the board.

2. The board shall have the authority to set reasonable fees for such license, to establish the period during which such license is authorized, which shall be one year or more, and to make rules and regulations necessary to implement this section.

§ 94. Cannabinoid license applications. 1. Persons shall apply for a license under this article by submitting an application upon a form supplied by the board, providing all the relevant requested information, verified by the applicant or an authorized representative of the applicant.

2. A separate license shall be required for each facility at which processing or retail sales are conducted; however, an applicant may submit one application for separate licensure at multiple locations.

3. Each applicant shall remit with its application the fee for each requested license, which shall be a reasonable fee.

§ 95. Information to be requested in applications for licenses. 1. The board may specify the manner and form in which an application shall be submitted to the board for licensure under this article.

2. The board may adopt regulations establishing what relevant information shall be included on an application for licensure under this article. Such information may include, but is not limited to: information about the applicant's identity; ownership and investment information, including the corporate structure; evidence of good moral character; financial statements; information about the premises to be licensed; information about the activities to be licensed; and any other relevant information specified in regulation.

3. All license applications shall be signed by the applicant if an individual, by a managing partner if a limited liability company, by an officer if a corporation, or by all partners if a partnership. Each person signing such application shall verify it as true under the

penalties of perjury.

4. All license applications shall be accompanied by a check, draft or other forms of payment as the board may require or authorize in the reasonable amount required by this article for such license.

5. If there be any change, after the filing of the application or the granting, modification or renewal of a license, in any of the material facts required to be set forth in such application, a supplemental statement giving notice of such change, duly verified, shall be filed with the board within ten days after such change. Failure to do so, if willful and deliberate, may be grounds for revocation of the license.

§ 96. Fees. The board may charge licensees a reasonable license fee. Such fee may be based on the activities permitted by the license, the amount of cannabinoid hemp or hemp extract to be processed or extracted by the licensee, the gross annual receipts of the licensee for the previous license period, or any other factors reasonably deemed appropriate by the board.

§ 97. Selection criteria. 1. The applicant, if an individual or individuals, shall furnish evidence of the individual's good moral character, and if an entity, the applicant shall furnish evidence of the good moral character of the individuals who have or will have substantial responsibility for the licensed or authorized activity and those in control of the entity, including principals, officers, or others with such control.

2. The applicant shall furnish evidence of the applicant's experience and competency, and that the applicant has or will have adequate facilities, equipment, process controls, and security to undertake those activities for which licensure is sought.

3. The applicant shall furnish evidence of his, her or its ability to comply with all applicable state and local laws, rules and regulations.

4. If the board is not satisfied that the applicant should be issued a license, the board shall notify the applicant in writing of the specific reason or reasons for denial.

5. No license pursuant to this article may be issued to an individual under the age of eighteen years.

§ 98. License renewal. 1. Each license, issued pursuant to this article, may be renewed upon application therefor by the licensee and the payment of the reasonable fee for such license as specified by this article.

2. In the case of applications for renewals, the board may dispense with the requirements of such statements as it deems unnecessary in view of those contained in the application made for the original license.

3. The board shall provide an application for renewal of any license issued under this article not less than ninety days prior to the expiration of the current license.

4. The board may only issue a renewal license upon receipt of the specified renewal application and renewal fee from a licensee if, in addition to the selection criteria set out in this article, the licensee's license is not under suspension and has not been revoked.

§ 99. Form of license. Licenses issued pursuant to this article shall specify:

1. The name and address of the licensee;

2. The activities permitted by the license;

3. The land, buildings and facilities that may be used for the licensed activities of the licensee;

4. A unique license number issued by the board to the licensee; and

5. Such other information as the board shall deem necessary to assure compliance with this article.

§ 100. Transferability; amendment to license; change in ownership or control. 1. Licenses issued under this article are not transferable, absent written consent of the board.

2. Upon application of a licensee, a license may be amended to add or delete permitted activities.

3. A license shall become void by a change in ownership, substantial corporate change or change of location without prior written approval of the board. The board may make regulations allowing for certain types of changes in ownership without the need for prior written approval.

§ 101. Granting, suspending or revoking licenses. After due notice and an opportunity to be heard, established by rules and regulations, the board may decline to grant a new license, impose conditions or limits with respect to the grant of a license, modify an existing license or decline to renew a license, and may suspend or revoke a license already granted after due notice and an opportunity to be heard, as established by rules and regulations, whenever the board finds that:

1. A material statement contained in an application is or was false or misleading;

2. The applicant or licensee, or a person in a position of management and control thereof or of the licensed activity, does not have good moral character, necessary experience or competency, adequate facilities, equipment, process controls, or security to process, distribute, transport or sell cannabinoid hemp, hemp extract or products derived therefrom;

3. After appropriate notice and opportunity, the applicant or licensee has failed or refused to produce any records or provide any information required by this article or the regulations promulgated pursuant thereto;

4. The licensee has conducted activities outside of those activities permitted on its license; or

5. The applicant or licensee, or any officer, director, partner, or any other person exercising any position of management or control thereof or of the licensed activity has willfully failed to comply with any of the provisions of this article or regulations under it and other laws of this state applicable to the licensed activity.

§ 102. Record keeping and tracking. Every licensee shall keep, in such form as the board may direct, such relevant records as may be required pursuant to regulations under this article.

§ 103. Packaging and labeling of cannabinoid hemp and hemp extract. 1. Cannabinoid hemp processors shall be required to provide appropriate label warning to consumers, and restricted from making unapproved label claims, as determined by the board, concerning the potential impact on or benefit to human health resulting from the use of cannabinoid hemp, hemp extract and products derived therefrom for human consumption, which labels shall be affixed to those products when sold, pursuant to rules and regulations that the board may adopt.

2. The board may, by rules and regulations, require processors to establish a code, including, but not limited to QR code, for labels and establish methods and procedures for determining, among other things, serving sizes or dosages for cannabinoid hemp, hemp extract and products derived therefrom, active cannabinoid concentration per serving size, number of servings per container, and the growing region, state or country of origin if not from the United States. Such rules and

regulations may require an appropriate fact panel that incorporates data regarding serving sizes and potency thereof.

3. The packaging, sale, or possession of products derived from cannabinoid hemp or hemp extract used for human consumption not labeled or offered in conformity with regulations under this section shall be grounds for the seizure or quarantine of the product, the imposition of a civil penalty against a processor or retailer, and the suspension, revocation or cancellation of a license, in accordance with this article.

§ 104. Processing of cannabinoid hemp and hemp extract. 1. No processor shall sell or agree to sell or deliver in the state any cannabinoid hemp, hemp extract or product derived therefrom, used for human consumption, except in sealed containers containing quantities in accordance with size standards pursuant to rules adopted by the board. Such containers shall have affixed thereto such labels as may be required by the rules of the board.

2. Processors shall take such steps necessary to ensure that the cannabinoid hemp or hemp extract used in their processing operation has only been grown with pesticides that are registered by the department of environmental conservation or that specifically meet the United States environmental protection agency registration exemption criteria for minimum risk, used in compliance with rules, regulations, standards and guidelines issued by the department of environmental conservation for pesticides.

3. All cannabinoid hemp, hemp extract and products derived therefrom used for human consumption shall be extracted and processed in accordance with good manufacturing processes pursuant to Part 117 or Part 111 of title 21 of the code of federal regulations, as may be defined, modified and decided upon by the board in rules or regulations.

4. As necessary to protect human health, the board shall have the authority to: (a) regulate and prohibit specific ingredients, excipients

or methods used in processing cannabinoid hemp, hemp extract and products derived therefrom; and (b) prohibit, or expressly allow, certain products or product classes derived from cannabinoid hemp or hemp extract, to be processed.

§ 105. Laboratory testing. Every cannabinoid hemp processor shall contract with an independent commercial laboratory to test the hemp extract and products produced by the licensed processor. The board shall establish the necessary qualifications or certifications required for such laboratories used by licensees. The board is authorized to issue rules and regulations consistent with this article establishing the testing required, the reporting of testing results and the form for reporting such laboratory testing results. The board has authority to require licensees to submit any cannabinoid hemp, hemp extract or product derived therefrom, processed or offered for sale within the state, for testing by the board. This section shall not obligate the board, in any way, to perform any testing on hemp, cannabinoid hemp, hemp extract or product derived therefrom.

§ 106. New York hemp product. The board may establish and adopt official grades and standards for cannabinoid hemp, hemp extract and products derived therefrom, as the board may deem advisable, which are produced for sale in this state and, from time to time, may amend or modify such grades and standards.

§ 107. Penalties. Notwithstanding the provision of any law to the contrary, the failure to comply with a requirement of this article, or a regulation thereunder, may be punishable by a civil penalty of not more than one thousand dollars for a first violation; not more than five thousand dollars for a second violation within three years; and not more than ten thousand dollars for a third violation and each subsequent violation thereafter, within three years.

§ 108. Hemp workgroup. The board, in consultation with the commissioner of the department of agriculture and markets, may appoint a New York state hemp and hemp extract workgroup, composed of growers, researchers, producers, processors, manufacturers and trade associations, to make recommendations for the industrial hemp and cannabinoid hemp programs, state and federal policies and policy initiatives, and opportunities for the promotion and marketing of cannabinoid hemp and hemp extract as consistent with federal and state laws, rules and regulations.

§ 109. Prohibitions. 1. Except as authorized by the United States food and drug administration, the processing of cannabinoid hemp or hemp extract used for human consumption is prohibited within the state unless the processor is licensed under this article.

2. Cannabinoid hemp and hemp extracts used for human consumption and grown or processed outside the state shall not be distributed or sold at retail within the state, unless they meet all standards established for cannabinoid hemp under state law and regulations.

3. The retail sale of cannabinoid hemp is prohibited in this state unless the retailer is licensed under this article.

§ 110. Special use permits. The board shall have the authority to issue temporary permits for carrying on any activity related to cannabinoid hemp, hemp extract and products derived therefrom, licensed under this article. The board may set reasonable fees for such permits, to establish the periods during which such permits are valid, and to make rules and regulations to implement this section.

§ 111. Severability. If any provision of this article or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this article which can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable.

ARTICLE 6

GENERAL PROVISIONS

§ 125. General prohibitions and restrictions. 1. No person shall cultivate, process, distribute for sale or sell at wholesale or retail or deliver to consumers any cannabis, cannabis product, medical cannabis or cannabinoid hemp or hemp extract product, or any product marketed or labeled as such, within the state without obtaining the appropriate registration, license, or permit therefor required by this chapter unless otherwise authorized by law.

1-a. No person shall engage in an indirect retail sale irrespective of whether such person has obtained a registration, license, or permit issued under this chapter.

1-b. Any activity conducted in violation of subdivision one or one-a of this section presents a danger to public health, safety, and welfare.

2. No registered organization, licensee, or permittee or other entity under the jurisdiction of the board shall sell, or agree to sell or deliver in this state any cannabis or cannabinoid hemp or hemp extract for the purposes of resale to any person who is not duly registered, licensed or permitted pursuant to this chapter to sell such product, at wholesale or retail, as the case may be, at the time of such agreement and sale.

3. No registered organization, licensee, or permittee or other entity under the jurisdiction of the board shall employ, or permit to be employed, or shall allow to work, on any premises registered or licensed for retail sale hereunder, any person under the age of eighteen years in any capacity where the duties of such person require or permit such person to sell, dispense or handle cannabis. Any employee eighteen years of age or older and under twenty-one years of age may not have direct interaction with customers inside a licensed retail store.

4. No registered organization, licensee, or permittee, or other entity under the jurisdiction of the board, shall sell, deliver or give away, or cause, permit or procure to be sold, delivered or given away any cannabis, cannabis product, or medical cannabis on credit; except that a registered organization, licensee or permittee may accept third party credit cards for the sale of any cannabis, cannabis product, or medical cannabis for which it is registered, licensed or permitted to dispense

or sell to patients or cannabis consumers. This includes, but is not limited to, any consignment sale of any kind.

5. No registered organization, licensee, or permittee, or other entity under the jurisdiction of the board, shall cease to be operated as a bona fide or legitimate premises within the contemplation of the registration, license, or permit issued for such premises, as determined within the judgment of the board.

6. No registered organization, licensee, or permittee, or other entity under the jurisdiction of the board, shall refuse, nor any person holding a registration, license, or permit refuse, nor any officer or director of any corporation or organization holding a registration, license, or permit refuse, to appear and/or testify under oath at an inquiry or hearing held by the board, with respect to any matter bearing upon the registration, license, or permit, the conduct of any people at the licensed premises, or bearing upon the character or fitness of such registrant, licensee, or permittee, or other entity under the jurisdiction of the board, to continue to hold any registration, license, or permit. Nor shall any of the above offer false testimony under oath at such inquiry or hearing.

7. No registered organization, licensee, or permittee, or other entity under the jurisdiction of the board, shall engage, participate in, or aid or abet any violation of any provision of this chapter, or the rules or regulations of the board.

8. It shall be the responsibility of the registered organization, licensee or permittee, or other entity under the jurisdiction of the board, to exercise adequate supervision over the registered, licensed or permitted location. Persons registered, licensed, or permitted shall be held strictly accountable for any and all violations that occur upon any registered, licensed, or permitted premises, and for any and all violations committed by or permitted by any manager, agent or employee of such registered, licensed, or permitted person.

9. As it is a privilege under the law to be registered, licensed, or

permitted to cultivate, process, distribute, or sell cannabis, the board may impose any such further restrictions upon any registrant, licensee, or permittee in particular instances as it deems necessary to further state policy and best serve the public interest. A violation or failure of any person registered, licensed, or permitted to comply with any condition, stipulation, or agreement, upon which any registration, license, or permit was issued or renewed by the board may, in accordance with this chapter subject the registrant, licensee, or permittee to suspension, cancellation, revocation, and/or civil penalties in accordance with this chapter, as determined by the board.

10. No adult-use cannabis or medical cannabis may be imported to, or exported out of, New York state by a registered organization, licensee or person holding a license and/or permit pursuant to this chapter, until such time as it may become legal to do so under federal law. Should it become legal to do so under federal law, the board may promulgate such rules and regulations as it deems necessary to protect the public and the policy of the state, including but not limited to prioritize and promote New York cannabis. Further, all such cannabis or cannabis products must be distributed in a manner consistent with the provisions of this chapter.

11. No registered organization, licensee or any of its agents, servants or employees shall sell any cannabis product, or medical cannabis from house to house by means of a truck or otherwise, where the sale is consummated and delivery made concurrently at the residence or place of business of a cannabis consumer. This subdivision shall not prohibit the delivery by a registered organization to certified patients or their designated caregivers, pursuant to article three of this chapter.

12. No licensee shall employ any canvasser or solicitor for the purpose of receiving an order from a certified patient, designated caregiver or cannabis consumer for any cannabis product, or medical cannabis at the residence or place of business of such patient, caregiver or consumer, nor shall any licensee receive or accept any order, for the sale of any cannabis product, or medical cannabis which

shall be solicited at the residence or place of business of a patient, caregiver or consumer. This subdivision shall not prohibit the solicitation by a distributor of an order from any licensee at the licensed premises of such licensee.

§ 126. License to be confined to premises licensed; premises for which no license shall be granted; transporting cannabis. 1. A registration, license, or permit issued to any person, pursuant to this chapter, for any registered, licensed, or permitted premises shall not be transferable to any other person, to any other location or premises, or to any other building or part of the building containing the licensed premises except in the discretion of the office. All privileges granted by any registration, license, or permit shall be available only to the person therein specified, and only for the premises licensed and no other except if authorized by the board. Provided, however, that the provisions of this section shall not be deemed to prohibit the amendment of a registration or license as provided for in this chapter. A violation of this section shall subject the registration, license, or permit to revocation for cause.

2. Where a registration or license for premises has been revoked, the board in its discretion may refuse to issue a registration, license, or permit under this chapter, for a period of up to five years after such revocation, for such premises or for any part of the building containing such premises and connected therewith.

3. In determining whether to issue such a proscription against granting any registration, license, or permit for such five-year period, in addition to any other factors deemed relevant to the board, the board shall, in the case of a license revoked due to the sale of cannabis to a person under the age of twenty-one not otherwise authorized by this chapter, determine whether the proposed subsequent licensee has obtained such premises through an arm's length transaction, and, if such transaction is not found to be an arm's length transaction, the office shall deny the issuance of such license.

4. For purposes of this section, "arm's length transaction" shall mean a sale of a fee of all undivided interests in real property, lease, management agreement, or other agreement giving the applicant control over the cannabis at the premises, or any part thereof, in the open market, between an informed and willing buyer and seller where neither is under any compulsion to participate in the transaction, unaffected by any unusual conditions indicating a reasonable possibility that the sale was made for the purpose of permitting the original licensee to avoid the effect of the revocation. The following sales shall be presumed not to be arm's length transactions unless adequate documentation is provided demonstrating that the sale, lease, management agreement, or other agreement giving the applicant control over the cannabis at the premises, was not conducted, in whole or in part, for the purpose of permitting the original licensee to avoid the effect of the revocation:

(a) a sale between relatives;

(b) a sale between related companies or partners in a business; or

(c) a sale, lease, management agreement, or other agreement giving the applicant control over the cannabis at the premises, affected by other facts or circumstances that would indicate that the sale, lease, management agreement, or other agreement giving the applicant control over the cannabis at the premises, is entered into for the primary purpose of permitting the original licensee to avoid the effect of the revocation.

5. No registered organization, licensee or permittee shall transport cannabis products or medical cannabis except in vehicles owned and operated by such registered organization, licensee or permittee, or hired and operated by such registered organization, licensee or permittee from a trucking or transportation company permitted and registered with the board.

6. No common carrier or person operating a transportation facility in this state, other than the United States government, shall knowingly receive for transportation or delivery within the state any cannabis products or medical cannabis unless the shipment is accompanied by a copy of a bill of lading, or other document, showing the name and address of the consignor, the name and address of the consignee, the

date of the shipment, and the quantity and kind of cannabis products or medical cannabis contained therein.

§ 127. Protections for the use of cannabis; unlawful discriminations prohibited. 1. No person, registered organization, licensee or permittee, employees, or their agents shall be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil liability or disciplinary action by a business or occupational or professional licensing board or office, solely for conduct permitted under this chapter. For the avoidance of doubt, the appellate division of the supreme court of the state of New York, and any disciplinary or character and fitness committees established by law are occupational and professional licensing boards within the meaning of this section. State or local law enforcement agencies shall not cooperate with or provide assistance to the government of the United States or any agency thereof in enforcing the federal controlled substances act solely for actions consistent with this chapter, except as pursuant to a valid court order.

2. No landlord may refuse to lease to and may not otherwise penalize an individual solely for conduct authorized under this chapter, except:

(a) if failing to do so would cause the landlord to lose a monetary or licensing related benefit under federal law or regulations; or

(b) if a property has in place a smoke-free policy, it is not required to permit the smoking of cannabis products on its premises, provided no such restriction may be construed to limit the certified medical use of cannabis.

2-a. No school, college or university may refuse to enroll and may not otherwise penalize a person solely for conduct allowed under this chapter, except:

(a) if failing to do so would cause the school, college or university to lose a monetary or licensing related benefit under federal law or regulations; or

(b) if the school, college or university has adopted a code of conduct prohibiting cannabis use on the basis of a sincere religious belief of the school, college or university.

3. For the purposes of medical care, including organ transplants, a certified patient's authorized use of medical cannabis must be considered the equivalent of the use of any other medication under the direction of a practitioner and does not constitute the use of an illicit substance or otherwise disqualify a registered qualifying patient from medical care.

4. An employer shall adhere to policies regarding cannabis use in accordance with section two hundred one-d of the labor law.

5. No person may be denied custody of or visitation or parenting time with a minor under the family court act, domestic relations law or social services law, solely for conduct permitted under this chapter including, but not limited to, section 222.05 or 222.15 of the penal law, unless it is in the best interest of the child and the child's physical, mental or emotional condition has been impaired, or is in imminent danger of becoming impaired as a result of the person's behavior as established by a fair preponderance of the evidence. For the purposes of this section, this determination cannot be based solely on whether, when, and how often a person uses cannabis without separate evidence of harm.

6. A person currently under parole, probation or other state supervision, or released on recognizance, non-monetary conditions, or bail prior to being convicted, shall not be punished or otherwise penalized for conduct allowed under this chapter unless the terms and conditions of said parole, probation, or state supervision explicitly prohibit a person's cannabis use or any other conduct otherwise allowed under this chapter. A person's use of cannabis or conduct under this chapter shall not be prohibited unless it has been shown by clear and convincing evidence that the prohibition is reasonably related to the underlying crime. Nothing in this provision shall restrict the rights of a certified medical patient.

§ 128. Permits, registrations and licenses. 1. No permit, registration or license shall be transferable or assignable except that notwithstanding any other provision of law, the permit, registration or license of a sole proprietor converting to corporate form, where such proprietor becomes the sole stockholder and only officer and director of such new corporation, may be transferred to the subject corporation if all requirements of this chapter remain the same with respect to such permit, registration or license as transferred and, further, the registered organization or licensee shall transmit to the board, within ten days of the transfer of license allowable under this subdivision, on a form prescribed by the board, notification of the transfer of such license.

2. No permit, registration or license shall be pledged or deposited as collateral security for any loan or upon any other condition; and any such pledge or deposit, and any contract providing therefor, shall be void.

3. Permits, registrations and licenses issued under this chapter shall contain, in addition to any further information or material to be prescribed by the rules and regulations of the board, the following information:

(a) name of the person to whom the license is issued;

(b) type of license and what type of cannabis commerce is thereby permitted;

(c) description by street and number, or otherwise, of licensed premises; and

(d) a statement in substance that such license shall not be deemed a property or vested right, and that it may be revoked at any time pursuant to law.

§ 129. Laboratory testing permits. 1. The board shall approve and permit one or more independent cannabis testing laboratories to test medical cannabis, adult-use cannabis and/or cannabinoid hemp or hemp extract.

2. To be permitted as an independent cannabis laboratory, a laboratory must apply to the office, on a form and in a manner prescribed by the office, which may include a reasonable fee, and must demonstrate the following to the satisfaction of the board:

(a) the owners and directors of the laboratory are of good moral character;

(b) the laboratory and its staff has the skills, resources and expertise needed to accurately and consistently perform all of the testing required for adult-use cannabis, medical cannabis and/or cannabinoid hemp or hemp extract;

(c) the laboratory has in place and will maintain adequate policies, procedures, and facility security to ensure proper: collection, labeling, accessioning, preparation, analysis, result reporting, disposal and storage of adult-use cannabis, and/or medical cannabis;

(d) for the testing of cannabis, the laboratory is physically located in New York state; and

(e) the laboratory meets any and all requirements prescribed by this chapter and by the board in regulation.

3. The owner of a laboratory testing permit under this section shall not hold a permit, registration or license in any category of this chapter and shall not have any direct or indirect ownership interest in such registered organization or licensee. No board member, officer, manager, owner, partner, principal stakeholder or member of a registered organization or licensee under this chapter, or such person's immediate family member, shall have an interest or voting rights in any laboratory testing permittee.

4. The board shall require that the permitted laboratory report testing results to the board in a manner, form and timeframe as determined by the office.

5. The board is authorized to promulgate regulations, establishing minimum operating and testing requirements, and requiring permitted laboratories to perform certain tests and services.

6. A laboratory granted a laboratory testing permit under this chapter

shall not required to be licensed by the federal drug enforcement agency.

7. The board is authorized to enter into contracts or memoranda of understanding with any other state for the purposes of aligning laboratory testing requirements or establishing best practices in testing of cannabis.

§ 130. Special use permits. The board shall have the authority to issue temporary permits for carrying on activities consistent with the policy and purpose of this chapter with respect to cannabis. No special use permit shall extend for a period longer than ninety days and shall not be renewable, except where a permit is being issued to a licensee as defined in article four of this chapter. A special use permit shall be issued pursuant to an abbreviated application process. The special use permit holder shall have ninety days in which to become fully licensed by satisfying all of the remaining conditions for licensure which were not required for the issuance of the special use permit.

The board may set reasonable fees for such permits and make rules and regulations to implement this section.

1. Industrial cannabis permit - to purchase cannabis from one of the entities licensed by the board for use in the manufacture and sale of any of the following, when such cannabis is not otherwise suitable for consumption purposes, namely: (a) apparel, energy, paper, and tools; (b) scientific, chemical, mechanical and industrial products; or (c) any other industrial use as determined by the board in regulation.

2. Trucking permit - to allow for the trucking or transportation of cannabis products, or medical cannabis by a person other than a registered organization or licensee under this chapter.

3. Warehouse permit - to allow for the storage of cannabis, cannabis products, or medical cannabis at a location not otherwise registered or licensed by the office.

4. Packaging permit - to authorize a licensed cannabis distributor to sort, package, label and bundle cannabis products from one or more registered organizations or licensed processors, on the premises of the licensed cannabis distributor or at a warehouse for which a permit has been issued under this section.

§ 130-a. Cannabis showcase event permit. 1. When used in this section:

(a) "Cannabis showcase event" shall mean an event where a licensee authorized to conduct retail sales of adult-use cannabis, cannabis products, and cannabis merchandise engages in the sale and showcase of such products away from the licensed premises in partnership with at minimum one licensed New York state adult-use cannabis cultivator and at minimum one licensed New York state adult-use cannabis processor, at showcase events that are located at stand-alone cannabis sale "pop-up" events, farmers' markets and public markets as defined in section two hundred sixty of the agriculture and markets law or similar such locations, as authorized by the office.

(b) "Showcase" shall mean the exhibiting or displaying at a cannabis showcase event by a permittee or an authorized licensee of adult-use cannabis and cannabis products and may include branded merchandise and educational materials.

2. A licensee authorized under this chapter to conduct retail sales of adult-use cannabis may apply to the office for a cannabis showcase event permit and shall be required to demonstrate that they are in partnership with a licensed cultivator and a licensed processor pursuant to subdivision one of this section. A microbusiness licensee authorized to conduct retail sales under section seventy-three of this chapter may also serve as the required licensed processor and licensed cultivator for a cannabis showcase event permit if that microbusiness licensee is also authorized to conduct processing and cultivation. A microbusiness licensee may also serve as a licensed processor and/or the licensed cultivator for another licensee applying for a permit under this section if that microbusiness is authorized to conduct the applicable processing or cultivating activity. An application for a cannabis showcase event

permit shall identify such licensed cultivators and processors who are authorized under this chapter to showcase at such cannabis showcase event.

3. A cannabis showcase event permit shall authorize: (a) the permitted licensee, authorized under this chapter to conduct retail sales of adult-use cannabis, adult-use cannabis products, and cannabis merchandise, and (b) the permitted licensee and licensees who are authorized under this chapter to cultivate or process adult-use cannabis, to showcase their adult-use cannabis and cannabis products, for a temporary period of time, at a cannabis showcase event. The permittee shall offer for sale the adult-use cannabis and adult-use cannabis products cultivated or processed by the licensees authorized on the permit to showcase at such cannabis showcase event, provided, however, the permittee shall not be limited to selling the products of such authorized licensees.

4. All adult-use cannabis and cannabis product sales at a cannabis showcase event shall be executed by the permittee. No other licensee, person or entity shall be authorized to engage in cannabis or cannabis product sales at a cannabis showcase event.

5. A separate cannabis showcase event permit shall be required for each showcase event at which a cannabis showcase event is being held.

6. A separate cannabis showcase event permit shall be required for each licensee authorized under this chapter to conduct retail sales of adult-use cannabis and cannabis products.

7. In the event a cannabis showcase event contains more than one permittee, each permittee shall nevertheless be required to partner with at minimum one cultivator, pursuant to subdivision two of this section.

8. Each permittee shall be limited to partnering with no more than one licensed processor for each licensed cultivator authorized on their cannabis showcase event permit application.

9. No cannabis showcase event permit shall authorize more than one cannabis showcase event at one time. A licensee may participate in more than one cannabis showcase event so long as each cannabis showcase event has a corresponding separate cannabis showcase event permit.

10. Notwithstanding any other provision of this chapter, a cannabis showcase event permit shall be valid for no more than fourteen days.

11. The board may set reasonable fees for cannabis showcase event permits. Such fees may be based on cannabis showcase event permit size, length, duration, or any other factors deemed reasonable and appropriate by the board to achieve the policy and purpose of this chapter.

12. Permitted licensees shall comply with all reporting requirements, including required sales reporting, and all other requirements set forth in regulations. Any noncompliance by such permitted licensees or licensees authorized on the permit to showcase shall subject such licensees to applicable fees, fines and penalties.

13. The board shall promulgate regulations to implement this section.

§ 131. Local opt-out; municipal control and preemption. 1. The licensure and establishment of a retail dispensary license and/or on-site consumption license under the provisions of article four of this chapter authorizing the retail sale of adult-use cannabis to cannabis consumers shall not be applicable to a town, city or village which, after the effective date of this chapter, and, on or before the later of December thirty-first, two thousand twenty-one or nine months after the effective date of this section, adopts a local law, subject to permissive referendum governed by section twenty-four of the municipal home rule law, requesting the cannabis control board to prohibit the establishment of such retail dispensary licenses and/or on-site consumption licenses contained in article four of this chapter, within the jurisdiction of the town, city or village. Provided, however, that any town law shall apply to the area of the town outside of any village within such town. No local law may be adopted after the later of

December thirty-first, two thousand twenty-one or nine months after the effective date of this section prohibiting the establishment of retail dispensary licenses and/or on-site consumption licenses; provided, however, that a local law repealing such prohibition may be adopted after such date.

2. Except as provided for in subdivision one of this section, all county, town, city and village governing bodies are hereby preempted from adopting any law, rule, ordinance, regulation or prohibition pertaining to the operation or licensure of registered organizations, adult-use cannabis licenses or cannabinoid hemp licenses. However, towns, cities and villages may pass local laws and regulations governing the time, place and manner of the operation of licensed adult-use cannabis retail dispensaries and/or on-site consumption site, provided such law or regulation does not make the operation of such licensed retail dispensaries or on-site consumption sites unreasonably impracticable as determined by the board.

3. (a) As used in this subdivision and for purposes of any local law adopted pursuant to it, the following terms shall have the following meanings: "person" shall have the meaning provided for in subdivision forty-a of section three of this chapter; "unlicensed activity" shall refer only to unlawfully selling cannabis, cannabis product, or any product marketed or labeled as such without obtaining the appropriate registration, license, or permit therefor, or engaging in an indirect retail sale; "indirect retail sale" shall have the meaning provided for in subdivision forty-six-a of section three of this chapter, except that it shall not include cannabinoid hemp or hemp extract product; "place of business" shall not include a residence or other real property not otherwise held out as open to the public or otherwise being utilized in a business or commercial manner, or any vehicle associated with the business, unless probable cause exists to believe that such residence, real property, or vehicle, is being used in such business or commercial manner for the unlicensed activity.

(b) Any county or city may adopt a local law authorizing an officer or agency to conduct regulatory inspections of any place of business located within the county or city, including a vehicle used for such business, not listed on the directory maintained by the office pursuant to subdivision thirteen of section eleven of this chapter. Any such regulatory inspection shall only occur during the operating hours of a place of business and be conducted for purposes of civil administrative enforcement with respect to premises lacking applicable registrations, licenses or permits issued pursuant to this chapter, and in furtherance of its purposes, provided that nothing herein shall limit any enforcement action under law when illegal activity is observed or occurs during such inspection.

(c) A local law adopted by a county authorizing regulatory inspections shall not apply in any city included within the boundaries of such county that adopts a local law authorizing regulatory inspections within such city.

(d) The local law adopted by a county or a city pursuant to this subdivision shall also:

(i) require procedures sufficient to ensure that any regulatory inspections are conducted in a reasonable manner, are administrative in nature, designed to detect administrative violations, in furtherance of the regulatory scheme established pursuant to this section, and designed to guarantee certainty and regularity of application;

(ii) designate a local official who shall serve as the liaison to the office and who shall: (1) be required to ensure that updates to the directory are immediately incorporated into the local inspection process, coordinate with the office on efforts to inspect such unlicensed businesses and related local enforcement efforts; (2) send bi-weekly reports to the office in a manner and format prescribed by the office detailing recent enforcement efforts, including information regarding the number and location of inspections conducted, notices of violation issued, and orders to seal issued and executed, and the amount and nature of the cannabis, cannabis products, or products marketed as such seized; and (3) serve as the primary contact for the office in connection with the office's training program and the sharing of materials made available to counties and cities with regard to the inspection and enforcement of unlicensed cannabis businesses;

(iii) be filed with the office, as well as any procedures or regulations promulgated pursuant to the local law. Notwithstanding the effective date of any such local law, the local law shall not become effective until ten days after it is filed with the office;

(iv) establish a system for receiving complaints of such unlicensed activity by any business within the county or city, as the case may be;

(v) provide that any person who engages in the unlawful sale of cannabis, cannabis product, or any product marketed or labeled as such, or in indirect retail sales, shall be subject to a civil penalty of not less than one hundred dollars and not more than ten thousand dollars for each day during which such violation continues, with a maximum penalty of no more than twenty-five thousand dollars. The penalty provided for in this subparagraph may be recovered by an action or proceeding in a court of competent jurisdiction brought by the county or city to enforce the notice of violation referred to in clause one of subparagraph (vi) of this paragraph; and

(vi) provide that the officer or agency designated to conduct regulatory inspections of any place of business not listed on the directory maintained by the office shall have the authority to:

(1) issue a notice of violation and order to cease unlicensed activity setting forth the nature of the unlawful conduct along with any fines or penalties for such conduct in amounts not to exceed the fines set forth in subparagraph (v) of this paragraph and order any person who is unlawfully selling cannabis, cannabis product, or any product marketed or labeled as such without obtaining the appropriate registration, license, or permit therefor, or engaging in indirect retail sale, to cease such prohibited conduct, provided that any such notice of violation and order to cease unlicensed activity may only be issued against the business that is conducting the unlicensed activity or an individual owner of the business. Any notice of violation and order to cease unlicensed activity shall be served by delivery of the order to the owner of the business or other person of suitable age or discretion in actual or apparent control of the premises at the time of the inspection and shall be posted at the building or premises that have been sealed, secured and closed. A copy of the order shall also be mailed to any address for the owner of the business at any address provided by the person to whom such order was delivered pursuant to this paragraph;

(2) seize any cannabis, cannabis product, or any product marketed or labeled as such, found in the possession of a person engaged in the

conduct described in clause one of this subparagraph and in their place of business, including a vehicle used for such business, providing that the business that is conducting the unlicensed activity or an individual owner of the business, maintain documentation of the chain of custody of such seized products, and ensure that such products are properly stored, catalogued, and safeguarded until such time as they may properly be destroyed by the county or the city;

(3) issue an order to seal the building or premises of any business engaged in unlicensed activity, when such activity is conducted, maintained, or permitted in such building or premises, occupied as a place of business subject to the procedures and requirements set forth in this subparagraph:

A. The officer or agency may issue an order to seal with an immediate effective date if such order is based upon a finding by the officer or agency of an imminent threat to the public health, safety, and welfare.

B. Any order to seal shall be served by delivery of the order to the owner of the business or other person of suitable age or discretion in actual or apparent control of the premises at the time of the inspection and shall be posted at the building or premises that have been sealed, secured and closed. A copy of the order shall also be mailed to any address for the owner of the business provided by the person to whom such order was delivered pursuant to this paragraph. The order shall remain in effect pending a hearing and final determination of a court, or until such order is vacated by the officer or agency pursuant to the local law adopted pursuant to this subdivision. An order to seal shall explicitly state that a request for a hearing may be submitted in writing to the corporation counsel or to the county attorney as applicable within seven days. Upon receiving such a request for a hearing, the corporation counsel or county attorney shall file a copy of the request with the clerk of the city court or county court in the city or county where the building or premises is located.

C. The court that receives notice of a request for a hearing from a corporation counsel or a county attorney shall fix the date of such hearing no later than three business days from the date such notice is received by the court and provide notice to the parties of the date, time, and location of the hearing. Upon such date, or upon such other date to which the proceeding may be adjourned by agreement of the parties, the court shall hear testimony and receive evidence presented by the parties. The city or county, as applicable, and the person that requested the hearing shall be parties to the proceeding. Within four business days of the conclusion of the hearing, the court shall make a determination as to: (i) whether the person upon which the order to seal was issued was engaged in unlicensed activity, (ii) if the person is found to have engaged in unlicensed activity, then whether such unlicensed activity presents an imminent threat to public health, safety and welfare according to subdivision four of section one hundred thirty-eight-b of this article, and (iii) whether the unlicensed activity as described in this section is more than a de minimis part of the business activity on the premises or in the building to be sealed pursuant to the order. However, when an order to seal has been issued upon a second or subsequent inspection in which unlicensed activity is confirmed to be continuing more than ten calendar days after a notice of violation and order to cease unlicensed activity was previously issued, the court need only determine: (i) whether the person upon which the order to seal was issued was engaged in unlicensed activity; (ii) whether a notice of violation and order to cease unlicensed activity had been issued eleven or more days prior to the issuance of the order to seal; and (iii) whether the order to seal was issued in compliance with paragraph (a) of subdivision six of section one hundred thirty-eight-b of this article. If the court determines that an order to seal was not properly issued, the court shall vacate such order. If the court is satisfied that an order to seal was properly issued, the court may render a judgment affirming the issuance of an order to seal, and direct the closing of the building or premises by any police officer or peace officer with jurisdiction to the extent necessary to abate the unlicensed activity and shall direct any police officer or peace officer with jurisdiction to post a copy of the judgment and a printed notice of such closing conforming to the requirements of this chapter. The closing directed by the judgment shall be for such period as the court may direct but in no event shall the closing be for a period of more than one year from the posting of the judgment provided for in this section.

Failure of a party that requested a hearing to appear at the hearing will result in a default and order of sealing to remain in effect for such period as the court may direct but in no event shall the order be in effect for a period of more than one year from the posting of the judgment unless otherwise vacated pursuant to the local law adopted pursuant to this subdivision.

D. The local law adopted pursuant to this subdivision shall include, without alteration the provisions of subdivisions four through twelve of section one hundred thirty-eight-b of this article. Any provisions adopted by a local law to the contrary shall be considered specifically preempted by this paragraph, provided however that a county or city shall be permitted to substitute the officer or agency authorized by the county or city to conduct regulatory inspections pursuant to this subsection for any reference to the office or board;

(4) seek injunctive relief against any person engaging in conduct in violation of this section, including through an action pursuant to section sixteen-a of this chapter.

(e) Upon a demand by the county or city, a respondent or defendant shall provide to the county or city prior to a hearing pursuant to subparagraph (v) of paragraph (d) of this subdivision or an order to seal pursuant to clause three of subparagraph (vi) of paragraph (d) of this subdivision, within five days after a demand or sooner if a hearing is scheduled less than five days from the date of demand, a verified statement setting forth:

(i) If the responding party is a natural person, such party's: (1) full legal name; (2) date of birth; (3) current home or business street address; and (4) a unique identifying number from: (A) an unexpired passport; (B) an unexpired state driver's license; or (C) an unexpired identification card or document issued by a state or local government agency or tribal authority for the purpose of identification of that individual;

(ii) If the responding party is a partnership, limited liability partnership, limited liability company, or other unincorporated association, including a for profit or not-for-profit membership organization or club, the information required pursuant to subparagraph (i) of this paragraph for all of its partners or members, as well as the state or other jurisdiction of its formation;

(iii) If the responding party is a corporation, its state or other jurisdiction of incorporation, principal place of business, and any state or other jurisdiction of which that party is a citizen;

(iv) If the responding party is not an individual, in addition to any information provided pursuant to subparagraphs (ii) and (iii) of this paragraph, and to the extent not previously provided, each beneficial owner of the responding party by: (A) full legal name; (B) date of birth; (C) current home or business street address; and (D) a unique identifying number from: (1) an unexpired passport; (2) an unexpired state driver's license; or (3) an unexpired identification card or document issued by a state or local government agency or tribal authority for the purpose of identification of that individual. As used in this section, the term "beneficial owner" shall have the same meaning as defined in 31 U.S.C. § 5336(a)(3), as amended, and any regulations promulgated thereunder.

(f) Notwithstanding any provision to the contrary in this section, a city with a population of more than one million may enforce any violations, orders to cease, and orders to seal related to unlicensed activity through an administrative hearing process.

§ 131-a. Office to be necessary party to certain proceedings. The office shall be made a party to all actions and proceedings affecting in any manner the possession, ownership or transfer of a registration, license or permit to operate within a municipality and to all such injunction proceedings.

§ 132. Penalties for violation of this chapter. 1.(a) Any person who cultivates for sale, offers to sell, or sells cannabis, cannabis products, medical cannabis, or any product marketed or labeled as such, without having an appropriate registration, license or permit therefor, including a person whose registration, license, or permit has been revoked, surrendered or cancelled, where such person is engaging in activity for which a license would be required under this chapter, may be subject to a civil penalty of not more than ten thousand dollars for each day during which such violation continues and an additional civil penalty in an amount of no more than five times the revenue from such prohibited sales or, in an amount of no more than three times the projected revenue for any such product found in the possession of such person based on the retail list price of such products; provided, however, that any such person who engages in such activity from a residence or other real property not otherwise held out as open to the public or otherwise being utilized in a business or commercial manner or any private vehicle on or about same such property, and the quantity of such product on such premises or vehicle does not exceed the limits of personal use under article two hundred twenty-two of the penal law, may be subject to a civil penalty of no more than five thousand dollars.

Provided, further, that where such person has been ordered to cease such conduct pursuant to subdivision one of section one hundred thirty-eight-a of this article, such person may be assessed a civil penalty of no more than twenty thousand dollars per day for each day during which such violation continues after receiving such order in addition to the additional civil penalties set forth above; provided, however, that any such person who engages in such activity from a residence or other real property not otherwise held out as open to the public or otherwise being utilized in a business or commercial manner or any private vehicle on or about same such property, and the quantity of such product on such premises or vehicle does not exceed the limits of personal use under article two hundred twenty-two of the penal law, may be subject to a civil penalty of no more than ten thousand dollars.

(b) If a person engaging in the conduct described in paragraph (a) of this subdivision or subdivision one-a of this section refuses to permit the office or the board from performing a regulatory inspection, such person may be assessed a civil penalty of up to eight thousand dollars for a first refusal and up to fifteen thousand dollars for a second or subsequent refusal within three years of a prior refusal. If the office or board is not permitted access for a regulatory inspection pursuant to section ten or section eleven of this chapter, as applicable, by such person, the attorney general, upon the request of the office or the board, shall be authorized to apply, without notice to such person, to the supreme court in the county in which the place of business is located for an order granting the office or board access to such place of business. The court may grant such an order if it determines, based on evidence presented by the attorney general, that there is reasonable cause to believe that such place of business is a place of business which does not possess a valid registration, license, or permit issued by the office or board.

(c) In assessing the civil penalties under this subdivision or subdivision one-a of this section, the board or office shall take into consideration the nature of such violation and shall assess a penalty that is proportionate to the violation; provided, however, that an affidavit from a representative of the office, the office of the attorney general, or a local government, or a local police officer confirming the presence of conduct described in this subdivision or subdivision one-a of this section following an inspection by the office after the office has ordered such conduct to cease shall be sufficient to establish a prima facie case that such conduct had been continuing for each business day between the initial inspection and the last observed or otherwise documented conduct.

1-a. Any person engaged in indirect retail sale in violation of subdivision one-a of section one hundred twenty-five of this article, shall be subject to a civil penalty in an amount equaling the lesser of three times the revenue for such indirect retail sales or up to two thousand five hundred dollars for each such sale, provided, however, that where such conduct also constitutes a violation of subdivision one of this section, such person may only be subject to the civil penalties under one such subdivision, and provided, further, that where such person has been ordered to cease such conduct pursuant to subdivision one of section one hundred thirty-eight-a of this article, such person may be assessed a civil penalty of up to five thousand dollars for each day during which such violation continues in addition to any civil penalties set forth above.

2. Any registered organization or licensee, who has received notification of a registration or license suspension pursuant to the provisions of this chapter, who sells cannabis, cannabis products, medical cannabis or cannabinoid hemp or hemp extract during the

suspension period, shall be subject to prosecution as provided in article two hundred twenty-two of the penal law, and upon conviction thereof under this section may be subject to a civil penalty of not more than five thousand dollars.

3. Any person who shall knowingly make any materially false statement in the application for a registration, license or a permit under this chapter may be subject to license or registration suspension, revocation, or denial subject to the board, and may be subject to a civil penalty of not more than two thousand dollars.

4. Any person under the age of twenty-one found to be in possession of cannabis or cannabis products who is not a certified patient pursuant to article three of this chapter shall be in violation of this chapter and shall be subject to the following penalty:

(a) (i) The person shall be subject to a civil penalty of not more than fifty dollars. The civil penalty shall be payable to the office of cannabis management.

(ii) Any identifying information provided by the enforcement agency for the purpose of facilitating payment of the civil penalty shall not be shared or disclosed under any circumstances with any other agency or law enforcement division.

(b) The person shall, upon payment of the required civil penalty, be provided with information related to the dangers of underage use of cannabis and information related to cannabis use disorder by the office.

(c) The issuance and subsequent payment of such civil penalty shall in no way qualify as a criminal accusation, admission of guilt, or a criminal conviction and shall in no way operate as a disqualification of any such person from holding public office, attaining public employment, or as a forfeiture of any right or privilege.

5. Cannabis recovered from individuals who are found to be in violation of this chapter may after notice and opportunity for a hearing be considered a nuisance and shall be disposed of or destroyed.

6. Except as otherwise provided for in this chapter, the board shall promulgate rules and regulations providing for notice and opportunity to

be heard, prior to the imposition of any civil penalty under this section, except where such civil penalty is being sought in an action or proceeding by the attorney general as otherwise authorized in this chapter, provided, further, nothing in this section shall prohibit the board from suspending, revoking, or denying a license, permit, registration, or application in addition to the penalties that may be assessed under this section.

7. The penalties provided for in subdivision one of this section may be recovered by the attorney general on behalf of the board or office in an action or proceeding brought pursuant to section one hundred thirty-eight-a of this chapter.

8. Any person who knowingly and unlawfully sells, gives, or causes to be sold or given, any cannabis or cannabis products for which the sale of such products requires a license, permit, or registration under this chapter where such person owns and/or is principally responsible for the operation of a business where such products were sold, given, or caused to be sold or given without having obtained a valid license, permit or registration therefor shall be guilty of a class A misdemeanor. For the purposes of this section, "operation of a business" shall mean engaging in the sale of, or otherwise offering for sale, goods and services to the general public, including through indirect retail sales.

§ 133. Revocation of registrations, licenses and permits for cause; procedure for revocation or cancellation. 1. Any registration, license or permit issued pursuant to this chapter may be revoked, cancelled, suspended and/or subjected to the imposition of a civil penalty for cause.

2. There shall be a rebuttable presumption of revocation for the following causes:

(a) conviction of the registered organization, licensee, permittee or his or her agent or employee for selling any illicit cannabis on the premises registered, licensed or permitted; or

(b) for transferring, assigning or hypothecating a registration, license or permit without prior written approval of the office.

3. Notwithstanding the issuance of a registration, license or permit by way of renewal, the board may revoke, cancel or suspend such registration, license or permit and/or may impose a civil penalty against any holder of such registration, license or permit, as prescribed by this section, for causes or violations occurring during the license period immediately preceding the issuance of such registration, license or permit.

4. (a) As used in this section, the term "for cause" shall also include the existence of a sustained and continuing pattern of misconduct, failure to adequately prevent diversion or disorder on or about the registered, licensed or permitted premises, or in the area in front of or adjacent to the registered or licensed premises, or in any parking lot provided by the registered organization or licensee for use by registered organization or licensee's patrons, which significantly adversely affects or tends to significantly adversely affect the protection, health, welfare, safety, or repose of the inhabitants of the area in which the registered or licensed premises is located.

(b) (i) As used in this section, the term "for cause" shall also include deliberately misleading the board or office of cannabis management:

(A) as to the nature and character of the business to be operated by the registered organization, licensee or permittee; or

(B) by substantially altering the nature or character of such business during the registration or licensing period without seeking appropriate approvals from the board.

(ii) As used in this subdivision, the term "substantially altering the nature or character" of such business shall mean any significant and material alteration in the scope of business activities conducted by a registered organization, licensee or permittee that would require obtaining an alternate form of registration, license or permit.

5. As used in this chapter, the existence of a sustained and continuing pattern of misconduct or disorder on or about the premises may be presumed upon the sixth incident reported to the board by a law

enforcement agency, or discovered by the board during the course of any investigation, of misconduct or disorder on or about the premises or related to the operation of the premises, absent clear and convincing evidence of either fraudulent intent on the part of any complainant or a factual error with respect to the content of any report concerning such complaint relied upon by the board.

6. Any registration, license or permit issued by the board pursuant to this chapter may be revoked, cancelled or suspended and/or be subjected to the imposition of a monetary penalty set forth in this chapter in the manner prescribed by this section. In addition to the grounds set forth in this section, the board may also revoke, cancel, or suspend any registration, license, or permit where such person holding such registration, license, or permit has been found to have refused to permit a regulatory inspection by the board.

7. The board may on its own initiative, or on complaint of any person, institute proceedings to revoke, cancel or suspend any adult-use cannabis retail dispensary license or adult-use cannabis on-site consumption license and may impose a civil penalty against the licensee after a hearing at which the licensee shall be given an opportunity to be heard. Such hearing shall be held in such manner and upon such notice as may be prescribed in regulation by the board.

8. All other registrations, licenses or permits issued under this chapter may be revoked, cancelled, suspended and/or made subject to the imposition of a civil penalty by the office after a hearing to be held in such manner and upon such notice as may be prescribed in regulation by the board. In addition to the grounds set forth in this section, the office may also revoke, cancel, or suspend any registration, license, or permit where such person holding such registration, license, or permit has been found to have refused to permit a regulatory inspection by the office.

9. Where a licensee or permittee is convicted of two or more qualifying offenses within a five-year period, the office, upon receipt of notification of such second or subsequent conviction, shall, in

addition to any other sanction or civil or criminal penalty imposed pursuant to this chapter, impose on such licensee a civil penalty not to exceed ten thousand dollars. For purposes of this subdivision, a qualifying offense shall mean the sale of cannabis to a person under the age of twenty-one not otherwise authorized by this chapter. For purposes of this subdivision only, a conviction of a licensee or an employee or agent of such licensee shall constitute a conviction of such licensee.

10. The board may adopt rules and regulations based on federal guidance, provided those rules and regulations are designed to comply with federal guidance and mitigate federal enforcement against the registrations, licenses, or permits issued under this chapter, or the cannabis industry as a whole. This may include regulations which permit the sharing of licensee, registrant, or permit holder information with designated banking or financial institutions, provided these regulations are designed to aid cannabis industry participants' access to banking and financial services.

§ 134. Lawful actions pursuant to this chapter. 1. Contracts related to the operation of registered organizations, licenses and permits under this chapter shall be lawful and shall not be deemed unenforceable on the basis that the actions permitted pursuant to the registration, license or permit are prohibited by federal law.

2. The following actions are not unlawful as provided under this chapter, shall not be an offense under any state or local law, and shall not result in any civil penalty, fine, seizure, or forfeiture of assets, or be the basis for detention or search against any person acting in accordance with this chapter:

(a) Actions of a registered organization, licensee, or permittee, or the employees or agents of such registered organization, licensee or permittee, as permitted by this chapter and consistent with rules and regulations of the office, pursuant to a valid registration, license or permit issued by the board.

(b) Actions of those who allow property to be used by a registered organization, licensee, or permittee, or the employees or agents of such registered organization, licensee or permittee, as permitted by this chapter and consistent with rules and regulations of the office, pursuant to a valid registration, license or permit issued by the board.

(c) Actions of any person or entity, their employees, or their agents providing a service to a registered organization, licensee, permittee or a potential registered organization, licensee, or permittee, as permitted by this chapter and consistent with rules and regulations of the office, relating to the formation of a business.

(d) The purchase, cultivation, possession, or consumption of cannabis and medical cannabis, as permitted by law, and consistent with rules and regulations of the board.

§ 135. Review by courts. An action by the board shall be subject to review by the supreme court in the manner provided in article seventy-eight of the civil practice law and rules including, but not limited to:

(a) Refusal by the board to issue a registration, license, or a permit.

(b) The revocation, cancellation or suspension of a registration, license, or permit by the board.

(c) The failure or refusal by the board to render a decision upon any application or hearing submitted to or held by the board within sixty days after such submission or hearing.

(d) The transfer by the board of a registration, license, or permit to any other entity or premises, or the failure or refusal by the board to approve such a transfer.

(e) Refusal to approve alteration of premises.

(f) Refusal to approve a corporate change in stockholders, stockholdings, officers or directors.

§ 136. Illicit cannabis. 1. "Illicit cannabis" means and includes any cannabis flower, concentrated cannabis and cannabis product on which any tax required to have been paid under any applicable state law, has not been paid. Illicit cannabis shall not include any cannabis lawfully possessed in accordance with this chapter or the penal law.

2. Any person holding a license, permit or registration under this chapter who shall knowingly possess or have under his or her control any cannabis known by the person to be illicit cannabis is guilty of a class B misdemeanor.

3. Any person holding a license, permit or registration pursuant to this chapter who shall knowingly barter, exchange, give or sell, or offer to barter, exchange, give or sell any cannabis known by the person to be illicit cannabis is guilty of a misdemeanor.

4. Any person holding a license, permit or registration pursuant to this chapter who shall knowingly possess or have under his or her control or transport any cannabis known by the person to be illicit cannabis with intent to barter, exchange, give or sell such cannabis is guilty of a class B misdemeanor.

5. Any person who, being the owner, lessee or occupant of any room, shed, tenement, booth, building, float, vessel or part thereof who knowingly permits the same to be used for the cultivation, processing, distribution, purchase, sale, warehousing or transportation of any cannabis, in violation of a possession limit in the penal law, known by the person to be illicit cannabis, is guilty of a violation.

§ 137. Persons forbidden to traffic cannabis; certain officials not to be interested in manufacture or sale of cannabis products. 1. The following are forbidden to traffic in cannabis except in extraordinary circumstances as determined by the board:

(a) An individual who has been convicted of an offense related to the functions or duties of owning and operating a business within three years of the application date, except that if the board determines that the owner or licensee is otherwise suitable to be issued a license, and the board determines granting the license is not inconsistent with public safety, the board shall conduct a thorough review of the nature of the crime, conviction, circumstances and evidence of rehabilitation of the owner in accordance with article twenty-three-A of the correction law, and shall evaluate the suitability of the owner or licensee to be issued a license based on the evidence found through the review. In determining which offenses are substantially related to the functions or duties of owning and operating a business, the board shall include, but not be limited to, the following:

(i) a felony conviction within the past five years involving fraud, money laundering, forgery or other unlawful conduct related to owning and operating a business; and

(ii) a felony conviction within the past five years for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing, offering to furnish, administering, or giving any controlled substance to a minor.

(b) A person under the age of twenty-one years;

(c) A partnership or a corporation, unless each member of the partnership, or each of the principal officers and directors of the corporation, is a citizen of the United States or a person lawfully admitted for permanent residence in the United States, not less than twenty-one years of age; provided however that a corporation which otherwise conforms to the requirements of this section and chapter may be licensed if each of its principal officers and more than one-half of its directors are citizens of the United States or persons lawfully admitted for permanent residence in the United States; and provided further that a corporation organized under the not-for-profit corporation law or the education law which otherwise conforms to the requirements of this section and chapter may be licensed if each of its principal officers and directors are not less than twenty-one years of age; and provided, further, that a corporation organized under the not-for-profit corporation law or the education law and located on the premises of a college as defined by section two of the education law which otherwise conforms to the requirements of this section and chapter may be licensed if each of its principal officers and each of its directors are not less than twenty-one years of age;

(d) A person who shall have had any registration or license issued under this chapter revoked for cause, until the expiration of one year from the date of such revocation;

(d-1) A person who has been found to have engaged in unlicensed, unregistered, or unpermitted conduct under this chapter, until three years after such finding;

(e) A person not registered or licensed under the provisions of this chapter, who has been convicted of a misdemeanor or felony in violation of this chapter, until the expiration of one year from the date of such conviction; or

(f) A corporation or partnership, if any officer and director or any partner, while not licensed under the provisions of this chapter, has been convicted of a misdemeanor or felony in violation of this chapter, or has had a registration or license issued under this chapter revoked for cause, until the expiration of up to one year from the date of such conviction or revocation as determined by the board.

2. Except as may otherwise be provided for in regulation, it shall be unlawful for any chief of police, police officer or subordinate of any police department in the state, to be either directly or indirectly interested in the cultivation, processing, distribution, or sale of cannabis products or to offer for sale, or recommend to any registered organization or licensee any cannabis products. A person may not be denied any registration or license granted under the provisions of this chapter solely on the grounds of being the spouse or domestic partner of a public servant described in this section. The solicitation or recommendation made to any registered organization or licensee, to purchase any cannabis products by any police official or subordinate as hereinabove described, shall be presumptive evidence of the interest of such official or subordinate in the cultivation, processing, distribution, or sale of cannabis products.

3. No elected village officer shall be subject to the limitations set forth in subdivision two of this section unless such elected village officer shall be assigned duties directly relating to the operation or management of the police department.

§ 138. Access to criminal history information through the division of criminal justice services. In connection with the administration of this chapter, the board is authorized to request, receive and review criminal history information through the division of criminal justice services with respect to any person seeking a registration, license, permit or authorization to cultivate, process, distribute or sell medical cannabis, adult-use cannabis, cannabinoid hemp or hemp extract. At the board's request, each person, member, principal and/or officer of the applicant shall submit to the board his or her fingerprints in such form and in such manner as specified by the division, for the purpose of conducting a criminal history search identifying criminal convictions and pending criminal charges and returning a report thereon in accordance with the procedures and requirements established by the division pursuant to the provisions of article thirty-five of the executive law, which shall include the payment of the reasonable prescribed processing fees for the cost of the division's full search and retain procedures and a national criminal history record check. The board, or their designee, shall submit such fingerprints and the processing fee to the division. The division shall forward to the board a report with respect to the applicant's previous criminal history, if any, or a statement that the applicant has no previous criminal history according to its files. Fingerprints submitted to the division pursuant to this subdivision may also be submitted to the federal bureau of investigation for a national criminal history record check. If additional copies of fingerprints are required, the applicant shall furnish them upon request. Upon receipt of such criminal history information, the board shall provide such applicant with a copy of such criminal history information, together with a copy of article twenty-three-A of the correction law, and inform such applicant of his or her right to seek correction of any incorrect information contained in such criminal history information pursuant to regulations and procedures established by the division of criminal justice services.

§ 138-a. Action for unlawful business practices relating to cannabis. The board or the office of cannabis management shall, in accordance with the authority otherwise conferred in this chapter, have the authority to:

1. order any person who is unlawfully cultivating, processing,

distributing or selling cannabis, cannabis product, cannabinoid hemp or hemp extract product, or any product marketed or labeled as such in this state without obtaining the appropriate registration, license, or permit therefor, or engaging in an indirect retail sale to cease such prohibited conduct;

2. seize any cannabis, cannabis product, cannabinoid hemp or hemp extract product, or any product marketed or labeled as such, found in the possession of a person engaged in the conduct described in subdivision one of this section and their place of business, including a vehicle used for such business;

3. initiate or refer the matter to the board for an administrative proceeding to enforce the provisions of this section;

4. seek injunctive relief against any person engaging in conduct in violation of this section;

5. request that the attorney general obtain judicial enforcement of an order issued under subdivision one of this section or bring an action or proceeding for any relief otherwise authorized under this chapter for a violation of this chapter, including the recovery of any applicable civil penalties;

6. in connection with any regulatory inspection or investigation or action thereafter, review, seize and copy records;

7. in connection with any action or proceeding authorized by this chapter, request that the attorney general or any police officer or peace officer seize or remove and hold as evidence all material, equipment, and instrumentalities used in the creation and maintenance of the conduct described in subdivision one of this section;

8. upon receipt of one or more complaints that a person is engaged in conduct described in subdivision one of this section or in connection with any inspection or subsequent investigation of a person engaged in the conduct described in subdivision one of this section, issue

subpoenas to any owners, managers, or employees of such person for information regarding the person and the conduct;

9. with the assistance of law enforcement, seize or impound other property used in furtherance of the conduct described in subdivision one of this section;

10. upon an ex parte order to a court, request the court to issue a restraining order freezing liquid assets to enforce the provisions of this section and section sixteen-a of this chapter and section one hundred thirty-two of this article;

11. in accordance with the procedures outlined in section one hundred thirty-eight-b of this chapter, issue and execute an order to seal a building or premises of any unlicensed businesses in which any person is engaged in conduct in violation of this section or section one hundred twenty-five or one hundred thirty-two of this article;

12. upon receipt of one or more complaints that a person is engaged in conduct described in subdivision one of this section, apply or request that the attorney general apply for an ex parte order to the supreme court in the county in which the place of business is located for an order granting the office or board access to such place of business. The court may grant such an order it if determines, based on the evidence presented, that there is reasonable cause to believe that such place of business is the same place of business for which the office has received such complaints;

13. upon finding a violation of this section by a holder of a license issued by the state liquor authority, a registration issued by the commissioner of taxation and finance to sell cigarettes or tobacco products at retail, a registration issued by the commissioner of taxation and finance to sell vapor products at retail, or a lottery sales agent license issued by the division of lottery, (a) issue a notice of violation to the holder or an agent thereof that clearly states (i) that the holder's state licenses, permits, or registrations may be at risk of revocation or suspension and (ii) that the holder's

business premises may be subject to an order to seal if upon a subsequent inspection the office finds that the violation has not been abated, and (b) notify the agency that issued the authorization that the holder is in violation of this section; and

14. if any penalty is not paid within six months, enter the amount thereof as a judgment in the office of the clerk of the county of Albany and in any other county in which the person resides, has a place of business, or through which it operates. If such judgment has not been satisfied within thirty days thereafter, no license, registration, or permit shall be issued by the board to such person for three years thereafter.

§ 138-b. Orders to seal. 1. In addition to any other authority conferred in this chapter, pursuant to the provisions of this section, the board or the office shall have the authority to issue an order to seal the building or premises of any business engaged in unlicensed activity, when such activity is conducted, maintained, or permitted in such building or premises, occupied as a place of business as described in subdivision eight of section ten of this chapter, in violation of subdivision one or one-a of section one hundred twenty-five or subdivision one or eight of section one hundred thirty-two of this article.

2. Any order to seal shall be served by delivery of the order to the owner of the business or other person of suitable age or discretion in actual or apparent control of the premises at the time of the inspection and shall be posted at the building or premises that have been sealed, secured and closed. A copy of the order shall also be mailed to any address for the owner of the business at any address provided by the person to whom such order was delivered pursuant to this subdivision. The order shall remain in effect pending a hearing and final determination of the board, or until such order is vacated by the office pursuant to subdivision six of this section. An order to seal shall explicitly state the procedure to request a hearing within seven days.

3. The office may issue an order to seal with an immediate effective date if such order is based upon a finding by the office of an imminent threat to the public health, safety, and welfare. In such cases a hearing shall be held within three business days of a request for such hearing, unless otherwise adjourned by agreement of the parties, and a determination shall be rendered within four business days of the conclusion of such hearing, provided that the respondent has submitted a verified statement that may be required pursuant to subdivision five of section seventeen of this chapter. Failure of a respondent to appear at the hearing will result in a default and order of sealing to remain in effect for up to one year unless otherwise vacated pursuant to the provisions of this section.

4. Factors that determine an imminent threat to public health, safety, and welfare shall be limited to:

(a) documented sales to minors;

(b) unlicensed processing of cannabis products at the building or premises;

(c) orders issued following an inspection wherein the person engaged in the unlicensed activity engaged in violent, tumultuous, or other behaviors indicating expressed intent to not comply with the office's order to cease the unlicensed activity;

(d) documented presence of unlawful firearms at the building or premises;

(e) proximity of the building or premises to schools, houses of worship, or public youth facilities;

(f) presence of products deemed unsafe based on reports of illness or hospitalization; or

(g) sales of, or offers to sell, cannabis products not tested or labeled lawfully in accordance with this chapter.

5. Notwithstanding the factors listed in subdivision four of this section and the restriction set forth in paragraph (b) of subdivision six of this section, the office may issue an order to seal with an immediate effective date upon a second or subsequent inspection in which unlicensed activity is confirmed to be continuing more than ten calendar days after a notice of violation and order to cease unlicensed activity

was previously issued by the office, provided that the office has also provided notice pursuant to subparagraph (ii) of paragraph (a) of subdivision thirteen of section one hundred thirty-eight-a of this article.

6. An order to seal may be issued by the office or the board pursuant to subdivision three of this section only if: (a) no part of the premises to be sealed is used in part as a residence and pursuant to local law or ordinance is zoned and lawfully occupied as a residence; and (b) the unlicensed activity as described in this section is more than a de minimis part of the business activity on the premises or in the building to be sealed pursuant to the order. In the event that an order to seal may not be issued pursuant to this subdivision, the office shall issue a notice of violation and order to cease the unlicensed conduct, which shall constitute notice that such unlicensed activity must cease immediately.

7. In assessing whether unlicensed activity within a building or premises is more than de minimis, the office or board, as relevant, shall consider factors such as any one or more of the following:

(a) the presence of signs or symbols, indoors or out, advertising the sale of cannabis or otherwise indicating that cannabis is sold on the premises;

(b) information shared in any advertisements or other marketing content in connection with the unlicensed business activity and any direct or indirect sales of cannabis or other conduct in violation of this chapter;

(c) the volume of illicit cannabis products on site; and

(d) the variety of illicit cannabis products on site.

8. Upon a request by the office, any police officer or peace officer with jurisdiction may assist in the enforcement of an order to seal issued by the office or the board, in accordance with the following procedures:

(a) The police officer or peace officer serving and executing the order to seal shall forthwith make and return to the office an inventory of personal property situated in and used in conducting, maintaining, or permitting the unlicensed activity within the scope of this chapter and shall enter upon the building or premises for such purpose. Such inventory shall be taken in any manner which is deemed likely to evidence a true and accurate representation of the personal property subject to such inventory including, but not limited to photographing such personal property.

(b) The police officer or peace officer serving and executing the order to seal shall enter the building or premises and, upon service of the order, command all persons present in the building or premises to vacate the premises forthwith. Upon the building or premises being vacated, the premises shall be securely locked and all keys delivered to the officer serving the order who thereafter shall deliver the keys to the fee owner, lessor, or lessee of the building or premises involved. If the fee owner, lessor, or lessee is not at the building or premises when the order is being executed, the officer shall securely padlock the premises and retain the keys until the fee owner, lessor, or lessee of the building is ascertained, in which event, the officer shall deliver the keys to such fee owner, lessor, or lessee.

(c) Upon service and execution of the order to seal, the police officer or peace officer shall post a copy thereof in a conspicuous place or upon one or more of the principal doors at entrances of such premises where the unlicensed activity is being conducted, maintained, or permitted. In addition, the officer shall affix, in a conspicuous place or upon one or more of the principal doors at entrances of such premises, a printed notice that the premises have been closed by order of the cannabis control board, and the name of the officer or agency posting the notice.

(d) Mutilation or removal of such a posted order or such a posted notice while it remains in force, in addition to any other punishment prescribed by law, shall be punishable, on conviction, by a fine of not more than five thousand dollars or by a class B misdemeanor, or both, provided such order or notice contains therein a notice of such penalty, and shall be referred to the local district attorney for enforcement. The office shall also adhere to the procedures in this subdivision when executing an order to seal issued in accordance with this section.

9. Any order to seal issued by the office or the board issued pursuant

to this section shall be effective for one year from the later of the posting of the order or the date of the judgment provided for in this section. An order to seal shall be vacated by the office or the board, upon notice to the office, if the respondent submits sufficient evidence to the office or the board by an affidavit and such other proof as may be submitted by the respondent that the unlicensed activity has been abated. An order vacating an order to seal shall include a provision authorizing the office, or any police officer or peace officer who assisted with the execution of the order to seal, to inspect the building or premises without notice for the purpose of ascertaining whether or not the unlicensed activity has been abated. Any police officer or peace officer with jurisdiction may, upon the request of the office, assist in the enforcement of an inspection provision of an order vacating an order to seal.

10. The office shall mail a copy, by certified mail, of any order to seal issued by the office or board within five days following issuance of such order to the person in whose name the real estate affected by the order is recorded in the office of the city register or the county clerk, as the case may be, who shall be presumed to be the owner thereof. Such mailing shall constitute notice to the owner and shall be deemed to be complete upon such mailing by the office as provided above.

11. If at any time a respondent vacates the building or premises subject to an order to seal issued by the office or board, or if the building owner provides sufficient proof thereof, any action or proceeding filed in accordance with these procedures relating to such building or premises shall be withdrawn by the office or the board without prejudice, and any order to seal shall be vacated.

12. The remedies provided for in this section are not exclusive and the office or board may also request and recover penalties in accordance with other provisions in this chapter.

§ 139. Severability. If any provision of this chapter or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared severable.