

Source: L. 2016: Entire section added, (HB 16-1160), ch. 330, p. 1338, § 3, effective August 10. **L. 2017:** Entire section amended, (SB 17-189), ch. 149, p. 498, § 4, effective August 9.

12-43.2-106. Mental and physical examination. (1) If the director has reasonable cause to believe that a registrant is unable to perform the duties of a surgical assistant or surgical technologist, as appropriate, with reasonable skill and safety, the director may order the registrant to undergo a mental or physical examination administered by a physician or other licensed health care professional designated by the director. Unless due to circumstances beyond the registrant's control, if the registrant refuses to undergo a mental or physical examination, the director may suspend the registrant's registration until the results of the examination are known and the director has made a determination of the registrant's fitness to perform the duties of a surgical assistant or surgical technologist. The director shall proceed with an order for examination and shall make his or her determination in a timely manner.

(2) An order requiring a registrant to undergo a mental or physical examination shall contain the basis of the director's reasonable cause to believe that the registrant is unable to work with reasonable skill and safety. For purposes of a disciplinary proceeding authorized under this article, the registrant shall be deemed to have waived all objections to the admissibility of the examining physician's or other licensed health care professional's testimony or examination reports on the ground that they are privileged communications.

(3) The registrant may submit to the director testimony or examination reports from a physician or other licensed health care professional chosen by the registrant and pertaining to any condition that the director has alleged may preclude the registrant from working with reasonable skill and safety. The testimony and reports submitted by the registrant may be considered by the director in conjunction with, but not in lieu of, testimony and examination reports from the physician or other licensed health care professional designated by the director.

(4) The results of a mental or physical examination ordered by the director shall not be used as evidence in any proceeding other than one before the director and shall not be deemed a public record or made available to the public.

Source: L. 2010: Entire article added, (HB 10-1415), ch. 339, p. 1562, § 1, effective August 11.

12-43.2-107. Repeal of article. This article is repealed, effective September 1, 2021. Prior to such repeal, the registration of surgical assistants and surgical technologists shall be reviewed as provided in section 24-34-104, C.R.S.

Source: L. 2010: Entire article added, (HB 10-1415), ch. 339, p. 1563, § 1, effective August 11. **L. 2016:** Entire section amended, (HB 16-1160), ch. 330, p. 1338, § 4, effective August 10.

ARTICLE 43.3

Medical Marijuana

Cross references: For the medical marijuana program and medical review board, see § 25-1.5-106.

Law reviews: For article, "The New, More Regulated Frontier for Medical Marijuana", see 39 Colo. Law. 29 (Nov. 2010); for article, "Colorado's Emerging Medical Marijuana Legal Framework and Constitutional Rights", see 40 Colo. Law. 69 (Nov. 2011); for article, "Employment Law and Medical Marijuana An Uncertain Relationship", see 41 Colo. Law. 57 (Jan. 2012).

PART 1

COLORADO MEDICAL MARIJUANA CODE

12-43.3-101. Short title. This article shall be known and may be cited as the "Colorado Medical Marijuana Code".

Source: L. 2010: Entire article added, (HB 10-1284), ch. 355, p. 1648, § 1, effective July 1.

12-43.3-102. Legislative declaration. (1) The general assembly hereby declares that this article shall be deemed an exercise of the police powers of the state for the protection of the economic and social welfare and the health, peace, and morals of the people of this state.

(2) The general assembly further declares that it is unlawful under state law to cultivate, manufacture, distribute, or sell medical marijuana, except in compliance with the terms, conditions, limitations, and restrictions in section 14 of article XVIII of the state constitution and this article or when acting as a primary caregiver in compliance with the terms, conditions, limitations, and restrictions of section 25-1.5-106, C.R.S.

Source: L. 2010: Entire article added, (HB 10-1284), ch. 355, p. 1648, § 1, effective July 1.

12-43.3-103. Applicability. (1) (a) On July 1, 2010, a person who is operating an established, locally approved business for the purpose of cultivation, manufacture, or sale of medical marijuana or medical marijuana-infused products or a person who has applied to a local government to operate a locally approved business for the purpose of cultivation, manufacture, or sale of medical marijuana or medical marijuana-infused products which is subsequently granted may continue to operate that business in accordance with any applicable state or local laws. "Established", as used in this paragraph (a), shall mean owning or leasing a space with a storefront and remitting sales taxes in a timely manner on retail sales of the business as required pursuant to section 39-26-105, C.R.S., as well as any applicable local sales taxes.

(b) To continue operating a business or operation as described in paragraph (a) of this subsection (1), the owner shall, on or before August 1, 2010, complete forms as provided by the department of revenue and shall pay a fee, which shall be credited to the medical marijuana license cash fund established pursuant to section 12-43.3-501. The purpose of the fee shall be to pay for the direct and indirect costs of the state licensing authority and the development of

application procedures and rules necessary to implement this article. Payment of the fee and completion of the form shall not create a local or state license or a present or future entitlement to receive a license. An owner issued a local license after August 1, 2010, shall complete the forms and pay the fee pursuant to this paragraph (b) within thirty days after issuance of the local license. In addition to any criminal penalties for selling without a license, it shall be unlawful to continue operating a business or operation without filing the forms and paying the fee as described in this paragraph (b), and any violation of this section shall be prima-facie evidence of unsatisfactory character, record, and reputation for any future application for license under this article.

(c) A county, city and county, or municipality shall provide to the state licensing authority, upon request, a list that includes the name and location of each local center or operation licensed in said county, city and county, or municipality so that the state licensing authority can identify any center or operation operating unlawfully.

(2) (a) Prior to July 1, 2011, a county, city and county, or municipality may adopt and enforce a resolution or ordinance licensing, regulating, or prohibiting the cultivation or sale of medical marijuana. In a county, city and county, or municipality where such an ordinance or resolution has been adopted, a person who is not registered as a patient or primary caregiver pursuant to section 25-1.5-106, C.R.S., and who is cultivating or selling medical marijuana shall not be entitled to an affirmative defense to a criminal prosecution as provided for in section 14 of article XVIII of the state constitution unless the person is in compliance with the applicable county or municipal law.

(b) On or before September 1, 2010, a business or operation shall certify that it is cultivating at least seventy percent of the medical marijuana necessary for its operation.

(c) On and after July 1, 2011, all businesses for the purpose of cultivation, manufacture, or sale of medical marijuana or medical marijuana-infused products, as defined in this article, shall be subject to the terms and conditions of this article and any rules promulgated pursuant to this article; except that a person that has met the deadlines set forth in paragraphs (a) and (b) of subsection (1) of this section that has not had its application acted upon by the state licensing authority may continue to operate until action is taken on the application, unless the person is operating in a jurisdiction that has imposed a prohibition on licensure. While continuing to operate prior to the licensing authority acting on the application, the person shall otherwise be subject to the terms and conditions of this article and all rules promulgated pursuant to this article.

(d) (I) On and after July 1, 2012, persons who did not meet all requirements of paragraph (a) of subsection (1) of this section as of July 1, 2010, may begin to apply for a license pursuant to this article. A business or operation that applies and is approved for its license after July 1, 2012, shall certify to the state licensing authority that it is cultivating at least seventy percent of the medical marijuana necessary for its operation within ninety days after being licensed.

(II) For those persons that are licensed prior to July 1, 2012, the person may apply to the local and state licensing authorities regarding changes to its license and may apply for a new license if the license is for a business that has been licensed and the person is purchasing that business or if the business is changing license type.

(III) For a person who has met the deadlines set forth in paragraphs (a) and (b) of subsection (1) of this section and who has lost his or her location because a city or county has voted pursuant to section 12-43.3-106 to ban his or her operation, the person may apply for a

new license with a local licensing authority and transfer the location of its pending application with the state licensing authority.

(e) This article sets forth the exclusive means by which manufacture, sale, distribution, and dispensing of medical marijuana may occur in the state of Colorado. Licensees shall not be subject to the terms of section 14 of article XVIII of the state constitution, except where specifically referenced in this article.

Source: L. 2010: Entire article added, (HB 10-1284), ch. 355, p. 1649, § 1, effective July 1. **L. 2011:** (2)(c) amended and (2)(d) and (2)(e) added, (HB 11-1043), ch. 266, p. 1200, § 1, effective July 1.

12-43.3-104. Definitions. As used in this article 43.3, unless the context otherwise requires:

(1) "Direct beneficial interest owner" means a person or closely held business entity that owns a share or shares of stock in a licensed medical marijuana business, including the officers, directors, managing members, or partners of the licensed medical marijuana business or closely held business entity, or a qualified limited passive investor.

(1.3) "Good cause", for purposes of refusing or denying a license renewal, reinstatement, or initial license issuance, means:

(a) The licensee or applicant has violated, does not meet, or has failed to comply with any of the terms, conditions, or provisions of this article; any rules promulgated pursuant to this article; or any supplemental local law, rules, or regulations;

(b) The licensee or applicant has failed to comply with any special terms or conditions that were placed on its license pursuant to an order of the state or local licensing authority;

(c) The licensed premises have been operated in a manner that adversely affects the public health or welfare or the safety of the immediate neighborhood in which the establishment is located.

(1.5) "Immature plant" means a nonflowering medical marijuana plant that is no taller than eight inches and no wider than eight inches produced from a cutting, clipping, or seedling and that is in a growing container that is no larger than two inches wide and two inches tall that is sealed on the sides and bottom.

(1.7) "Indirect beneficial interest owner" means a holder of a permitted economic interest, a recipient of a commercially reasonable royalty associated with the use of intellectual property by a licensee, a licensed employee who receives a share of the profits from an employee benefit plan, a qualified institutional investor, or another similarly situated person or entity as determined by the state licensing authority.

(2) "License" means to grant a license or registration pursuant to this article.

(3) "Licensed premises" means the premises specified in an application for a license under this article, which are owned or in possession of the licensee and within which the licensee is authorized to cultivate, manufacture, distribute, or sell medical marijuana in accordance with the provisions of this article.

(4) "Licensee" means a person licensed or registered pursuant to this article.

(5) "Local licensing authority" means an authority designated by municipal or county charter, ordinance, or resolution, or the governing body of a municipality, city and county, or the board of county commissioners of a county if no such authority is designated.

(6) "Location" means a particular parcel of land that may be identified by an address or other descriptive means.

(6.5) "Marijuana-based workforce development or training program" means a program designed to train individuals to work in the legal medical marijuana industry operated by an entity licensed under this article 43.3 or by a school that is authorized by the division of private occupational schools.

(7) "Medical marijuana" means marijuana that is grown and sold pursuant to the provisions of this article and for a purpose authorized by section 14 of article XVIII of the state constitution but shall not be considered a nonprescription drug for purposes of section 12-42.5-102 (21) or 39-26-717, C.R.S., or an over-the-counter medication for purposes of section 25.5-5-322, C.R.S.

(7.5) "Medical marijuana business operator" means an entity or person who is not an owner and who is licensed to provide professional operational services to a medical marijuana establishment for direct remuneration from the medical marijuana establishment.

(8) "Medical marijuana center" means a person licensed pursuant to this article to operate a business as described in section 12-43.3-402 that sells medical marijuana to registered patients or primary caregivers as defined in section 14 of article XVIII of the state constitution, but is not a primary caregiver.

(8.5) "Medical marijuana transporter" means an entity or person that is licensed to transport medical marijuana and medical marijuana-infused products from one medical marijuana establishment to another medical marijuana establishment and to temporarily store the transported medical marijuana and medical marijuana-infused products at its licensed premises, but is not authorized to sell medical marijuana or medical marijuana-infused products under any circumstances.

(9) "Medical marijuana-infused product" means a product infused with medical marijuana that is intended for use or consumption other than by smoking, including but not limited to edible products, ointments, and tinctures. These products, when manufactured or sold by a licensed medical marijuana center or a medical marijuana-infused product manufacturer, shall not be considered a food or drug for the purposes of the "Colorado Food and Drug Act", part 4 of article 5 of title 25, C.R.S.

(10) "Medical marijuana-infused products manufacturer" means a person licensed pursuant to this article to operate a business as described in section 12-43.3-404.

(10.5) "Opaque" means that the packaging does not allow the product to be seen without opening the packaging material.

(11) "Optional premises" means the premises specified in an application for a medical marijuana center license with related growing facilities in Colorado for which the licensee is authorized to grow and cultivate marijuana for a purpose authorized by section 14 of article XVIII of the state constitution.

(12) "Optional premises cultivation operation" means a person licensed pursuant to this article to operate a business as described in section 12-43.3-403.

(12.3) Repealed.

(12.4) "Permitted economic interest" means any unsecured convertible debt instrument, option agreement, warrant, or any other right to obtain an ownership interest when the holder of such interest is a natural person who is a lawful United States resident and whose right to convert into an ownership interest is contingent on the holder qualifying and obtaining a license as an

owner under this article; or such other agreements as may be permitted by rule of the state licensing authority.

(13) "Person" means a natural person, partnership, association, company, corporation, limited liability company, or organization, or a manager, agent, owner, director, servant, officer, or employee thereof.

(14) "Premises" means a distinct and definite location, which may include a building, a part of a building, a room, or any other definite contiguous area.

(14.3) "Qualified limited passive investor" means a natural person who is a United States citizen and is a passive investor who owns less than a five percent share or shares of stock in a licensed medical marijuana business.

(14.5) "Resealable" means that the package continues to function with effectiveness specifications, which shall be established by the state licensing authority similar to the federal "Poison Prevention Packaging Act of 1970", 15 U.S.C. sec. 1471 et seq., for the number of openings and closings customary for its size and contents, which shall be determined by the state licensing authority.

(15) "School" means a public or private preschool or a public or private elementary, middle, junior high, or high school.

(16) "State licensing authority" means the authority created for the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, and sale of medical and retail marijuana in this state, pursuant to section 12-43.3-201.

Source: L. 2010: Entire article added, (HB 10-1284), ch. 355, p. 1650, § 1, effective July 1. **L. 2011:** (1.5) added and (5) and (7) amended, (HB 11-1043), ch. 266, p. 1201, §§ 2, 3, effective July 1. **L. 2012:** (7) amended, (HB 12-1311), ch. 281, p. 1616, § 31, effective July 1. **L. 2014:** (10.5) and (14.5) added, (HB 14-1122), ch. 39, p. 202, § 6, effective March 17. **L. 2015:** (16) amended, (SB 15-115), ch. 283, p. 1158, § 3, effective June 5; (12.3) and (12.4) added, (HB 15-1379), ch. 250, p. 912, § 1, effective August 5. **L. 2016:** (1) amended, (1.3), (1.7), and (14.3) added, and (12.3) repealed, (SB 16-040), ch. 293, p. 1184, § 1, effective June 10; (8.5) added, (HB 16-1211), ch. 333, p. 1351, § 1, effective August 10. **L. 2017:** IP amended and (7.5) added, (HB 17-1034), ch. 43, p. 125, § 1, effective March 16; IP amended and (6.5) added, (SB 17-187), ch. 354, p. 1841, § 1, effective August 9.

12-43.3-105. Limited access areas. Subject to the provisions of section 12-43.3-701, a limited access area shall be a building, room, or other contiguous area upon the licensed premises where medical marijuana is grown, cultivated, stored, weighed, displayed, packaged, sold, or possessed for sale, under control of the licensee, with access limited to only those persons licensed by the state licensing authority and those visitors escorted by a person licensed by the state licensing authority. All areas of ingress or egress to limited access areas shall be clearly identified as such by a sign as designated by the state licensing authority.

Source: L. 2010: Entire article added, (HB 10-1284), ch. 355, p. 1651, § 1, effective July 1. **L. 2015:** Entire section amended, (SB 15-115), ch. 283, p. 1159, § 4, effective June 5.

12-43.3-106. Local option. The operation of this article shall be statewide unless a municipality, county, city, or city and county, by either a majority of the registered electors of

the municipality, county, city, or city and county voting at a regular election or special election called in accordance with the "Colorado Municipal Election Code of 1965", article 10 of title 31, C.R.S., or the "Uniform Election Code of 1992", articles 1 to 13 of title 1, C.R.S., as applicable, or a majority of the members of the governing board for the municipality, county, city, or city and county, vote to prohibit the operation of medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused products manufacturers' licenses.

Source: L. 2010: Entire article added, (HB 10-1284), ch. 355, p. 1652, § 1, effective July 1.

PART 2

STATE LICENSING AUTHORITY

12-43.3-201. State licensing authority - creation. (1) For the purpose of regulating and controlling the licensing of the cultivation, manufacture, distribution, and sale of medical marijuana and retail marijuana in this state, there is hereby created the state licensing authority, which shall be the executive director of the department of revenue or the deputy director of the department of revenue if the executive director so designates. The state licensing authority shall adopt regulations regarding retail marijuana and retail marijuana products by July 1, 2013.

(2) The executive director of the department of revenue shall be the chief administrative officer of the state licensing authority and may employ, pursuant to section 13 of article XII of the state constitution, such officers and employees as may be determined to be necessary, which officers and employees shall be part of the department of revenue.

(3) Repealed.

(4) A state licensing authority employee with regulatory oversight responsibilities for marijuana businesses licensed by the state licensing authority shall not work for, represent, or provide consulting services to or otherwise derive pecuniary gain from a marijuana business licensed by the state licensing authority or other business entity established for the primary purpose of providing services to the marijuana industry for a period of six months following his or her last day of employment with the state licensing authority.

(5) Any person who discloses confidential records or information in violation of the provisions of this article commits a class 1 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S. Any criminal prosecution pursuant to the provisions of this section must be brought within five years from the date the violation occurred.

Source: L. 2010: Entire article added, (HB 10-1284), ch. 355, p. 1652, § 1, effective July 1. **L. 2013:** (1) and (2) amended, (HB 13-1317), ch. 329, p. 1826, § 1, effective May 28. **L. 2015:** (4) and (5) added, (SB 15-115), ch. 283, p. 1164, § 16, effective June 5.

Editor's note: Subsection (3)(c) provided for the repeal of subsection (3), effective July 1, 2011. (See L. 2010, p. 1652.)

12-43.3-202. Powers and duties of state licensing authority - rules. (1) The state licensing authority shall:

(a) Grant or refuse state licenses for the cultivation, manufacture, distribution, and sale of medical marijuana as provided by law; suspend, fine, restrict, or revoke such licenses, whether active, expired, or surrendered, upon a violation of this article 43.3, or a rule promulgated pursuant to this article 43.3; and impose any penalty authorized by this article 43.3 or any rule promulgated pursuant to this article 43.3. The state licensing authority may take any action with respect to a registration pursuant to this article 43.3 as it may with respect to a license pursuant to this article 43.3, in accordance with the procedures established pursuant to this article 43.3.

(b) (I) Promulgate such rules and such special rulings and findings as necessary for the proper regulation and control of the cultivation, manufacture, distribution, and sale of medical marijuana and for the enforcement of this article. A county, municipality, or city and county that has adopted a temporary moratorium regarding the subject matter of this article shall be specifically authorized to extend the moratorium until June 30, 2012.

(II) Repealed.

(c) Hear and determine at a public hearing any contested state license denial and any complaints against a licensee and administer oaths and issue subpoenas to require the presence of persons and the production of papers, books, and records necessary to the determination of any hearing so held, all in accordance with article 4 of title 24, C.R.S. The state licensing authority may, at its discretion, delegate to the department of revenue hearing officers the authority to conduct licensing, disciplinary, and rule-making hearings under section 24-4-105, C.R.S. When conducting such hearings, the hearing officers shall be employees of the state licensing authority under the direction and supervision of the executive director and the state licensing authority.

(d) Maintain the confidentiality of reports or other information obtained from a medical or retail licensee containing any individualized data, information, or records related to the licensee or its operation, including sales information, financial records, tax returns, credit reports, cultivation information, testing results, and security information and plans, or revealing any patient information, or any other records that are exempt from public inspection pursuant to state law. Such reports or other information may be used only for a purpose authorized by this article, article 43.4 of this title, or for any other state or local law enforcement purpose. Any information released related to patients may be used only for a purpose authorized by this article, article 43.4 of this title, or to verify that a person who presented a registry identification card to a state or local law enforcement official is lawfully in possession of such card.

(e) Develop such forms, licenses, identification cards, and applications as are necessary or convenient in the discretion of the state licensing authority for the administration of this article or any of the rules promulgated under this article;

(f) Prepare and transmit annually, in the form and manner prescribed by the heads of the principal departments pursuant to section 24-1-136, C.R.S., a report accounting to the governor for the efficient discharge of all responsibilities assigned by law or directive to the state licensing authority;

(g) In recognition of the potential medicinal value of medical marijuana, make a request by January 1, 2012, to the federal drug enforcement administration to consider rescheduling, for pharmaceutical purposes, medical marijuana from a schedule I controlled substance to a schedule II controlled substance; and

(h) *[Editor's note: This version of paragraph (h) is effective until January 1, 2018.]*
Develop and maintain a seed-to-sale tracking system that tracks medical marijuana from either the seed or immature plant stage until the medical marijuana or medical marijuana-infused product is sold to a customer at a medical marijuana center to ensure that no medical marijuana grown or processed by a medical marijuana establishment is sold or otherwise transferred except by a medical marijuana center;

(h) *[Editor's note: This version of paragraph (h) is effective January 1, 2018.]*
Develop and maintain a seed-to-sale tracking system that tracks medical marijuana from either the seed or immature plant stage until the medical marijuana or medical marijuana-infused product is sold to a customer at a medical marijuana center to ensure that no medical marijuana grown or processed by a medical marijuana establishment is sold or otherwise transferred except by a medical marijuana center; except that the medical marijuana or medical marijuana-infused product is no longer subject to the tracking system once the medical marijuana or medical marijuana-infused product has been:

(I) Transferred to a medical research facility pursuant to section 25-1.5-106.5 (5)(b); or

(II) Transferred to a pesticide manufacturer in quantities that are limited as specified in rules promulgated by the state licensing authority, in consultation with the departments of public health and environment and agriculture. The rules must define a pesticide manufacturer that is authorized to conduct research and must authorize a pesticide manufacturer to conduct research to establish safe and effective protocols for the use of pesticides on medical marijuana. Notwithstanding any other provision of law, a pesticide manufacturer authorized pursuant to this subsection (1)(h)(II) to conduct pesticide research regarding marijuana must be located in Colorado, must conduct the research in Colorado, and is exempt from all otherwise applicable restrictions on the possession and use of medical marijuana or medical marijuana-infused product; except that the manufacturer shall:

(A) Not possess at any time a quantity of medical marijuana or medical marijuana-infused product in excess of the limit established in rules promulgated by the state licensing authority;

(B) Use the medical marijuana and medical marijuana-infused product only for the pesticide research authorized pursuant to this subsection (1)(h)(II);

(C) Destroy, in compliance with rules promulgated by the state licensing authority, all medical marijuana and medical marijuana-infused product remaining after the research has been completed; and

(D) Not apply pesticides for research purposes on the licensed premises of a medical marijuana business.

(2) (a) Rules promulgated pursuant to subsection (1)(b) of this section may include, but need not be limited to, the following subjects:

(I) Compliance with, enforcement of, or violation of any provision of this article, section 18-18-406.3 (7), C.R.S., or any rule issued pursuant to this article, including procedures and grounds for denying, suspending, fining, restricting, or revoking a state license issued pursuant to this article;

(II) Specifications of duties of officers and employees of the state licensing authority;

(III) Instructions for local licensing authorities and law enforcement officers;

(IV) Requirements for inspections, investigations, searches, seizures, forfeitures, and such additional activities as may become necessary from time to time;

- (V) Creation of a range of penalties for use by the state licensing authority;
- (VI) Prohibition of misrepresentation and unfair practices;
- (VII) Control of informational and product displays on licensed premises;
- (VIII) Development of individual identification cards for owners, officers, managers, contractors, employees, and other support staff of entities licensed pursuant to this article, including a fingerprint-based criminal history record check as may be required by the state licensing authority prior to issuing a card;
- (IX) Identification of state licensees and their owners, officers, managers, and employees;
- (X) Security requirements for any premises licensed pursuant to this article, including, at a minimum, lighting, physical security, video, alarm requirements, and other minimum procedures for internal control as deemed necessary by the state licensing authority to properly administer and enforce the provisions of this article, including reporting requirements for changes, alterations, or modifications to the premises;
- (XI) Regulation of the storage of, warehouses for, and transportation of medical marijuana;
- (XII) Sanitary requirements for medical marijuana centers, including but not limited to sanitary requirements for the preparation of medical marijuana-infused products;
- (XIII) The specification of acceptable forms of picture identification that a medical marijuana center may accept when verifying a sale;
- (XIV) Labeling standards;
- (XIV.5) Prohibiting the sale of medical marijuana and medical marijuana-infused products unless the product is:
 - (A) Packaged in packaging meeting requirements established by the state licensing authority similar to the federal "Poison Prevention Packaging Act of 1970", 15 U.S.C. sec. 1471 et seq.; or
 - (B) Placed in an opaque and resealable exit package or container at the point of sale prior to exiting the store, and the container or package meets the requirements established by the state licensing authority;
- (XV) Records to be kept by licensees and the required availability of the records;
- (XVI) State licensing procedures, including procedures for renewals, reinstatements, initial licenses, and the payment of licensing fees;
- (XVII) The reporting and transmittal of monthly sales tax payments by medical marijuana centers;
- (XVIII) Authorization for the department of revenue to have access to licensing information to ensure sales and income tax payment and the effective administration of this article;
- (XVIII.5) Rules effective on or before January 1, 2016, relating to permitted economic interests including a process for a criminal history record check; a requirement that a permitted economic interest applicant submit to and pass a criminal history record check; a divestiture; and other agreements that would qualify as permitted economic interests;
- (XVIII.6) Medical marijuana transporter licensed businesses, including requirements for drivers, including obtaining and maintaining a valid Colorado driver's license; insurance requirements; acceptable time frames for transport, storage, and delivery; requirements for transport vehicles; and requirements for licensed premises;

(XVIII.7) Medical marijuana business operator licensees, including the form and structure of allowable agreements between operators and owners;

(XIX) Authorization for the department of revenue to issue administrative citations and procedures for issuing, appealing, and creating a citation violation list and schedule of penalties;

(XX) Such other matters as are necessary for the fair, impartial, stringent, and comprehensive administration of this article 43.3;

(XXI) The parameters and qualifications of an indirect beneficial interest owner and a qualified limited passive investor;

(XXII) Marijuana research and development licenses and marijuana research and development cultivation licenses, including application requirements; renewal requirements, including whether additional research projects may be added or considered; conditions for license revocation; security measures to ensure marijuana is not diverted to purposes other than research; the amount of plants, useable marijuana, marijuana concentrates, or marijuana-infused products a licensee may have on its premises; licensee reporting requirements; the conditions under which marijuana possessed by medical marijuana licensees may be donated to marijuana research and development licensees and marijuana research and development cultivation licensees; provisions to prevent contamination; requirements for destruction of marijuana after the research is concluded; and any additional requirements.

(b) Nothing in this article shall be construed as delegating to the state licensing authority the power to fix prices for medical marijuana.

(c) Nothing in this article shall be construed to limit a law enforcement agency's ability to investigate unlawful activity in relation to a medical marijuana center, optional premises cultivation operation, or medical marijuana-infused products manufacturer. A law enforcement agency shall have the authority to run a Colorado crime information center criminal history record check of a primary caregiver, licensee, or employee of a licensee during an investigation of unlawful activity related to medical marijuana.

(2.5) (a) Rules promulgated pursuant to subsection (1)(b) of this section must include, but need not be limited to, the following subjects:

(I) (A) Establishing a medical marijuana and medical marijuana-infused products independent testing and certification program for medical marijuana licensees, within an implementation time frame, and requiring licensees to test medical marijuana to ensure, at a minimum, that products sold for human consumption do not contain contaminants that are injurious to health and to ensure correct labeling.

(B) Testing may include analysis for microbial and residual solvents and chemical and biological contaminants deemed to be public health hazards by the Colorado department of public health and environment based on medical reports and published scientific literature.

(I) (C) In the event that test results indicate the presence of quantities of any substance determined to be injurious to health, the licensee shall immediately quarantine the products and notify the state licensing authority. The state licensing authority shall give the licensee an opportunity to remediate the product if the test indicated the presence of a microbial. If the licensee is unable to remediate the product, the licensee shall document and properly destroy the adulterated product.

(D) Testing shall also verify THC potency representations and homogeneity for correct labeling and provide a cannabinoid profile for the marijuana product.

(E) The state licensing authority shall determine an acceptable variance for potency representations and procedures to address potency misrepresentations.

(F) The state licensing authority shall determine the protocols and frequency of marijuana testing by licensees.

(G) [*Editor's note: This sub-subparagraph (G) is effective January 1, 2018.*] A state, local, or municipal agency shall not employ or use the results of any test of medical marijuana or medical marijuana-infused products conducted by an analytical laboratory that is not certified pursuant to this subsection (2.5)(a)(I) for the particular testing category and accredited pursuant to the International Organization for Standardization/International Electrotechnical Commission 17025:2005 standard, or any subsequent superseding standard, in that field of testing.

(II) Signage, marketing, and advertising, including but not limited to a prohibition on mass-market campaigns that have a high likelihood of reaching persons under eighteen years of age and other such rules that may include:

(A) Allowing packaging and accessory branding;

(B) A prohibition on health or physical benefit claims in advertising, merchandising, and packaging;

(C) A prohibition on unsolicited pop-up advertising on the internet;

(D) A prohibition on banner ads on mass-market websites;

(E) A prohibition on opt-in marketing that does not permit an easy and permanent opt-out feature; and

(F) A prohibition on marketing directed toward location-based devices, including but not limited to cellular phones, unless the marketing is a mobile device application installed on the device by the owner of the device who is eighteen years of age or older and includes a permanent and easy opt-out feature;

(III) (A) A prohibition on the production and sale of edible medical marijuana-infused products that are in the distinct shape of a human, animal, or fruit. Geometric shapes and products that are simply fruit flavored are not considered fruit. Products in the shape of a marijuana leaf are permissible. Nothing in this subparagraph (III) applies to a company logo.

(B) The rules promulgated pursuant to this subparagraph (III) shall take effect on October 1, 2017.

(b) The executive director of the department of public health and environment shall provide to the state licensing authority standards for licensing laboratories pursuant to the requirements as outlined in sub-subparagraph (A) of subparagraph (I) of paragraph (a) of this subsection (2.5) for medical marijuana and medical marijuana-infused products.

(c) Mandatory medical marijuana testing shall not begin until a marijuana laboratory testing reference library is created and licensees are set up for proficiency tests and standards.

(3) Repealed.

Source: L. 2010: Entire article added, (HB 10-1284), ch. 355, p. 1653, § 1, effective July 1. **L. 2011:** (2)(a)(XIV.5) added, (HB 11-1250), ch. 272, p. 1233, § 1, effective June 2; (1)(b)(I), (1)(c), (1)(d), (2)(a)(I), and (2)(a)(IV) amended, (HB11-1043), ch. 266, pp. 1201, 1214, §§ 4, 26, effective July 1. **L. 2013:** (3) added, (HB 13-1238), ch. 328, p. 1822, § 1, effective May 28. **L. 2014:** (2)(a)(XIV.5) amended, (HB 14-1122), ch. 39, p. 199, § 1, effective March 17. **L. 2015:** (1)(d), (1)(f), and (1)(g) amended, (1)(h) added, and (3) repealed, (SB 15-115), ch. 283, p. 1159, § 5, effective June 5; (2)(a)(XVIII.5) added, (HB 15-1379), ch. 250, p. 912, § 2, effective August

5; (2.5) added, (SB 15-260), ch. 258, p. 936, § 1, effective July 1, 2016. **L. 2016:** (2)(a)(XIX) and (2)(a)(XX) amended and (2)(a)(XXI) added, (SB 16-040), ch. 293, p. 1185, § 2, effective June 10; (2.5)(a)(III) added, (HB 16-1436), ch. 361, p. 1508, § 1, effective June 10; (2)(a)(XVIII.6) added, (HB 16-1211), ch. 333, p. 1351, § 2, effective August 10; (2.5)(a)(II) added, (HB 16-1363), ch. 299, p. 1213, § 1, effective August 10. **L. 2017:** IP(2)(a), IP(2.5)(a), and (2.5)(a)(I)(C) amended and (2)(a)(XVIII.7) added, (HB 17-1034), ch. 43, p. 125, § 2, effective March 16; (1)(a) amended, (SB 17-192), ch. 299, p. 1638, § 1, effective August 9; IP(2)(a), (2)(a)(XX), and (2)(a)(XXI) amended and (2)(a)(XXII) added, (HB 17-1367), ch. 406, p. 2118, § 1, effective August 9; (1)(h) and IP(2.5)(a) amended and (2.5)(a)(I)(G) added, (HB 17-1367), ch. 406, p. 2122, § 7, effective January 1, 2018.

Editor's note: (1) Subsection (1)(b)(II)(B) provided for the repeal of subsection (1)(b)(II), effective July 1, 2011. (See L. 2010, p. 1653.)

(2) Section 11 of chapter 406 (HB 17-1367), Session Laws of Colorado 2017, provides that section 7 of the act amending subsections (1)(h) and IP(2.5)(a) and adding subsection (2.5)(a)(I)(G) applies to conduct occurring on or after January 1, 2018.

PART 3

STATE AND LOCAL LICENSING

12-43.3-301. Local licensing authority - applications - licenses. (1) A local licensing authority may issue only the following medical marijuana licenses upon payment of the fee and compliance with all local licensing requirements to be determined by the local licensing authority:

- (a) A medical marijuana center license;
- (b) An optional premises cultivation license;
- (c) A medical marijuana-infused products manufacturing license;
- (d) A medical marijuana testing facility license;
- (e) A medical marijuana transporter license;
- (f) A medical marijuana business operator license;
- (g) A marijuana research and development license; and
- (h) A marijuana research and development cultivation license.

(2) (a) A local licensing authority shall not issue a local license within a municipality, city and county, or the unincorporated portion of a county unless the governing body of the municipality or city and county has adopted an ordinance, or the governing body of the county has adopted a resolution, containing specific standards for license issuance, or if no such ordinance or resolution is adopted prior to July 1, 2012, then a local licensing authority shall consider the minimum licensing requirements of this part 3 when issuing a license.

(b) In addition to all other standards applicable to the issuance of licenses under this article, the local governing body may adopt additional standards for the issuance of medical marijuana center, optional premises cultivation, or medical marijuana-infused products manufacturer licenses consistent with the intent of this article that may include, but need not be limited to:

- (I) Distance restrictions between premises for which local licenses are issued;

(II) Reasonable restrictions on the size of an applicant's licensed premises; and
(III) Any other requirements necessary to ensure the control of the premises and the ease of enforcement of the terms and conditions of the license.

(3) An application for a license specified in subsection (1) of this section shall be filed with the state licensing authority and the appropriate local licensing authority on forms provided by the state licensing authority and shall contain such information as the state licensing authority may require and any forms as the local licensing authority may require. Each application shall be verified by the oath or affirmation of the persons prescribed by the state licensing authority.

(4) An applicant shall file, at the time of application for a license, plans and specifications for the interior of the building if the building to be occupied is in existence at the time. If the building is not in existence, the applicant shall file a plot plan and a detailed sketch for the interior and submit an architect's drawing of the building to be constructed. In its discretion, the local or state licensing authority may impose additional requirements necessary for the approval of the application.

Source: L. 2010: Entire article added, (HB 10-1284), ch. 355, p. 1656, § 1, effective July 1. **L. 2011:** (2)(a) amended, (HB 11-1043), ch. 266, p. 1202, § 5, effective July 1. **L. 2013:** (3) and (4) amended, (HB 13-1238), ch. 328, p. 1824, § 4, effective May 28. **L. 2016:** (1)(c) amended and (1)(d) added, (HB 16-1064), ch. 49, p. 116, § 1, effective March 23; (1)(e) added, (HB 16-1211), ch. 333, p. 1352, § 3, effective August 10. **L. 2017:** (1)(d) and (1)(e) amended and (1)(f) added, (SB 17-192), ch. 299, p. 1642, § 7, effective August 9; (1)(d) amended and (1)(g) and (1)(h) added, (HB 17-1367), ch. 406, p. 2119, § 2, effective August 9.

12-43.3-302. Public hearing notice - posting and publication. (1) Upon receipt of an application for a local license, except an application for renewal or for transfer of ownership, a local licensing authority may schedule a public hearing upon the application to be held not less than thirty days after the date of the application. If the local licensing authority schedules a hearing for a license application, it shall post and publish public notice thereof not less than ten days prior to the hearing. The local licensing authority shall give public notice by posting a sign in a conspicuous place on the license applicant's premises for which license application has been made and by publication in a newspaper of general circulation in the county in which the applicant's premises are located.

(2) Public notice given by posting shall include a sign of suitable material, not less than twenty-two inches wide and twenty-six inches high, composed of letters not less than one inch in height and stating the type of license applied for, the date of the application, the date of the hearing, the name and address of the applicant, and such other information as may be required to fully apprise the public of the nature of the application. The sign shall contain the names and addresses of the officers, directors, or manager of the facility to be licensed.

(3) Public notice given by publication shall contain the same information as that required for signs.

(4) If the building in which medical marijuana is to be cultivated, manufactured, or distributed is in existence at the time of the application, a sign posted as required in subsections (1) and (2) of this section shall be placed so as to be conspicuous and plainly visible to the general public. If the building is not constructed at the time of the application, the applicant shall

post a sign at the premises upon which the building is to be constructed in such a manner that the notice shall be conspicuous and plainly visible to the general public.

(5) (a) (Deleted by amendment, L. 2013.)

(b) When conducting its application review, the state licensing authority may advise the local licensing authority of any items that it finds that could result in the denial of the license application. Upon correction of the noted discrepancies, if the correction is permitted by the state licensing authority, the state licensing authority shall notify the local licensing authority of its conditional approval of the license application amendments. The state licensing authority shall then issue the applicant's state license, which shall remain conditioned upon local authority approval.

(c) All applications submitted for review shall be accompanied by all applicable state and local license and application fees. Any applications that are later denied or withdrawn may allow for a refund of license fees only. All application fees provided by an applicant shall be retained by the respective licensing authority.

Source: L. 2010: Entire article added, (HB 10-1284), ch. 355, p. 1657, § 1, effective July 1. **L. 2011:** (1) and (4) amended, (HB 11-1043), ch. 266, p. 1203, § 6, effective July 1. **L. 2013:** (5) amended, (HB 13-1238), ch. 328, p. 1824, § 5, effective May 28.

12-43.3-303. Results of investigation - decision of authorities. (1) Not less than five days prior to the date of the public hearing authorized in section 12-43.3-302, the local licensing authority shall make known its findings, based on its investigation, in writing to the applicant and other parties of interest. The local licensing authority has authority to refuse to issue a license provided for in this section for good cause, subject to judicial review.

(2) Before entering a decision approving or denying the application for a local license, the local licensing authority may consider, except where this article specifically provides otherwise, the facts and evidence adduced as a result of its investigation, as well as any other facts pertinent to the type of license for which application has been made, including the number, type, and availability of medical marijuana centers, optional premises cultivation operations, or medical marijuana-infused products manufacturers located in or near the premises under consideration, and any other pertinent matters affecting the qualifications of the applicant for the conduct of the type of business proposed.

(3) Within thirty days after the public hearing or completion of the application investigation, a local licensing authority shall issue its decision approving or denying an application for local licensure. The decision shall be in writing and shall state the reasons for the decision. The local licensing authority shall send a copy of the decision by certified mail to the applicant at the address shown in the application.

(4) After approval of an application, the local licensing authority shall not issue a local license until the building in which the business to be conducted is ready for occupancy with such furniture, fixtures, and equipment in place as are necessary to comply with the applicable provisions of this article, and then only after the state or local licensing authority has inspected the premises to determine that the applicant has complied with the architect's drawing and the plot plan and detailed sketch for the interior of the building submitted with the application.

(5) After approval of an application for conditional state licensure, the state licensing authority shall notify the local licensing authority of such approval. After approval of an

application for local licensure, the local licensing authority shall notify the state licensing authority of such approval, who shall investigate and either approve or disapprove the application for state licensure.

Source: L. 2010: Entire article added, (HB 10-1284), ch. 355, p. 1658, § 1, effective July 1. **L. 2011:** (2) amended, (HB 11-1043), ch. 266, p. 1203, § 7, effective July 1. **L. 2013:** (4) and (5) amended, (HB 13-1238), ch. 328, p. 1825, § 6, effective May 28. **L. 2015:** (4) amended, (SB 15-115), ch. 283, p. 1160, § 6, effective June 5.

12-43.3-304. Medical marijuana license bond. (Repealed)

Source: L. 2010: Entire article added, (HB 10-1284), ch. 355, p. 1659, § 1, effective July 1. **L. 2016:** Entire section repealed, (HB 16-1041), ch. 14, p. 32, § 2, effective March 11.

Cross references: For the legislative declaration in HB 16-1041, see section 1 of chapter 14, Session Laws of Colorado 2016.

12-43.3-305. State licensing authority - application and issuance procedures. (1) Applications for a state license under the provisions of this article shall be made to the state licensing authority on forms prepared and furnished by the state licensing authority and shall set forth such information as the state licensing authority may require to enable the state licensing authority to determine whether a state license should be granted. The information shall include the name and address of the applicant, the names and addresses of the officers, directors, or managers, and all other information deemed necessary by the state licensing authority. Each application shall be verified by the oath or affirmation of such person or persons as the state licensing authority may prescribe.

(2) The state licensing authority shall issue a state license to a medical marijuana center, an optional premises cultivation operation, or a medical marijuana-infused products manufacturer pursuant to this section upon satisfactory completion of the applicable criminal history background check associated with the application, and the state license is conditioned upon local licensing authority approval. A license applicant is prohibited from operating a licensed medical marijuana business without both state and local licensing authority approval. The denial of an application by the local licensing authority shall be considered as a basis for the state licensing authority to revoke the state-issued license.

(2.5) An applicant that has been permitted to operate a medical marijuana business under the provisions of section 12-43.3-103 (1)(b) and has been issued a conditional license by the state licensing authority pursuant to subsection (2) of this section may continue to operate the business while an application is pending with the local licensing authority. If the local licensing authority denies the license application, the medical marijuana business shall cease operations upon receiving the denial. The denial of an application by the local licensing authority shall be considered as a basis for the state licensing authority to revoke the state-issued license.

(3) Nothing in this article shall preempt or otherwise impair the power of a local government to enact ordinances or resolutions concerning matters authorized to local governments.

Source: L. 2010: Entire article added, (HB 10-1284), ch. 355, p. 1659, § 1, effective July 1. **L. 2013:** (2) amended and (2.5) added, (HB 13-1238), ch. 328, p. 1822, § 2, effective May 28.

12-43.3-306. Denial of application. (1) The state licensing authority shall deny a state license if the premises on which the applicant proposes to conduct its business does not meet the requirements of this article or for reasons set forth in section 12-43.3-104 (1.3)(c) or 12-43.3-305, and the state licensing authority may deny a license for good cause as defined by section 12-43.3-104 (1.3)(a) or (1.3)(b).

(2) If the state licensing authority denies a state license pursuant to subsection (1) of this section, the applicant shall be entitled to a hearing pursuant to section 24-4-104 (9), C.R.S., and judicial review pursuant to section 24-4-106, C.R.S. The state licensing authority shall provide written notice of the grounds for denial of the state license to the applicant and to the local licensing authority at least fifteen days prior to the hearing.

Source: L. 2010: Entire article added, (HB 10-1284), ch. 355, p. 1659, § 1, effective July 1. **L. 2011:** Entire section amended, (HB 11-1043), ch. 266, p. 1203, § 8, effective July 1. **L. 2017:** (1) amended, (SB 17-294), ch. 264, p. 1417, § 116, effective May 25.

12-43.3-307. Persons prohibited as licensees. (1) A license provided by this article shall not be issued to or held by:

- (a) A person until the fee therefore has been paid;
- (b) A person whose criminal history indicates that he or she is not of good moral character;
- (c) A corporation, if the criminal history of any of its officers, directors, or stockholders indicates that the officer, director, or stockholder is not of good moral character;
- (d) A licensed physician making patient recommendations;
- (e) A person employing, assisted by, or financed in whole or in part by any other person whose criminal history indicates he or she is not of good character and reputation satisfactory to the respective licensing authority;
- (f) A person under twenty-one years of age;
- (g) A person licensed pursuant to this article who, during a period of licensure, or who, at the time of application, has failed to:
 - (I) File any tax return with a taxing agency related to a medical marijuana business or retail marijuana establishment;
 - (II) Pay any taxes, interest, or penalties due related to a medical marijuana business or retail marijuana establishment;
 - (III) to (VI) (Deleted by amendment, L. 2015.)
- (g.5) A person who fails to meet qualifications for licensure that directly and demonstrably relate to the operation of a medical marijuana establishment;
- (h) (I) A person who has discharged a sentence for a conviction of a felony in the five years immediately preceding his or her application date; or
 - (II) A person who has discharged a sentence for a conviction of a felony pursuant to any state or federal law regarding the possession, distribution, manufacturing, cultivation, or use of a controlled substance in the ten years immediately preceding his or her application date or five years from May 28, 2013, whichever is longer; except that the licensing authority may grant a

license to a person if the person has a state felony conviction based on possession or use of marijuana or marijuana concentrate that would not be a felony if the person were convicted of the offense on the date he or she applied for licensure;

(i) A person who employs another person at a medical marijuana facility who has not passed a criminal history record check;

(j) A sheriff, deputy sheriff, police officer, or prosecuting officer, or an officer or employee of the state licensing authority or a local licensing authority;

(k) A person whose authority to be a primary caregiver as defined in section 25-1.5-106 (2), C.R.S., has been revoked by the state health agency;

(l) A person for a license for a location that is currently licensed as a retail food establishment or wholesale food registrant; or

(m) Repealed.

(n) A publicly traded company.

(2) (a) In investigating the qualifications of an applicant or a licensee, the state and local licensing authorities may have access to criminal history record information furnished by a criminal justice agency subject to any restrictions imposed by such agency. In the event the state or local licensing authority considers the applicant's criminal history record, the state or local licensing authority shall also consider any information provided by the applicant regarding such criminal history record, including but not limited to evidence of rehabilitation, character references, and educational achievements, especially those items pertaining to the period of time between the applicant's last criminal conviction and the consideration of the application for a state license.

(b) As used in paragraph (a) of this subsection (2), "criminal justice agency" means any federal, state, or municipal court or any governmental agency or subunit of such agency that administers criminal justice pursuant to a statute or executive order and that allocates a substantial part of its annual budget to the administration of criminal justice.

(c) At the time of filing an application for issuance or renewal of a state medical marijuana center license, medical marijuana-infused product manufacturer license, or optional premises cultivation license, an applicant shall submit a set of his or her fingerprints and file personal history information concerning the applicant's qualifications for a state license on forms prepared by the state licensing authority. The state or local licensing authority shall submit the fingerprints to the Colorado bureau of investigation for the purpose of conducting fingerprint-based criminal history record checks. The Colorado bureau of investigation shall forward the fingerprints to the federal bureau of investigation for the purpose of conducting fingerprint-based criminal history record checks. The state or local licensing authority may acquire a name-based criminal history record check for an applicant or a license holder who has twice submitted to a fingerprint-based criminal history record check and whose fingerprints are unclassifiable. An applicant who has previously submitted fingerprints for state licensing purposes may request that the fingerprints on file be used. The state or local licensing authority shall use the information resulting from the fingerprint-based criminal history record check to investigate and determine whether an applicant is qualified to hold a state license pursuant to this article. The state or local licensing authority may verify any of the information an applicant is required to submit.

Source: L. 2010: Entire article added, (HB 10-1284), ch. 355, p. 1660, § 1, effective July 1. **L. 2011:** (1)(h), (1)(m), (2)(a), and (2)(c) amended, (HB 11-1043), ch. 266, p. 1204, § 9,

effective July 1. **L. 2013:** (1)(m) amended, (HB 13-1300), ch. 316, p. 1670, § 25, effective August 7. **L. 2015:** (1)(g) and (1)(h) amended and (1)(g.5) added, (SB 15-115), ch. 283, p. 1160, § 7, effective June 5. **L. 2016:** (1)(g)(I) amended, (HB 16-1041), ch. 14, p. 32, § 3, effective March 11; (1)(a) amended, (1)(m) repealed, and (1)(n) added, (SB 16-040), ch. 293, p. 1186, § 3, effective June 10.

Editor's note: (1) The provisions of subsection (1) were renumbered and relettered on revision to conform to statutory format.

(2) Subsection (1)(m)(I)(B) provided for the repeal of subsection (1)(m)(I), effective July 1, 2012. (See L. 2011, p. 1204.)

Cross references: For the legislative declaration in HB 16-1041, see section 1 of chapter 14, Session Laws of Colorado 2016.

12-43.3-307.5. Business and owner requirements - legislative declaration - definitions. (1) (a) The general assembly hereby finds and declares that:

(I) Medical marijuana businesses need to be able to access capital in order to effectively grow their businesses and remain competitive in the marketplace;

(II) The current regulatory structure for medical marijuana creates a substantial barrier to investment from out-of-state interests;

(III) There is insufficient capital in the state to properly fund the capital needs of Colorado medical marijuana businesses;

(IV) Colorado medical marijuana businesses need to have ready access to capital from investors in states outside of Colorado; and

(V) Providing access to legitimate sources of capital helps prevent the opportunity for those who engage in illegal activity to gain entry into the state's regulated medical marijuana market.

(b) Therefore, the general assembly is providing a mechanism for Colorado medical marijuana businesses to access capital from investors in other states.

(2) A direct beneficial interest owner who is a natural person must either:

(a) Have been a resident of Colorado for at least one year prior to the date of the application; or

(b) Be a United States citizen prior to the date of the application.

(3) (a) A medical marijuana business may be comprised of an unlimited number of direct beneficial interest owners that have been residents of Colorado for at least one year prior to the date of the application.

(b) On and after January 1, 2017, a medical marijuana business that is comprised of one or more direct beneficial interest owners who have not been Colorado residents for at least one year prior to application shall have at least one officer who has been a Colorado resident for at least one year prior to application and all officers with day-to-day operational control over the business must be Colorado residents for at least one year prior to application. A medical marijuana business under this paragraph (b) is limited to no more than fifteen direct beneficial interest owners, including all parent and subsidiary entities, all of whom are natural persons.

(c) Notwithstanding the requirements of paragraph (b) of this subsection (3), the state licensing authority may review the limitation on the number of direct beneficial interest owners

and may increase the number of allowable interests above fifteen based on reasonable considerations such as developments in state and federal financial regulations, market conditions, and the licensee's ability to access legitimate sources of capital.

(d) A direct beneficial interest owner that is a closely held business entity must consist entirely of natural persons who are United States citizens prior to the date of the application, including all parent and subsidiary entities.

(4) A medical marijuana business may include qualified institutional investors that own thirty percent or less of the medical marijuana business.

(5) (a) A person who intends to apply as a direct beneficial interest owner and is not a Colorado resident for at least one year prior to the date of application shall first submit a request to the state licensing authority for a finding of suitability as a direct beneficial interest owner. The person shall receive a finding of suitability prior to submitting an application to the state licensing authority to be a direct beneficial interest owner. Failure to receive a finding of suitability prior to application is grounds for denial by the state licensing authority.

(b) The state licensing authority shall perform a limited initial background check on qualified limited passive investors. If the initial background check provides reasonable cause for additional investigation, the state licensing authority may require a full background check.

(6) The state licensing authority shall review the medical marijuana business's operating documents to ensure compliance with this section.

(7) For purposes of this section, unless the context otherwise requires, "institutional investor" means:

(a) A bank as defined in section 3(a)(6) of the federal "Securities Exchange Act of 1934", as amended;

(b) An insurance company as defined in section 2(a)(17) of the federal "Investment Company Act of 1940", as amended;

(c) An investment company registered under section 8 of the federal "Investment Company Act of 1940", as amended;

(d) An investment adviser registered under section 203 of the federal "Investment Advisers Act of 1940", as amended;

(e) Collective trust funds as defined in section 3(c)(11) of the federal "Investment Company Act of 1940", as amended;

(f) An employee benefit plan or pension fund that is subject to the federal "Employee Retirement Income Security Act of 1974", as amended, excluding an employee benefit plan or pension fund sponsored by a licensee or an intermediary or holding company licensee that directly or indirectly owns five percent or more of a licensee;

(g) A state or federal government pension plan;

(h) A group comprised entirely of persons specified in subsections (a) to (g) of this subsection (7); or

(i) Any other entity identified through rule by the state licensing authority.

Source: L. 2016: Entire section added, (SB 16-040), ch. 293, p. 1186, § 4, effective June 10.

12-43.3-308. Restrictions for applications for new licenses. (1) The state or a local licensing authority shall not receive or act upon an application for the issuance of a state or local license pursuant to this article:

(a) If the application for a state or local license concerns a particular location that is the same as or within one thousand feet of a location for which, within the two years immediately preceding the date of the application, the state or a local licensing authority denied an application for the same class of license due to the nature of the use or other concern related to the location;

(b) Until it is established that the applicant is, or will be, entitled to possession of the premises for which application is made under a lease, rental agreement, or other arrangement for possession of the premises or by virtue of ownership of the premises;

(c) For a location in an area where the cultivation, manufacture, and sale of medical marijuana as contemplated is not permitted under the applicable zoning laws of the municipality, city and county, or county;

(d) (I) If the building in which medical marijuana is to be sold is located within one thousand feet of a school, an alcohol or drug treatment facility, the principal campus of a college, university, or seminary, or a residential child care facility. The provisions of this section shall not affect the renewal or reissuance of a license once granted or apply to licensed premises located or to be located on land owned by a municipality, nor shall the provisions of this section apply to an existing licensed premises on land owned by the state, or apply to a license in effect and actively doing business before said principal campus was constructed. The local licensing authority of a city and county, by rule or regulation, the governing body of a municipality, by ordinance, and the governing body of a county, by resolution, may vary the distance restrictions imposed by this subparagraph (I) for a license or may eliminate one or more types of schools, campuses, or facilities from the application of a distance restriction established by or pursuant to this subparagraph (I).

(II) The distances referred to in this paragraph (d) are to be computed by direct measurement from the nearest property line of the land used for a school or campus to the nearest portion of the building in which medical marijuana is to be sold, using a route of direct pedestrian access.

(III) In addition to the requirements of section 12-43.3-303 (2), the local licensing authority shall consider the evidence and make a specific finding of fact as to whether the building in which the medical marijuana is to be sold is located within any distance restrictions established by or pursuant to this paragraph (d).

Source: L. 2010: Entire article added, (HB 10-1284), ch. 355, p. 1662, § 1, effective July 1.

12-43.3-309. Transfer of ownership. (1) A state or local license granted under the provisions of this article shall not be transferable except as provided in this section, but this section shall not prevent a change of location as provided in section 12-43.3-310 (13).

(2) For a transfer of ownership, a license holder shall apply to the state and local licensing authorities on forms prepared and furnished by the state licensing authority. In determining whether to permit a transfer of ownership, the state and local licensing authorities shall consider only the requirements of this article, any rules promulgated by the state licensing authority, and any other local restrictions. The local licensing authority may hold a hearing on

the application for transfer of ownership. The local licensing authority shall not hold a hearing pursuant to this subsection (2) until the local licensing authority has posted a notice of hearing in the manner described in section 12-43.3-302 (2) on the licensed medical marijuana center premises for a period of ten days and has provided notice of the hearing to the applicant at least ten days prior to the hearing. Any transfer of ownership hearing by the state licensing authority shall be held in compliance with the requirements specified in section 12-43.3-302.

Source: L. 2010: Entire article added, (HB 10-1284), ch. 355, p. 1663, § 1, effective July 1.

12-43.3-310. Licensing in general. (1) This article authorizes a county, municipality, or city and county to prohibit the operation of medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused products manufacturers' licenses and to enact reasonable regulations or other restrictions applicable to medical marijuana centers, optional premises cultivation licenses, and medical marijuana-infused products manufacturers' licenses based on local government zoning, health, safety, and public welfare laws for the distribution of medical marijuana that are more restrictive than this article.

(2) A medical marijuana center, optional premises cultivation operation, or medical marijuana-infused products manufacturer may not operate until it has been licensed by the local licensing authority and the state licensing authority pursuant to this article. If the state licensing authority issues the applicant a state license and the local licensing authority subsequently denies the applicant a license, the state licensing authority shall consider the local licensing authority denial as a basis for the revocation of the state-issued license. In connection with a license, the applicant shall provide a complete and accurate list of all owners, officers, and employees who manage, own, or are otherwise substantially associated with the operation and shall provide a complete and accurate application as required by the state licensing authority.

(3) A medical marijuana center, optional premises cultivation operation, or medical marijuana-infused products manufacturer shall notify the state licensing authority in writing within ten days after an owner, officer, or manager ceases to work at, manage, own, or otherwise be associated with the operation. The owner, officer, or manager shall surrender to the state licensing authority any identification card that may have been issued by the state licensing authority on or before the date of the notification.

(4) A medical marijuana center, optional premises cultivation operation, or medical marijuana-infused products manufacturer shall notify the state licensing authority in writing of the name, address, and date of birth of an owner, officer, or manager before the new owner, officer, or manager begins managing, owning, or associating with the operation. Any owner, officer, manager or employee shall pass a fingerprint-based criminal history record check as required by the state licensing authority and obtain the required identification prior to being associated with, managing, owning, or working at the operation.

(5) A medical marijuana center, optional premises cultivation operation, or medical marijuana-infused products manufacturer shall not acquire, possess, cultivate, deliver, transfer, transport, supply, or dispense marijuana for any purpose except to assist patients, as defined by section 14 (1) of article XVIII of the state constitution.

(6) All managers and employees of a medical marijuana center, optional premises cultivation operation, or medical marijuana-infused products manufacturer shall be residents of

Colorado upon the date of their license application. All licenses granted pursuant to this article shall be valid for a period not to exceed two years after the date of issuance unless revoked or suspended pursuant to this article or the rules promulgated pursuant to this article.

(7) Before granting a local or state license, the respective licensing authority may consider, except where this article specifically provides otherwise, the requirements of this article and any rules promulgated pursuant to this article, and all other reasonable restrictions that are or may be placed upon the licensee by the licensing authority. With respect to a second or additional license for the same licensee or the same owner of another licensed business pursuant to this article, each licensing authority shall consider the effect on competition of granting or denying the additional licenses to such licensee and shall not approve an application for a second or additional license that would have the effect of restraining competition.

(8) (a) Each license issued under this article is separate and distinct. It is unlawful for a person to exercise any of the privileges granted under a license other than the license that the person holds or for a licensee to allow any other person to exercise the privileges granted under the licensee's license. A separate license shall be required for each specific business or business entity and each geographical location.

(b) At all times, a licensee shall possess and maintain possession of the premises or optional premises for which the license is issued by ownership, lease, rental, or other arrangement for possession of the premises.

(9) (a) The licenses provided pursuant to this article shall specify the date of issuance, the period of licensure, the name of the licensee, and the premises or optional premises licensed. The licensee shall conspicuously place the license at all times on the licensed premises or optional premises.

(b) A local licensing authority shall not transfer location of or renew a license to sell medical marijuana until the applicant for the license provides verification that a license was issued and granted by the state licensing authority for the previous license term. The state licensing authority shall not transfer location of or renew a state license until the applicant provides verification that a license was issued and granted by the local licensing authority for the previous license term.

(10) In computing any period of time prescribed by this article, the day of the act, event, or default from which the designated period of time begins to run shall not be included. Saturdays, Sundays, and legal holidays shall be counted as any other day.

(11) A licensee shall report each transfer or change of financial interest in the license to the state and local licensing authorities thirty days prior to any transfer or change pursuant to section 12-43.3-309. A report shall be required for transfers of capital stock of any corporation regardless of size.

(12) Each licensee shall manage the licensed premises himself or herself or employ a separate and distinct manager on the premises and shall report the name of the manager to the state and local licensing authorities. The licensee shall report any change in manager to the state and local licensing authorities prior to the change pursuant to subsection (4) of this section.

(13) (a) A licensee may move his or her permanent location to any other place in Colorado once permission to do so is granted by the state and local licensing authorities provided for in this article 43.3. Upon receipt of an application for change of location, the state licensing authority shall, within seven days, submit a copy of the application to the local licensing

authority to determine whether the transfer complies with all local restrictions on change of location.

(b) In permitting a change of location, the state and local licensing authorities shall consider all reasonable restrictions that are or may be placed upon the new location by the governing board or local licensing authority of the municipality, city and county, or county, and any such change in location shall be in accordance with all requirements of this article 43.3 and rules promulgated pursuant to this article 43.3.

(14) Repealed.

Source: **L. 2010:** Entire article added, (HB 10-1284), ch. 355, p. 1663, § 1, effective July 1. **L. 2011:** (6) amended and (14) repealed, (HB 11-1043), ch. 266, p. 1205, §§ 10, 11, effective July 1. **L. 2013:** (2), (3), (4), (6), (9)(b), and (12) amended, (HB 13-1238), ch. 328, p. 1823, § 3, effective May 28. **L. 2016:** (6) amended, (SB 16-040), ch. 293, p. 1188, § 5, effective June 10. **L. 2017:** (13) amended, (HB 17-1034), ch. 43, p. 127, § 6, effective March 16.

12-43.3-311. License renewal. (1) Ninety days prior to the expiration date of an existing license, the state licensing authority shall notify the licensee of the expiration date by first class mail at the licensee's address of record with the state licensing authority. A licensee shall apply for the renewal of an existing license to the local licensing authority not less than forty-five days and to the state licensing authority not less than thirty days prior to the date of expiration. A local licensing authority shall not accept an application for renewal of a license after the date of expiration, except as provided in subsection (2) of this section. The state licensing authority may extend the expiration date of the license and accept a late application for renewal of a license provided that the applicant has filed a timely renewal application with the local licensing authority. All renewals filed with the local licensing authority and subsequently approved by the local licensing authority shall next be processed by the state licensing authority. The state licensing authority may administratively continue the license and accept a later application for renewal of a license at the discretion of the state licensing authority. The local licensing authority may hold a hearing on the application for renewal only if the licensee has had complaints filed against it, has a history of violations, or there are allegations against the licensee that would constitute good cause. The local licensing authority shall not hold a renewal hearing provided for by this subsection (1) for a medical marijuana center until it has posted a notice of hearing on the licensed medical marijuana center premises in the manner described in section 12-43.3-302 (2) for a period of ten days and provided notice to the applicant at least ten days prior to the hearing. The local licensing authority may refuse to renew any license for good cause, subject to judicial review.

(1.5) The state licensing authority may require an additional fingerprint request when there is a demonstrated investigative need.

(2) (a) Notwithstanding the provisions of subsection (1) of this section, a licensee whose license has been expired for not more than ninety days may file a late renewal application upon the payment of a nonrefundable late application fee of five hundred dollars to the local licensing authority. A licensee who files a late renewal application and pays the requisite fees may continue to operate until both the state and local licensing authorities have taken final action to approve or deny the licensee's late renewal application unless the state or local licensing

authority summarily suspends the license pursuant to article 4 of title 24, C.R.S., this article, and rules promulgated pursuant to this article.

(b) The state and local licensing authorities may not accept a late renewal application more than ninety days after the expiration of a licensee's permanent annual license. A licensee whose permanent annual license has been expired for more than ninety days shall not cultivate, manufacture, distribute, or sell any medical marijuana until all required licenses have been obtained.

(c) Notwithstanding the amount specified for the late application fee in paragraph (a) of this subsection (2), the state licensing authority by rule or as otherwise provided by law may reduce the amount of the fee if necessary pursuant to section 24-75-402 (3), C.R.S., by reducing the uncommitted reserves of the fund to which all or any portion of the fee is credited. After the uncommitted reserves of the fund are sufficiently reduced, the state licensing authority by rule or as otherwise provided by law may increase the amount of the fee as provided in section 24-75-402 (4), C.R.S.

Source: L. 2010: Entire article added, (HB 10-1284), ch. 355, p. 1666, § 1, effective July 1. **L. 2015:** (1) amended, (SB 15-115), ch. 283, p. 1161, § 8, effective June 5. **L. 2016:** (1.5) added, (SB 16-040), ch. 293, p. 1188, § 6, effective June 10.

12-43.3-312. Inactive licenses. The state or local licensing authority, in its discretion, may revoke or elect not to renew any license if it determines that the licensed premises have been inactive, without good cause, for at least one year.

Source: L. 2010: Entire article added, (HB 10-1284), ch. 355, p. 1667, § 1, effective July 1.

12-43.3-313. Unlawful financial assistance. (1) The state licensing authority, by rule and regulation, shall require a complete disclosure of all persons having a direct or indirect financial interest, and the extent of such interest, in each license issued under this article.

(2) A person shall not have an unreported financial interest in a license pursuant to this article unless that person has undergone a fingerprint-based criminal history record check as provided for by the state licensing authority in its rules; except that this subsection (2) does not apply to banks or savings and loan associations supervised and regulated by an agency of the state or federal government, or to FHA-approved mortgagees, or to stockholders, directors, or officers thereof.

(3) This section is intended to prohibit and prevent the control of the outlets for the sale of medical marijuana by a person or party other than the persons licensed pursuant to the provisions of this article.

Source: L. 2010: Entire article added, (HB 10-1284), ch. 355, p. 1667, § 1, effective July 1. **L. 2013:** (2) amended, (SB 13-154), ch. 282, p. 1485, § 61, effective July 1.

PART 4

LICENSE TYPES

12-43.3-401. Classes of licenses. (1) For the purpose of regulating the cultivation, manufacture, distribution, and sale of medical marijuana, the state licensing authority in its discretion, upon application in the prescribed form made to it, may issue and grant to the applicant a license from any of the following classes, subject to the provisions and restrictions provided by this article 43.3:

- (a) Medical marijuana center license;
- (b) Optional premises cultivation license;
- (c) Medical marijuana-infused products manufacturing license;
- (c.5) Medical marijuana testing facility license;

(d) Occupational licenses and registrations for owners, managers, operators, employees, contractors, and other support staff employed by, working in, or having access to restricted areas of the licensed premises, as determined by the state licensing authority. Upon receipt of an affirmation under penalty of perjury that the applicant is enrolled in a marijuana-based workforce development or training program operated by an entity licensed under this article 43.3 or by a school that is authorized by the division of private occupational schools in Colorado that will require access or employment within a premises licensed pursuant to this article 43.3 or article 43.4 of this title 12, the state licensing authority may exempt for up to two years based on the length of the program the residency requirement in section 12-43.3-310 (6) for a person applying for an occupational license for participation in a marijuana-based workforce development or training program. The state licensing authority may take any action with respect to a registration pursuant to this article 43.3 as it may with respect to a license pursuant to this article 43.3, in accordance with the procedures established pursuant to this article 43.3.

- (e) Medical marijuana transporter license;
- (f) Medical marijuana business operator license;
- (g) Marijuana research and development license; and
- (h) Marijuana research and development cultivation license.

(2) All persons licensed pursuant to this article shall collect sales tax on all sales made pursuant to the licensing activities.

(3) A state chartered bank or a credit union may loan money to any person licensed pursuant to this article for the operation of a licensed business. A marijuana financial services cooperative organized pursuant to article 33 of title 11, C.R.S., may accept as a member, loan money to, and accept deposits from any entity licensed pursuant to this article for the operation of a licensed business.

Source: L. 2010: Entire article added, (HB 10-1284), ch. 355, p. 1667, § 1, effective July 1. **L. 2014:** (3) amended, (HB 14-1398), ch. 353, p. 1646, § 2, effective June 6. **L. 2015:** (1)(c) amended and (1)(c.5) added, (SB 15-260), ch. 258, p. 937, § 2, effective July 1, 2016. **L. 2016:** (1)(e) added, (HB 16-1211), ch. 333, p. 1352, § 4, effective August 10. **L. 2017:** IP(1) amended and (1)(f) added, (HB 17-1034), ch. 43, p. 126, § 3, effective March 16; IP(1) and (1)(d) amended, (SB 17-187), ch. 354, p. 1841, § 2, effective August 9; IP(1) amended and (1)(g) and (1)(h) added, (HB 17-1367), ch. 406, p. 2119, § 3, effective August 9.

12-43.3-402. Medical marijuana center license. (1) (a) A medical marijuana center license shall be issued only to a person selling medical marijuana pursuant to the terms and conditions of this article.

(b) The medical marijuana center shall track all of its medical marijuana and medical marijuana-infused products from the point that they are transferred from a medical marijuana optional premises cultivation facility or medical marijuana-infused products manufacturer to the point of sale.

(2) (a) Notwithstanding the provisions of this section, a medical marijuana center licensee may also sell medical marijuana-infused products that are prepackaged and labeled so as to clearly indicate all of the following:

(I) That the product contains medical marijuana;

(II) That the product is manufactured without any regulatory oversight for health, safety, or efficacy; and

(III) That there may be health risks associated with the consumption or use of the product.

(b) A medical marijuana licensee may contract with a medical marijuana-infused products manufacturing licensee for the manufacture of medical marijuana-infused products upon a medical marijuana-infused products manufacturing licensee's licensed premises.

(3) Every person selling medical marijuana as provided for in this article shall sell only medical marijuana grown in its medical marijuana optional premises licensed pursuant to this article. In addition to medical marijuana, a medical marijuana center may sell no more than six immature plants to a patient; except that a medical marijuana center may sell more than six immature plants, but may not exceed half the recommended plant count, to a patient who has been recommended an expanded plant count by his or her recommending physician. A medical marijuana center may sell immature plants to a primary caregiver, another medical marijuana center, or a medical marijuana-infused product manufacturer pursuant to rules promulgated by the state licensing authority. The provisions of this subsection (3) shall not apply to medical marijuana-infused products.

(4) Notwithstanding the requirements of subsection (3) of this section to the contrary, a medical marijuana licensee may purchase not more than thirty percent of its total on-hand inventory of medical marijuana from another licensed medical marijuana center in Colorado. A medical marijuana center may sell no more than thirty percent of its total on-hand inventory to another Colorado licensed medical marijuana licensee; except that the director of the division that regulates medical marijuana may grant a temporary waiver:

(a) To a medical marijuana center or applicant if the medical marijuana center or applicant suffers a catastrophic event related to its inventory; or

(b) To a new medical marijuana center licensee for a period not to exceed ninety days so the new licensee can cultivate the necessary medical marijuana to comply with this subsection (4).

(5) Prior to initiating a sale, the employee of the medical marijuana center making the sale shall verify that the purchaser has a valid registry identification card issued pursuant to section 25-1.5-106, C.R.S., or a copy of a current and complete new application for the medical marijuana registry administered by the department of public health and environment that is documented by a certified mail return receipt as having been submitted to the department of public health and environment within the preceding thirty-five days, and a valid picture identification card that matches the name on the registry identification card. A purchaser may not provide a copy of a renewal application in order to make a purchase at a medical marijuana center. A purchaser may only make a purchase using a copy of his or her application from 8 a.m.

to 5 p.m., Monday through Friday. If the purchaser presents a copy of his or her application at the time of purchase, the employee must contact the department of public health and environment to determine whether the purchaser's application has been denied. The employee shall not complete the transaction if the purchaser's application has been denied. If the purchaser's application has been denied, the employee shall be authorized to confiscate the purchaser's copy of the application and the documentation of the certified mail return receipt, if possible, and shall, within seventy-two hours after the confiscation, turn it over to the department of public health and environment or a local law enforcement agency. The failure to confiscate the copy of the application and document of the certified mail return receipt or to turn it over to the state health department or a state or local law enforcement agency within seventy-two hours after the confiscation shall not constitute a criminal offense.

(5.5) Transactions for the sale of medical marijuana or a medical marijuana-infused product at a medical marijuana center may be completed by using an automated machine that is in a restricted access area of the center if the machine complies with the rules promulgated by the state licensing authority regarding the transaction of sale of product at a medical marijuana center and the transaction complies with subsection (5) of this section.

(6) A medical marijuana center may provide, except as required by section 12-43.3-202 (2.5)(a)(I), a sample of its products to a facility that has a medical marijuana testing facility license from the state licensing authority for testing and research purposes. A medical marijuana center shall maintain a record of what was provided to the testing facility, the identity of the testing facility, and the results of the testing.

(7) All medical marijuana sold at a licensed medical marijuana center shall be labeled with a list of all chemical additives, including but not limited to nonorganic pesticides, herbicides, and fertilizers, that were used in the cultivation and the production of the medical marijuana.

(8) A licensed medical marijuana center shall comply with all provisions of article 34 of title 24, C.R.S., as the provisions relate to persons with disabilities.

(9) Notwithstanding the provisions of section 12-43.3-901 (4)(m), a medical marijuana center may sell below cost or donate to a patient who has been designated indigent by the state health agency or who is in hospice care:

(a) Medical marijuana; or

(b) No more than six immature plants; except that a medical marijuana center may sell or donate more than six immature plants, but may not exceed half the recommended plant count, to a patient who has been recommended an expanded plant count by his or her recommending physician; or

(c) Medical marijuana-infused products to patients.

Source: L. 2010: Entire article added, (HB 10-1284), ch. 355, p. 1668, § 1, effective July 1. **L. 2011:** (3), (4), (5), and (6) amended and (5.5) and (9) added, (HB 11- 1043), ch. 266, p. 1205, § 12, effective July 1. **L. 2013:** (5) amended, (HB 13-1300), ch. 316, p. 1670, § 26, effective August 7. **L. 2015:** (1) amended, (SB 15-115), ch. 283, p. 1162, § 9, effective June 5; (6) amended, (SB 15-260), ch. 258, p. 937, § 3, effective July 1, 2016.

12-43.3-403. Optional premises cultivation license. (1) An optional premises cultivation license may be issued only to a person licensed pursuant to section 12-43.3-402 (1) or

12-43.3-404 (1) who grows and cultivates medical marijuana at an additional Colorado licensed premises contiguous or not contiguous with the licensed premises of the person's medical marijuana center license or the person's medical marijuana-infused products manufacturing license.

(2) Optional premises cultivation licenses may be combined in a common area solely for the purposes of growing and cultivating medical marijuana and used to provide medical marijuana to more than one licensed medical marijuana center or licensed medical marijuana-infused product manufacturer so long as the holder of the optional premise cultivation license is also a common owner of each licensed medical marijuana center or licensed medical marijuana-infused product manufacturer to which medical marijuana is provided. In accordance with promulgated rules relating to plant and product tracking requirements, each optional premises cultivation licensee shall supply medical marijuana only to its associated licensed medical marijuana centers or licensed medical marijuana-infused product manufacturers; except that an optional premises cultivation licensee associated with a licensed medical marijuana center may transport medical marijuana directly to any other licensed medical marijuana center for a transaction pursuant to section 12-43.3-402 (4) or a licensed medical marijuana-infused products manufacturer for a transaction pursuant to section 12-43.3-404 (3) if there is a corresponding documented point-of-sale transaction prior to transporting the medical marijuana from the optional premises cultivation premises to the licensed medical marijuana center or licensed medical marijuana-infused products manufacturer.

(3) A medical marijuana optional premises cultivation facility shall track the marijuana it cultivates from seed or immature plant to wholesale transfer.

Source: L. 2010: Entire article added, (HB 10-1284), ch. 355, p. 1669, § 1, effective July 1. **L. 2011:** Entire section amended, (HB 11-1043), ch. 266, p. 1207, § 13, effective July 1. **L. 2015:** (2) amended and (3) added, (SB 15-115), ch. 283, p. 1162, § 10, effective June 5.

12-43.3-404. Medical marijuana-infused products manufacturing license - rules. (1)

(a) A medical marijuana-infused products manufacturing license may be issued to a person who manufactures medical marijuana-infused products, pursuant to the terms and conditions of this article.

(b) A medical marijuana-infused products manufacturer may cultivate its own medical marijuana if it obtains a medical marijuana optional premises cultivation facility license, it may purchase medical marijuana from a medical marijuana center pursuant to subsection (3) of this section, or it may purchase medical marijuana from another medical marijuana-infused products manufacturer. A medical marijuana-infused products manufacturer shall track all of its medical marijuana from the point it is either transferred from its medical marijuana optional premises cultivation facility or the point when it is delivered to the medical marijuana-infused products manufacturer from a medical marijuana center, a medical marijuana-infused products manufacturer, or one of their medical marijuana optional premises cultivation facilities to the point of transfer to a medical marijuana center or a medical marijuana-infused products manufacturer.

(2) Medical marijuana-infused products shall be prepared on a licensed premises that is used exclusively for the manufacture and preparation of medical marijuana-infused products and

using equipment that is used exclusively for the manufacture and preparation of medical marijuana-infused products.

(3) A medical marijuana-infused products manufacturer shall have a written agreement or contract with a medical marijuana center or a medical marijuana-infused products manufacturer, which contract shall at a minimum set forth the total amount of medical marijuana obtained from the medical marijuana center or the medical marijuana-infused products manufacturer to be used in the manufacturing process, and the total amount of medical marijuana-infused products to be manufactured from the medical marijuana obtained from the medical marijuana center or the medical marijuana-infused products manufacturer. A medical marijuana-infused products manufacturer shall not use medical marijuana from more than five different medical marijuana centers or medical marijuana-infused products manufacturers in total in the production of one medical marijuana-infused product. The medical marijuana-infused products manufacturer may sell its products to any medical marijuana center or to any medical marijuana-infused products manufacturer.

(4) All licensed premises on which medical marijuana-infused products are manufactured shall meet the sanitary standards for medical marijuana-infused product preparation promulgated pursuant to section 12-43.3-202 (2)(a)(XII).

(5) The medical marijuana-infused product shall be sealed and conspicuously labeled in compliance with this article and any rules promulgated pursuant to this article. The labeling of medical marijuana-infused products is a matter of statewide concern.

(6) Medical marijuana-infused products may not be consumed on a premises licensed pursuant to this article.

(7) Notwithstanding any other provision of state law, sales of medical marijuana-infused products shall not be exempt from state or local sales tax.

(8) A medical marijuana-infused products manufacturer that has an optional premises cultivation license shall not sell any of the medical marijuana that it cultivates except for the medical marijuana that is contained in medical marijuana-infused products.

(9) (a) A medical marijuana-infused products manufacturer may not have more than five hundred medical marijuana plants on its premises or at its optional premises cultivation operation; except that the director of the division that regulates medical marijuana may grant a waiver in excess of five hundred marijuana plants based on the consideration of the factors in subsection (9)(b) of this section.

(b) The director of the division that regulates medical marijuana shall consider the following factors in determining whether to grant the waiver described in paragraph (a) of this subsection (9):

(I) The nature of the products manufactured;

(II) The business need;

(III) Existing business contracts with licensed medical marijuana centers for the production of medical marijuana-infused products; and

(IV) The ability to contract with licensed medical marijuana centers for the production of medical marijuana-infused products.

(10) A medical marijuana-infused products manufacturer may provide, except as required by section 12-43.3-202 (2.5)(a)(I), a sample of its products to a facility that has a medical marijuana testing facility license from the state licensing authority for testing and research purposes. A medical marijuana products manufacturer shall maintain a record of what

was provided to the testing facility, the identity of the testing facility, and the results of the testing.

(11) A medical marijuana-infused products manufacturer shall not:

(a) Add any medical marijuana to a food product where the manufacturer of the food product holds a trademark to the food product's name; except that a manufacturer may use a trademarked food product if the manufacturer uses the product as a component or as part of a recipe and where the medical marijuana-infused products manufacturer does not state or advertise to the consumer that the final medical marijuana-infused product contains a trademarked food product;

(b) Intentionally or knowingly label or package a medical marijuana-infused product in a manner that would cause a reasonable consumer confusion as to whether the medical marijuana-infused product was a trademarked food product; or

(c) Label or package a medical marijuana-infused product in a manner that violates any federal trademark law or regulation.

Source: L. 2010: Entire article added, (HB 10-1284), ch. 355, p. 1669, § 1, effective July 1. **L. 2011:** (5) and (8) amended and (9) and (10) added, (HB 11-1043), ch. 266, p. 1208, § 14, effective July 1. **L. 2015:** (1) amended and (11) added, (SB 15-115), ch. 283, p. 1162, § 11, effective June 5; (10) amended, (SB 15-260), ch. 258, p. 938, § 4, effective July 1, 2016. **L. 2017:** (1)(b), (3), (8), and (9)(a) amended, (HB 17-1034), ch. 43, p. 126, § 4, effective March 16.

12-43.3-405. Medical marijuana testing facility license - rules. (1) A medical marijuana testing facility license may be issued to a person who performs testing and research on medical marijuana for medical marijuana licensees, medical marijuana and medical marijuana-infused products for marijuana and research development licensees and marijuana research and development cultivation licensees, and marijuana or marijuana-infused products grown or produced by a registered patient or registered primary caregiver on behalf of a registered patient, upon verification of registration pursuant to section 25-1.5-106 (7)(e) and verification that the patient is a participant in a clinical or observational study conducted by a marijuana research and development licensee or marijuana research and development cultivation licensee. The facility may develop and test medical marijuana products.

(2) The state licensing authority shall promulgate rules pursuant to its authority in section 12-43.3-202 (1)(b) related to acceptable testing and research practices, including but not limited to testing, standards, quality control analysis, equipment certification and calibration, and chemical identification and other substances used in bona fide research methods.

(3) A person who has an interest in a medical marijuana testing facility license from the state licensing authority for testing purposes shall not have any interest in a licensed medical marijuana center, a licensed optional premises cultivation operation, a licensed medical marijuana-infused products manufacturer, a licensed retail marijuana store, a licensed retail marijuana cultivation facility, or a licensed retail marijuana products manufacturer. A person that has an interest in a licensed medical marijuana center, a licensed optional premises cultivation operation, a licensed medical marijuana-infused products manufacturer, a licensed retail marijuana store, a licensed retail marijuana cultivation facility, or a licensed retail marijuana products manufacturer shall not have an interest in a facility that has a medical marijuana testing facility license.

Source: L. 2015: Entire section added, (SB 15-260), ch. 258, p. 938, § 5, effective July 1, 2016. **L. 2017:** (1) amended, (HB 17-1367), ch. 406, p. 2121, § 5, effective August 9.

12-43.3-406. Medical marijuana transporter license. (1) (a) A medical marijuana transporter license may be issued to a person to provide logistics, distribution, and storage of medical marijuana and medical marijuana-infused products. Notwithstanding any other provisions of law, a medical marijuana transporter license is valid for two years, but cannot be transferred with a change of ownership. A licensed medical marijuana transporter is responsible for the medical marijuana and medical marijuana-infused products once it takes control of the product.

(b) A licensed medical marijuana transporter may contract with multiple licensed medical marijuana businesses.

(c) On and after July 1, 2017, all medical marijuana transporters shall hold a valid medical marijuana transporter license; except that an entity licensed pursuant to this article that provides its own distribution is not required to have a medical marijuana transporter license to transport and distribute its products. The state licensing authority shall begin accepting applications after January 1, 2017.

(2) A medical marijuana transporter licensee may maintain a licensed premises to temporarily store medical marijuana and medical marijuana-infused products and to use as a centralized distribution point. The licensed premises must be located in a jurisdiction that permits the operation of medical marijuana centers. A licensed medical marijuana transporter may store and distribute medical marijuana and medical marijuana-infused products from this location. A storage facility must meet the same security requirements that are required to obtain a medical marijuana optional premise cultivation license.

(3) A medical marijuana transporter licensee shall use the seed-to-sale tracking system developed pursuant to section 12-43.4-202 (1) to create shipping manifests documenting the transport of medical marijuana and medical marijuana-infused products throughout the state.

(4) A medical marijuana transporter licensee may:

(a) Maintain and operate one or more warehouses in the state to handle medical marijuana and medical marijuana-infused products; and

(b) Deliver medical marijuana and medical marijuana-infused products on orders previously taken if the place where orders are taken and delivered is licensed.

Source: L. 2016: Entire section added, (HB 16-1211), ch. 333, p. 1352, § 5, effective August 10.

12-43.3-407. Medical marijuana business operator license. A medical marijuana business operator license may be issued to an entity or person who operates a medical marijuana establishment licensed pursuant to this article 43.3 for an owner licensed pursuant to this article 43.3 and who may receive a portion of the profits as compensation.

Source: L. 2017: Entire section added, (HB 17-1034), ch. 43, p. 127, § 5, effective March 16.

12-43.3-408. Marijuana research and development license - marijuana research and development cultivation license - definition. (1) (a) A marijuana research and development license may be issued to a person to possess marijuana for the limited research purposes identified in subsection (2) of this section.

(b) A marijuana research and development cultivation license may be issued to a person to grow, cultivate, possess, and transfer, by sale or donation, marijuana pursuant to section 12-43.3-202 (2)(a)(XXII) or subsection (4) of this section for the limited research purposes identified in subsection (2) of this section.

(2) A license identified in subsection (1) of this section may be issued for the following limited research purposes:

(a) To test chemical potency and composition levels;

(b) To conduct clinical investigations of marijuana-derived medicinal products;

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

(d) To conduct genomic, horticultural, or agricultural research; and

(e) To conduct research on marijuana-affiliated products or systems.

(3) (a) As part of the application process for a marijuana research and development license or marijuana research and development cultivation license, an applicant shall submit to the state licensing authority a description of the research that the applicant intends to conduct and whether the research will be conducted with a public institution or using public money. If the research will not be conducted with a public institution or with public money, the state licensing authority shall grant the application if it determines that the application meets the criteria in subsection (2) of this section.

(b) If the research will be conducted with a public institution or public money, the scientific advisory council established in section 25-1.5-106.5 (3) shall review an applicant's research project to determine that it meets the requirements of subsection (2) of this section and to assess the following:

(I) The project's quality, study design, value, or impact;

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

(III) Whether the amount of marijuana to be grown by the applicant is consistent with the project's scope and goals.

(c) If the scientific advisory council determines that the research project does not meet the requirements of subsection (2) of this section or assesses the criteria in this subsection (3) to be inadequate, the application must be denied.

(4) A marijuana research and development cultivation licensee may only transfer, by sale or donation, marijuana grown within its operation to other marijuana research and development licensees or marijuana research and development cultivation licensees. The state licensing authority may revoke a marijuana research and development cultivation license for violations of this subsection (4) and any other violation of this article 43.3.

(5) A marijuana research and development licensee or marijuana research and development cultivation licensee may contract to perform research in conjunction with a public higher education research institution or another marijuana research and development licensee or marijuana research and development cultivation licensee.

(6) The growing, cultivating, possessing, or transferring, by sale or donation, of marijuana in accordance with this section and the rules adopted pursuant to it, by a marijuana research and development licensee or marijuana research and development cultivation licensee, is not a criminal or civil offense under state law. A marijuana research and development license or marijuana research and development cultivation license must be issued in the name of the applicant and must specify the location in Colorado at which the marijuana research and development licensee or marijuana research and development cultivation licensee intends to operate. A marijuana research and development licensee or marijuana research and development cultivation licensee shall not allow any other person to exercise the privilege of the license.

(7) If the research conducted includes a public institution or public money, the scientific advisory council shall review any reports made by marijuana research and development licensees and marijuana research and development cultivation licensees under state licensing authority rule and provide the state licensing authority with its determination on whether the research project continues to meet research qualifications pursuant to this section.

Source: L. 2017: Entire section added, (HB 17-1367), ch. 406, p. 2119, § 4, effective August 9.

Editor's note: This section was numbered as § 12-43.3-409 in HB 17-1367 but was renumbered on revision for ease of location.

PART 5

FEES

12-43.3-501. Marijuana cash fund. (1) (a) All moneys collected by the state licensing authority pursuant to this article and article 43.4 of this title shall be transmitted to the state treasurer, who shall credit the same to the marijuana cash fund, which fund is hereby created and referred to in this section as the "fund". The fund consists of:

(I) The moneys collected by the state licensing authority; and

(II) to (IV) (Deleted by amendment, L. 2014.)

(V) Any additional general fund moneys appropriated to the fund that are necessary for the operation of the state licensing authority.

(b) Moneys in the fund are subject to annual appropriation by the general assembly to the department of revenue for the direct and indirect costs associated with implementing this article, article 43.4 of this title, and article 28.8 of title 39, C.R.S.;

(c) Any moneys in the fund not expended for these purposes may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund.

(d) and (e) Repealed.

(f) (I) On July 1, 2014, the state treasurer shall transfer to the marijuana tax cash fund created in section 39-28.8-501, C.R.S., any moneys in the fund that are attributable to the retail marijuana excise tax transferred pursuant to section 39-28.8-305 (1)(b), C.R.S., the retail

marijuana sales tax transferred pursuant to section 39-28.8-203 (1)(b), C.R.S., or the sales tax imposed pursuant to section 39-26-106, C.R.S., on the retail sale of marijuana products under this article and article 43.4 of this title.

(II) On the date on which the state controller publishes the comprehensive annual financial report of the state for the 2013-14 state fiscal year, the state treasurer shall transfer to the marijuana tax cash fund created in section 39-28.8-501, C.R.S., any remaining moneys in the fund that are attributable to the retail marijuana excise tax transferred pursuant to section 39-28.8-305 (1)(b), C.R.S., the retail marijuana sales tax transferred pursuant to section 39-28.8-203 (1)(b), C.R.S., or the sales tax imposed pursuant to section 39-26-106, C.R.S., on the retail sale of marijuana products under this article and article 43.4 of this title.

(2) The executive director of the department of revenue by rule or as otherwise provided by law may reduce the amount of one or more of the fees if necessary pursuant to section 24-75-402 (3), C.R.S., to reduce the uncommitted reserves of the fund to which all or any portion of one or more of the fees is credited. After the uncommitted reserves of the fund are sufficiently reduced, the executive director by rule or as otherwise provided by law may increase the amount of one or more of the fees as provided in section 24-75-402 (4), C.R.S.

(3) (a) The state licensing authority shall establish fees for processing the following types of applications, licenses, notices, or reports required to be submitted to the state licensing authority:

(I) Applications for licenses listed in section 12-43.3-401 and rules promulgated pursuant to that section;

(II) Applications to change location pursuant to section 12-43.3-310 and rules promulgated pursuant to that section;

(III) Applications for transfer of ownership pursuant to section 12-43.3-310 and rules promulgated pursuant to that section;

(IV) License renewal and expired license renewal applications pursuant to section 12-43.3-311; and

(V) Licenses as listed in section 12-43.3-401.

(b) The amounts of such fees, when added to the other fees transferred to the fund pursuant to this section, shall reflect the actual direct and indirect costs of the state licensing authority in the administration and enforcement of this article so that the fees avoid exceeding the statutory limit on uncommitted reserves in administrative agency cash funds as set forth in section 24-75-402 (3), C.R.S.

(c) The state licensing authority may charge applicants licensed under this article a fee for the cost of each fingerprint analysis and background investigation undertaken to qualify new officers, directors, managers, or employees.

(d) At least annually, the state licensing authority shall review the amounts of the fees and, if necessary, adjust the amounts to reflect the direct and indirect costs of the state licensing authority.

(4) Except as provided in subsection (5) of this section, the state licensing authority shall establish a basic fee that shall be paid at the time of service of any subpoena upon the state licensing authority, plus a fee for meals and a fee for mileage at the rate prescribed for state officers and employees in section 24-9-104, C.R.S., for each mile actually and necessarily traveled in going to and returning from the place named in the subpoena. If the person named in the subpoena is required to attend the place named in the subpoena for more than one day, there

shall be paid, in advance, a sum to be established by the state licensing authority for each day of attendance to cover the expenses of the person named in the subpoena.

(5) The subpoena fee established pursuant to subsection (4) of this section shall not be applicable to any federal, state or local governmental agency.

Source: L. 2010: Entire article added, (HB 10-1284), ch. 355, p. 1670, § 1, effective July 1. **L. 2013:** (1) amended, (SB 13-283), ch. 332, p. 1898, § 21, effective May 28; (1) amended, (HB 13-1318), ch. 330, p. 1874, § 2, effective May 28; (1) amended, (HB 13-1317), ch. 329, p. 1828, § 3, effective May 28. **L. 2014:** (1)(a)(II), (1)(b)(II), (1)(b)(III), and (1)(b)(IV) amended, (HB 14-1363), ch. 302, p. 1262, § 7, effective May 31; (1)(b)(I.5) added, (SB 14-129), ch. 387, p. 1939, § 13, effective June 6; (1)(a) and (1)(c) amended, (1)(b) R&RE, (1)(e) repealed, and (1)(f) added, (SB 14-215), ch. 352, p. 1599, § 1, effective July 1.

Editor's note: (1) Subsection (1) was amended in section 2 of House Bill 13-1318. Those amendments were superseded by the amendments to subsection (1) in section 3 of House Bill 13-1317.

(2) Subsections (1)(a)(II), (1)(b)(II), (1)(b)(III), and (1)(b)(IV) were amended in HB 14-1363. Those amendments were superseded by the amendments to subsections (1)(a) and (1)(b) in SB 14-215, effective July 1, 2014.

(3) Subsection (1)(b)(I.5) was added in SB 14-129. That addition was superseded by the amendments to subsection (1)(b) in SB 14-215, effective July 1, 2014.

(4) Subsection (1)(d)(II) provided for the repeal of subsection (1)(d), effective July 1, 2014. (See L. 2013, p. 1898.)

12-43.3-502. Fees - allocation. (1) Except as otherwise provided, all fees and fines provided for by this article and article 43.4 of this title shall be paid to the department of revenue, which shall transmit the fees to the state treasurer. The state treasurer shall credit the fees to the marijuana cash fund created in section 12-43.3-501.

(2) The expenditures of the state licensing authority shall be paid out of appropriations from the marijuana cash fund created in section 12-43.3-501.

Source: L. 2010: Entire article added, (HB 10-1284), ch. 355, p. 1671, § 1, effective July 1. **L. 2013:** Entire section amended, (HB 13-1317), ch. 329, p. 1829, § 4, effective May 28.

12-43.3-503. Local license fees. (1) Each application for a local license provided for in this article filed with a local licensing authority shall be accompanied by an application fee in an amount determined by the local licensing authority.

(2) License fees as determined by the local licensing authority shall be paid to the treasurer of the municipality, city and county, or county where the licensed premises is located in advance of the approval, denial, or renewal of the license.

Source: L. 2010: Entire article added, (HB 10-1284), ch. 355, p. 1672, § 1, effective July 1.

PART 6

DISCIPLINARY ACTIONS

12-43.3-601. Suspension - revocation - fines. (1) In addition to any other sanctions prescribed by this article or rules promulgated pursuant to this article, the state licensing authority or a local licensing authority has the power, on its own motion or on complaint, after investigation and opportunity for a public hearing at which the licensee shall be afforded an opportunity to be heard, to suspend or revoke a license issued by the respective authority for a violation by the licensee or by any of the agents or employees of the licensee of the provisions of this article, or any of the rules promulgated pursuant to this article, or of any of the terms, conditions, or provisions of the license issued by the state or local licensing authority. The state licensing authority or a local licensing authority has the power to administer oaths and issue subpoenas to require the presence of persons and the production of papers, books, and records necessary to the determination of a hearing that the state or local licensing authority is authorized to conduct.

(2) The state or local licensing authority shall provide notice of suspension, revocation, fine, or other sanction, as well as the required notice of the hearing pursuant to subsection (1) of this section, by mailing the same in writing to the licensee at the address contained in the license. Except in the case of a summary suspension, a suspension shall not be for a longer period than six months. If a license is suspended or revoked, a part of the fees paid therefore shall not be returned to the licensee. Any license or permit may be summarily suspended by the issuing licensing authority without notice pending any prosecution, investigation, or public hearing pursuant to the terms of section 24-4-104 (4), C.R.S. Nothing in this section shall prevent the summary suspension of a license pursuant to section 24-4-104 (4), C.R.S. Each patient registered with a medical marijuana center that has had its license summarily suspended may immediately transfer his or her primary center to another licensed medical marijuana center.

(3) (a) Whenever a decision of the state licensing authority or a local licensing authority suspending a license for fourteen days or less becomes final, the licensee may, before the operative date of the suspension, petition for permission to pay a fine in lieu of having the license suspended for all or part of the suspension period. Upon the receipt of the petition, the state or local licensing authority may, in its sole discretion, stay the proposed suspension and cause any investigation to be made which it deems desirable and may, in its sole discretion, grant the petition if the state or local licensing authority is satisfied that:

(I) The public welfare and morals would not be impaired by permitting the licensee to operate during the period set for suspension and that the payment of the fine will achieve the desired disciplinary purposes;

(II) The books and records of the licensee are kept in such a manner that the loss of sales that the licensee would have suffered had the suspension gone into effect can be determined with reasonable accuracy; and

(III) The licensee has not had his or her license suspended or revoked, nor had any suspension stayed by payment of a fine, during the two years immediately preceding the date of the motion or complaint that resulted in a final decision to suspend the license or permit.

(b) The fine accepted shall be not less than five hundred dollars nor more than one hundred thousand dollars.

(c) Payment of a fine pursuant to the provisions of this subsection (3) shall be in the form of cash or in the form of a certified check or cashier's check made payable to the state or local licensing authority, whichever is appropriate.

(4) Upon payment of the fine pursuant to subsection (3) of this section, the state or local licensing authority shall enter its further order permanently staying the imposition of the suspension. If the fine is paid to a local licensing authority, the governing body of the authority shall cause the moneys to be paid into the general fund of the local licensing authority. Fines paid to the state licensing authority pursuant to subsection (3) of this section shall be transmitted to the state treasurer, who shall credit the same to the marijuana cash fund created in section 12-43.3-501.

(5) In connection with a petition pursuant to subsection (3) of this section, the authority of the state or local licensing authority is limited to the granting of such stays as are necessary for the authority to complete its investigation and make its findings and, if the authority makes such findings, to the granting of an order permanently staying the imposition of the entire suspension or that portion of the suspension not otherwise conditionally stayed.

(6) If the state or local licensing authority does not make the findings required in paragraph (a) of subsection (3) of this section and does not order the suspension permanently stayed, the suspension shall go into effect on the operative date finally set by the state or local licensing authority.

(7) Each local licensing authority shall report all actions taken to impose fines, suspensions, and revocations to the state licensing authority in a manner required by the state licensing authority. No later than January 15 of each year, the state licensing authority shall compile a report of the preceding year's actions in which fines, suspensions, or revocations were imposed by local licensing authorities and by the state licensing authority. The state licensing authority shall file one copy of the report with the chief clerk of the house of representatives, one copy with the secretary of the senate, and six copies in the joint legislative library.

Source: L. 2010: Entire article added, (HB 10-1284), ch. 355, p. 1672, § 1, effective July 1. **L. 2015:** (4) amended, (SB 15-115), ch. 283, p. 1163, § 12, effective June 5.

12-43.3-602. Disposition of unauthorized marijuana or marijuana-infused products and related materials. (1) The provisions of this section shall apply in addition to any criminal, civil, or administrative penalties and in addition to any other penalties prescribed by this article or any rules promulgated pursuant to this article. Any provisions in this article related to law enforcement shall be considered a cumulative right of the people in the enforcement of the criminal laws.

(2) Every licensee licensed under this article shall be deemed, by virtue of applying for, holding, or renewing such person's license, to have expressly consented to the procedures set forth in this section.

(3) A state or local agency shall not be required to cultivate or care for any marijuana or marijuana-infused product belonging to or seized from a licensee. A state or local agency shall not be authorized to sell marijuana, medical or otherwise.

(4) If the state or local licensing authority issues a final agency order imposing a disciplinary action against a licensee pursuant to section 12-43.3-601, then, in addition to any other remedies, the licensing authority's final agency order may specify that some or all of the

licensee's marijuana or marijuana-infused product is not medical marijuana or a medical marijuana-infused product and is an illegal controlled substance. The order may further specify that the licensee shall lose any interest in any of the marijuana or marijuana-infused product even if the marijuana or marijuana-infused product previously qualified as medical marijuana or a medical marijuana-infused product. The final agency order may direct the destruction of any such marijuana and marijuana-infused products, except as provided in subsections (5) and (6) of this section. The authorized destruction may include the incidental destruction of any containers, equipment, supplies, and other property associated with the marijuana or marijuana-infused product.

(5) Following the issuance of a final agency order by the licensing authority imposing a disciplinary action against a licensee and ordering destruction authorized by subsection (4) of this section, a licensee shall have fifteen days within which to file a petition for stay of agency action with the district court. The action shall be filed in the city and county of Denver, which shall be deemed to be the residence of the state licensing authority for purposes of this section. The licensee shall serve the petition in accordance with the rules of civil procedure. The district court shall promptly rule upon the petition and shall determine whether the licensee has a substantial likelihood of success on judicial review so as to warrant delay of the destruction authorized by subsection (4) of this section or whether other circumstances, including but not limited to the need for preservation of evidence, warrant delay of such destruction. If destruction is so delayed pursuant to judicial order, the court shall issue an order setting forth terms and conditions pursuant to which the licensee may maintain the marijuana and marijuana-infused product pending judicial review, and prohibiting the licensee from using or distributing the marijuana or marijuana-infused product pending the review. The licensing authority shall not carry out the destruction authorized by subsection (4) of this section until fifteen days have passed without the filing of a petition for stay of agency action, or until the court has issued an order denying stay of agency action pursuant to this subsection (5).

(6) A district attorney shall notify the state licensing authority if he or she begins investigating a medical marijuana establishment. If the state licensing authority has received notification from a district attorney that an investigation is being conducted, the state licensing authority shall not destroy any medical marijuana or medical marijuana-infused products from the medical marijuana establishment until the destruction is approved by the district attorney.

(7) On or before January 1, 2012, the state licensing authority shall promulgate rules governing the implementation of this section.

Source: L. 2011: Entire section added, (HB 11-1043), ch. 266, p. 1209, § 15, effective July 1. **L. 2015:** (6) amended, (SB 15-115), ch. 283, p. 1163, § 13, effective June 5.

PART 7

INSPECTION OF BOOKS AND RECORDS

12-43.3-701. Inspection procedures. (1) Each licensee shall keep a complete set of all records necessary to show fully the business transactions of the licensee, all of which shall be open at all times during business hours for the inspection and examination of the state licensing authority or its duly authorized representatives. The state licensing authority may require any

licensee to furnish such information as it considers necessary for the proper administration of this article and may require an audit to be made of the books of account and records on such occasions as it may consider necessary by an auditor to be selected by the state licensing authority who shall likewise have access to all books and records of the licensee, and the expense thereof shall be paid by the licensee.

(2) The licensed premises, including any places of storage where medical marijuana is grown, stored, cultivated, sold, or dispensed, shall be subject to inspection by the state or local licensing authorities and their investigators, during all business hours and other times of apparent activity, for the purpose of inspection or investigation. For examination of any inventory or books and records required to be kept by the licensees, access shall be required during business hours. Where any part of the licensed premises consists of a locked area, upon demand to the licensee, such area shall be made available for inspection without delay, and, upon request by authorized representatives of the state or local licensing authority, the licensee shall open the area for inspection.

(3) Each licensee shall retain all books and records necessary to show fully the business transactions of the licensee for a period of the current tax year and the three immediately prior tax years.

Source: L. 2010: Entire article added, (HB 10-1284), ch. 355, p. 1674, § 1, effective July 1.

PART 8

JUDICIAL REVIEW

12-43.3-801. Judicial review. Decisions by the state licensing authority or a local licensing authority shall be subject to judicial review pursuant to section 24-4-106, C.R.S.

Source: L. 2010: Entire article added, (HB 10-1284), ch. 355, p. 1674, § 1, effective July 1.

PART 9

UNLAWFUL ACTS - ENFORCEMENT

12-43.3-901. Unlawful acts - exceptions. (1) Except as otherwise provided in this article, it is unlawful for a person:

(a) To consume medical marijuana in a licensed medical marijuana center, and it shall be unlawful for a medical marijuana licensee to allow medical marijuana to be consumed upon its licensed premises;

(b) With knowledge, to permit or fail to prevent the use of his or her registry identification by any other person for the unlawful purchasing of medical marijuana.

(c) and (d) (Deleted by amendment, L. 2011, (HB 11-1043), ch. 266, p. 1210, § 16, effective July 1, 2011.)

(2) It is unlawful for a person to buy, sell, transfer, give away, or acquire medical marijuana except as allowed pursuant to this article.

(3) It is unlawful for a person licensed pursuant to this article:

(a) To be within a limited-access area unless the person's license badge is displayed as required by this article, except as provided in section 12-43.3-701;

(b) To fail to designate areas of ingress and egress for limited-access areas and post signs in conspicuous locations as required by this article;

(c) To fail to report a transfer required by section 12-43.3-310 (11); or

(d) To fail to report the name of or a change in managers as required by section 12-43.3-310 (12).

(4) It is unlawful for any person licensed to sell medical marijuana pursuant to this article:

(a) To display any signs that are inconsistent with local laws or regulations;

(b) To use advertising material that is misleading, deceptive, or false, or that is designed to appeal to minors;

(c) To provide public premises, or any portion thereof, for the purpose of consumption of medical marijuana in any form;

(d) (I) To sell medical marijuana to a person not licensed pursuant to this article or to a person not able to produce a valid patient registry identification card, unless the person has a copy of a current and complete new application for the medical marijuana registry administered by the department of public health and environment that is documented by a certified mail return receipt as having been submitted to the department of public health and environment within the preceding thirty-five days and the employee assisting the person has contacted the department of public health and environment and, as a result, determined the person's application has not been denied. Notwithstanding any provision in this subparagraph (I) to the contrary, a person under twenty-one years of age shall not be employed to sell or dispense medical marijuana at a medical marijuana center or grow or cultivate medical marijuana at an optional premises cultivation operation.

(II) If a licensee or a licensee's employee has reasonable cause to believe that a person is exhibiting a fraudulent patient registry identification card in an attempt to obtain medical marijuana, the licensee or employee shall be authorized to confiscate the fraudulent patient registry identification card, if possible, and shall, within seventy-two hours after the confiscation, turn it over to the state health department or local law enforcement agency. The failure to confiscate the fraudulent patient registry identification card or to turn it over to the state health department or a state or local law enforcement agency within seventy-two hours after the confiscation shall not constitute a criminal offense.

(e) To possess more than six medical marijuana plants and two ounces of medical marijuana for each patient who has registered the center as his or her primary center pursuant to section 25-1.5-106 (8)(f), C.R.S.; except that a medical marijuana center may have an amount that exceeds the six-plant and two-ounce product per patient limit if the center sells to patients that are authorized to have more than six plants and two ounces of product. In the case of a patient authorized to exceed the six-plant and two-ounce limit, the center shall obtain documentation from the patient's physician that the patient needs more than six plants and two ounces of product.

(f) To offer for sale or solicit an order for medical marijuana in person except within the licensed premises;

(g) To have in possession or upon the licensed premises any medical marijuana, the sale of which is not permitted by the license;

(h) To buy medical marijuana from a person not licensed to sell as provided by this article;

(i) To sell medical marijuana except in the permanent location specifically designated in the license for sale;

(j) To have on the licensed premises any medical marijuana or marijuana paraphernalia that shows evidence of the medical marijuana having been consumed or partially consumed;

(k) To require a medical marijuana center or medical marijuana center with an optional premises cultivation license to make delivery to any premises other than the specific licensed premises where the medical marijuana is to be sold;

(l) Repealed.

(m) To violate the provisions of section 6-2-103 or 6-2-105, C.R.S.;

(n) To burn or otherwise destroy marijuana or any substance containing marijuana for the purpose of evading an investigation or preventing seizure; or

(o) To abandon a licensed premises or otherwise cease operation without notifying the state and local licensing authorities at least forty-eight hours in advance and without accounting for and forfeiting to the state licensing authority for destruction all marijuana or products containing marijuana.

(5) Except as provided in sections 12-43.3-402 (4), 12-43.3-403, and 12-43.3-404, it is unlawful for a medical marijuana center, medical marijuana-infused products manufacturing operation with an optional premises cultivation license, or medical marijuana center with an optional premises cultivation license to sell, deliver, or cause to be delivered to a licensee any medical marijuana not grown upon its licensed premises, or for a licensee or medical marijuana center with an optional premises cultivation license or medical marijuana-infused products manufacturing operation with an optional premises cultivation license to sell, possess, or permit sale of medical marijuana not grown upon its licensed premises. A violation of the provisions of this subsection (5) by a licensee shall be grounds for the immediate revocation of the license granted under this article.

(6) It shall be unlawful for a physician who makes patient referrals to a licensed medical marijuana center to receive anything of value from the medical marijuana center licensee or its agents, servants, officers, or owners or anyone financially interested in the licensee, and it shall be unlawful for a licensee licensed pursuant to this article to offer anything of value to a physician for making patient referrals to the licensed medical marijuana center.

(6.5) A peace officer or a law enforcement agency shall not use any patient information to make traffic stops pursuant to section 42-4-1302, C.R.S.

(7) A person who commits any acts that are unlawful pursuant to this article or the rules authorized and adopted pursuant to this article commits a class 2 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S., except for violations that would also constitute a violation of title 18, C.R.S., which violation shall be charged and prosecuted pursuant to title 18, C.R.S.

Source: L. 2010: Entire article added, (HB 10-1284), ch. 355, p. 1675, § 1, effective July 1. **L. 2011:** (1)(c), (1)(d), (4)(d)(I), (4)(I), and (7) amended and (4)(n), (4)(o), and (6.5) added, (HB 11-1043), ch. 266, pp. 1210, 1211, §§ 16, 17, effective July 1. **L. 2015:** (4)(1) repealed, (SB 15-115), ch. 283, p. 1164, § 14, effective June 5.

PART 10

SUNSET REVIEW

12-43.3-1001. Sunset review - article repeal. (1) This article is repealed, effective September 1, 2019.

(2) Prior to the repeal of this article, the department of regulatory agencies shall conduct a sunset review as described in section 24-34-104 (5), C.R.S.

Source: L. 2010: Entire article added, (HB 10-1284), ch. 355, p. 1677, § 1, effective July 1. **L. 2015:** (1) amended, (SB 15-115), ch. 283, p. 1158, § 1, effective June 5. **L. 2016:** (2) amended, (HB 16-1192), ch. 83, p. 233, § 8, effective April 14.

PART 11

RESPONSIBLE VENDOR STANDARDS

12-43.3-1101. Responsible vendor program - standards - designation - program. (1) A person who wants to offer a responsible medical or retail marijuana vendor server and seller training program must submit an application to the state licensing authority for approval, which program is referred to in this part 11 as an "approved training program". The state licensing authority, in consultation with the department of public health and environment, shall approve the submitted program if the submitted program meets the minimum criteria described in subsection (2) of this section. The department of public health and environment shall review each submitted program and shall provide the state licensing authority with the department's analysis of whether the portions of the program related to the department's oversight meet the minimum criteria described in this section.

(2) An approved training program shall contain, at a minimum, the following standards and shall be taught in a classroom setting in a minimum of a two-hour period:

(a) Program standards that specify, at a minimum, who must attend, the time frame for new staff to attend, recertification requirements, record keeping, testing and assessment protocols, and effectiveness evaluations; and

(b) A core curriculum of pertinent statutory and regulatory provisions, which curriculum includes, but need not be limited to:

(I) Information on required licenses, age requirements, patient registry cards issued by the department of public health and environment, maintenance of records, privacy issues, and unlawful acts;

(II) Administrative and criminal liability and license and court sanctions;

(III) Statutory and regulatory requirements for employees and owners;

(IV) Acceptable forms of identification, including patient registry cards and associated documents and procedures; and

(V) Local and state licensing and enforcement, which may include, but need not be limited to, key statutes and rules affecting patients, owners, managers, and employees.

(2.5) When promulgating program standards pursuant to subsection (2) of this section, the state licensing authority shall consider input from other state agencies, local jurisdictions, the medical and retail marijuana industry, and any other state or national seller server program.

(3) A provider of an approved training program shall maintain its training records at its principal place of business during the applicable year and for the preceding three years, and the provider shall make the records available for inspection by the licensing authority during normal business hours.

Source: L. 2013: (1) amended and (2.5) added, (SB 13-283) ch. 332, p. 1889, § 2, effective May 28; entire part added, (HB 13-1061), ch. 93, p. 297, § 1, effective August 7.

12-43.3-1102. Responsible vendor - designation. (1) (a) A medical marijuana business licensed pursuant to this article or a retail marijuana business licensed pursuant to article 43.4 of this title may receive a responsible vendor designation from the program vendor after successfully completing a responsible medical or retail marijuana vendor server and seller training program approved by the state licensing authority. A responsible vendor designation is valid for two years from the date of issuance.

(b) Successful completion of an approved training program is achieved when the program has been attended by and, as determined by the program provider, satisfactorily completed by all employees selling and handling medical or retail marijuana, all managers, and all resident on-site owners, if any.

(c) In order to maintain the responsible vendor designation, the licensed medical or retail marijuana business must have each new employee who sells or handles medical or retail marijuana, manager, or resident on-site owner attend and satisfactorily complete a responsible medical or retail marijuana vendor server and seller training program within ninety days after being employed or becoming an owner. The licensed medical or retail marijuana business shall maintain documentation of completion of the program by new employees, managers, or owners.

(2) A licensed medical or retail marijuana business that receives a responsible vendor designation from the program vendor shall maintain information on all persons licensed pursuant to this article who are in its employment and who have been trained in an approved training program. The information includes the date, place, time, and duration of training and a list of all licensed persons attending each specific training class, which class includes a training examination or assessment that demonstrates proficiency.

(3) If a local or state licensing authority initiates an administrative action against a licensee who has complied with the requirements of this section and has been designated a responsible vendor, the licensing authority shall consider the designation as a mitigating factor when imposing sanctions or penalties on the licensee.

Source: L. 2013: (1) and (2) amended, (SB 13-283), ch. 332, p. 1890, § 3, effective May 28; entire part added, (HB 13-1061), ch. 93, p. 298, § 1, effective August 7. **L. 2015:** (1)(c) amended, (SB 15-264), ch. 259, p. 946, § 20, effective August 5.