

- **DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION**

- NOTICE OF EMERGENCY AMENDMENTS

1) Heading of the Part: Rules for Administration of the Compassionate Use of Medical Cannabis Pilot Program

2) Code Citation: 68 Ill. Adm. Code 1290

3)

Section Numbers: Emergency Actions:

1290.10	Amendment
1290.30	Amendment
1290.40	Amendment
1290.50	Amendment
1290.70	Amendment
1290.100	Amendment
1290.110	Amendment
1290.120	Amendment
1290.140	Amendment
1290.200	Amendment
1290.210	Amendment
1290.230	Amendment
1290.300	Amendment
1290.320	New Section
1290.400	Amendment
1290.405	Amendment
1290.410	Amendment
1290.415	Amendment
1290.420	Amendment
1290.425	Amendment
1290.430	Amendment
1290.431	New Section
1290.440	Amendment
1290.445	Amendment
1290.450	Amendment
1290.500	Amendment

1290.510 Amendment
1290.540 Repealed
1290.550 Repealed

4) Statutory Authority: Implementing and authorized by the Compassionate Use of Medical Cannabis Pilot Program Act [410 ILCS 130].

5) Effective Date of Rules: December 3, 2018

6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: The Department has not set a date for the emergency to expire before the end of the 150-day period.

7) Date Filed with Index Department: December 3, 2018

8) A copy of the emergency amendment, including any material incorporated by reference, is on file in the Division of Financial and Professional Regulation's principal office of the Division of Professional Regulation and is available for public inspection.

9) Reason for Emergency: PA 100-1114 [410 ILCS 130] requires the Department of Financial and Professional Regulation to submit emergency rulemaking to implement the changes made by this amendatory Act of the 100th General Assembly by December 1, 2018.

10) A Complete Description of the Subjects and Issues Involved: PA 100-1114 [410 ILCS 130] created the Opioid Alternative Pilot Program (OAPP) within the existing framework of the Medical Cannabis Pilot Program (MCPPI). This is a significant expansion of the program, and these proposed rules allow for the implementation of the new Opioid Alternative Pilot Program (OAPP). Specifically, the proposed rules allow for OAPP participants to enter dispensaries and purchase medical cannabis. PA 100-1114 also involved smaller changes within MCPPI, and the proposed rules implement these statutory changes and add clarifications on previous rules. Specifically, the proposed rules add clarification to previous rules regarding ownership structure and who is considered a principal officer.

11) Are there any other rulemakings pending on this Part? No

12) Statement of Statewide Policy Objective: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

13) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Department of Financial and Professional Regulation

Attention: Craig Cellini

320 West Washington, 3rd Floor

Springfield IL 62786

217/785-0813

fax: 217/557-4451

The full text of the Emergency Amendments begins on the next page:

TITLE 68: PROFESSIONS AND OCCUPATIONS

CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1290

RULES FOR ADMINISTRATION OF THE COMPASSIONATE

USE OF MEDICAL CANNABIS PILOT PROGRAM

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AUTHORITY: Implementing and authorized by the Compassionate Use of Medical Cannabis Pilot Program Act [410 ILCS 130].

SOURCE: Adopted at 38 Ill. Reg. 16875, effective July 24, 2014; emergency amendment at 38 Ill. Reg. 17798, effective August 8, 2014, for a maximum of 150 days; amended at 39 Ill. Reg. 695, effective December 29, 2014; emergency amendment at 42 Ill. Reg. 23202, effective December 3, 2018, for a maximum of 150 days.

SUBPART A: GENERAL PROVISIONS

Section 1290.10 Definitions

EMERGENCY

Definitions for this Part can be located in Section 10 of the Compassionate Use of Medical Cannabis Pilot Program Act. The following definitions shall also apply to this Part:

"Act" means the Compassionate Use of Medical Cannabis Pilot Program Act [410 ILCS 130].

"ADA" means the Americans With Disabilities Act of 1990 (42 USC 12101).

"Address of record" means the address recorded by the Division in the applicant's or registrant's application file or the registration file maintained by the Division.

"Administratively complete" means that a dispensary registration application meets all requirements of the Act and this Part.

"Applicant" means any person who is applying with the Department for authorization to register a dispensary under the Act.

"Area zoned for residential use" means an area zoned exclusively for residential use; provided that, in municipalities with a population over 2,000,000, "an area zoned for residential use" means an area zoned as a residential district or a residential planned development.

"Application date" is the date the application for authorization or registration was delivered to and received by the Division, and the applicant received a receipt noting that date.

"Authorization notice" means the notice sent by the Division to the applicant that has been awarded an authorization. The authorization notice will include a registry identification number to be used on all future communication with the Division.

"Batch" means a specific harvest of cannabis or cannabis-infused products that are identifiable by a batch number, every portion or package of which is uniform within recognized tolerances for the factors that were subject to a laboratory test and that appear in the labeling.

"Batch number" means a unique numeric or alphanumeric identifier assigned to a batch by a cultivation center when the batch is first planted.

"Cannabis Control Act" means 720 ILCS 550.

"Cannabis" means *marihuana, hashish and other substances which are identified as including any parts of the plant Cannabis sativa and including derivatives or subspecies, such as Indica, of all strains of cannabis, whether growing or not; the seeds thereof, the resin extracted from any part of such plant; and any compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin, including tetrahydrocannabinol (THC) and all other cannabinol derivatives, including its naturally occurring or synthetically produced ingredients, whether produced directly or indirectly by extraction, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of such plant which is incapable of germination.* (Section 3 of the Cannabis Control Act)

"CPA" means certified public accountant.

"Damaged" shall have its common meaning and include medical cannabis that is unusable, unused, expired, spoiled, contaminated, deteriorated, mislabeled, undesired, excess, adulterated, misbranded, deteriorated or in containers or packaging that was tampered with or opened.

"Department" means the Illinois Department of Financial and Professional Regulation.

"Director" means the Director of the Illinois Department of Financial and Professional Regulation-Division of Professional Regulation or his or her designee.

"Dispensing organization" or "dispensary organization" means a medical cannabis dispensing organization as defined in the Act.

"Dispensary" means the physical premises where medical cannabis is dispensed by a dispensing organization.

"Dispensing organization agent" or "dispensary agent" means a medical cannabis dispensing organization agent as defined in the Act.

"Dispensing organization agent-in-charge" or "dispensary agent-in-charge" means the person who has day to day control and management over the dispensary.

"Dispensing Organization District" or "District" means one of the 43 geographically dispersed areas identified in the Act and this Part where one or more dispensing organizations may be located.

"Dispensing organization registration authorization" or "Authorization" is the permission given by the Division to an applicant for a dispensing organization allowing it to file documents to obtain a dispensary registration.

"Dispensing organization registration" or "Registration" authorizes the applicant to open and operate a dispensing organization within the District designated by the Division.

"Division" means the Department of Financial and Professional Regulation- Division of Professional Regulation with the authority delegated by the Secretary.

"DOA" means the Illinois Department of Agriculture.

"DPH" means the Illinois Department of Public Health.

"Excluded offense" means:

a violent crime defined in Section 3 of the Rights of Crime Victims and Witnesses Act or a substantially similar offense that was classified as a felony in the jurisdiction where the person was convicted; or

a violation of a state or federal controlled substance law that was classified as a felony in the jurisdiction where the person was convicted, except that the Department may waive this restriction if the person demonstrates to the Department's satisfaction that his or her conviction was for the possession, cultivation, transfer, or delivery of a reasonable amount of cannabis intended for medical use.

This exception does not apply if the conviction was under state law and involved a violation of an existing medical cannabis law. (Section 10 of the Act)

"Financial interest" means any actual or future right to ownership, investment or compensation arrangement, either directly or indirectly, through business, investment, spouse, parent or child, in the dispensing organization. Financial interest does not include ownership of investment securities in a publicly-held corporation that is traded on a national securities exchange or over-the-counter market in the United States, provided the investment securities held by the person and the person's spouse, parent or child, in the aggregate, do not exceed one percent ownership in the dispensing organization.

"Fingerprint-based criminal history records check" means a fingerprint-based criminal history records check conducted by the ISP in accordance with the Act, 20 Ill. Adm. Code 1265.30 (Electronic Transmission of Fingerprint Requirements) or the Uniform Conviction Information Act (UCIA) [20 ILCS 2635].

"Good standing" means the dispensing organization's registration is not under investigation, is not on probation and is not subject to disciplinary or other restrictions by the Division as defined in the Act or this Part.

"HIPAA" means the Health Insurance Portability and Accountability Act (45 CFR 164).

"Illinois Cannabis Tracking System" means a web-based system established and maintained by the Department of Public Health that is available to the Department of Agriculture, the Department of Financial and Professional Regulation, the Illinois State Police, and registered medical cannabis dispensing organizations on a 24-hour basis to upload written certifications for Opioid Alternative Pilot Program participants, to verify Opioid Alternative Pilot Program participants, to verify Opioid Alternative Pilot Program participants' available cannabis allotment and assigned dispensary, and the tracking of the date of sale, amount, and price of medical cannabis purchased by an Opioid Alternative Pilot Program participant. [Section 10(l-10) of the act].

"ISP" means Illinois Department of State Police.

"Limited access area" means a , room or rooms under the control of the dispensing organization and on the registered dispensary premises with access limited to qualifying patients, provisional registration patients, Opioid Alternative Pilot Program Participants, designated caregivers, dispensary agents, service professionals working on jobs at the dispensary, or persons authorized by the Act and this Part.

"Livescan" means an inkless electronic system designed to capture an individual's fingerprint images and demographic data in a digitized format that can be transmitted to ISP, for processing. The data is forwarded to the ISP Bureau of Identification (BOI) over a virtual private network (VPN) and then processed by ISP's Automated Fingerprint Identification System (AFIS). Once received at the BOI for processing, the inquiry may then be forwarded to the Federal Bureau of Investigation (FBI) electronically for processing.

"Livescan vendor" means an entity licensed by the Department to provide commercial fingerprinting services under the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004 [225 ILCS 447].

"Medical cannabis" means cannabis and its constituent cannabinoids, such as tetrahydrocannabinol (THC) and cannabidiol (CBD), used as an herbal remedy or therapy to treat disease or alleviate symptoms. Medical cannabis can be administered in a variety of ways, including, but not limited to:

vaporizing or smoking dried buds; using concentrates; ingesting tinctures or tonics; applying topicals such as ointments, balms; or consuming medical cannabis-infused food products.

"Medical cannabis container" means a sealed, traceable, food compliant, tamper resistant, tamper evident container or package used for the purpose of containment of medical cannabis from a cultivation center to a dispensing organization.[Section 10(n) of the Act].

"Medical cannabis-infused products" means food, oils, ointments, or other products containing cannabis that are not smoked (e.g., sodas, teas or capsules) as defined in the Act. [Section 10(q) of the Act].

"Monitoring" means continuous and uninterrupted video surveillance of dispensary activities and oversight for potential suspicious actions. Monitoring through video surveillance includes the purpose of summoning a law enforcement officer to the premises during alarm conditions. The Division and law enforcement agencies shall have the ability to access a dispensing organization's monitoring system in real-time via a secure web-based portal.

"Notify" means to send via regular United States mail or email and United States certified mail.

"Opioid" means a narcotic drug or substance that is a Schedule II controlled substance under paragraph (1), (2), (3), or (5) of subsection (b) or under subsection (c) of Section 206 of the Illinois Controlled Substances Act. [Section 10(r-5) of the Act].

"Opioid Alternative Pilot Program participant" (OAPP) means an individual who has received a valid written certification to participate in the Opioid Alternative Pilot Program for a medical condition for which an opioid has been or could be prescribed by a physician based on generally accepted standards of care. [Section 10(r-10) of the Act].

"Ownership structure" means a description of the business type, structure and identity of each person with ownership, control or financial interest in the dispensing organization.

"Person" includes, but is not limited to, a natural person, sole proprietorship, partnership, joint venture, limited liability company, corporation, association, agency, business entity, not-for-profit or organization.

"Point of Sale" means a web-based system maintained by the dispensing organization to track cannabis inventory, sales and currency. The dispensary's Point-of-Sale equipment interfaces in real-time with the state's Verification system and Illinois Cannabis Tracking System to record all sales.

"Principal Officer" includes a dispensing organization applicant or registered dispensing organization's board member, owner with more than one percent interest of the total dispensing organization, president, vice president, secretary, treasurer, partner, officer, member, manager

member, shareholder or person with a profit sharing, financial interest or revenue sharing arrangement. The definition includes a person with authority to control the dispensing organization, a person who assumes responsibility for the debts of the dispensing organization and who is further defined in this Part.

"Promptly" means as soon as reasonably practicable, but not later than five days.

"Provisional Registration" means a document issued by the Department of Public Health to a qualifying patient who has submitted:

an online application and paid a fee to participate in the Compassionate Use of Medical Cannabis Pilot Program pending approval or denial of the patient's application; or

a completed application for terminal illness. [Section 10(s-5) of the Act].

"Public Access Area" is the dispensary's entrance, vestibule or waiting room area accessible to the public and under the control of the registered dispensing organization. Persons in the public access area must be present in furtherance of the Act.

"Registered" or "Registration" means a dispensing organization licensed by the Division to operate a medical cannabis dispensary as defined in the Act.

"Restricted access area" means a room or rooms, or other contiguous area under control of the dispensing organization and on the registered premises with access limited to dispensary agents, the Division, ISP, emergency personnel and service professionals as described in this Part, where cannabis is stored, held, packaged, sold or processed for sale.

"Registration packet" is the information and documents submitted by a dispensing organization authorized by the Division to register a dispensing organization.

"Secretary" means the Secretary of the Department.

"Service Professional" means a person who must be present at the dispensary to perform work, including but not limited to those installing or maintaining security devices, delivering cannabis, or providing construction services.

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"Trust" means a fiduciary relationship in which one party, known as a trustor, gives another party, the trustee, the right to hold title to property or assets for the benefit of a third party, the beneficiary.

"Verification system" means a Web-based system established and maintained by the Department of Public Health that is available to the Department of Agriculture, the Department of Financial and Professional Regulation, law enforcement personnel, and registered medical cannabis dispensing organization agents on a 24-hour basis for the verification of registry identification cards, the tracking of delivery of medical cannabis to medical cannabis dispensing organizations, and the tracking of the date of sale, amount, and price of medical cannabis purchased by a registered qualifying patient. [Section 10(x) of the Act].

"Veteran" means person who served in one of the five active-duty Armed Services or their respective Guard or Reserve units, and who was discharged or released from service under conditions other than dishonorable.

"Visitor" means a person authorized by the Division and the dispensary to enter a dispensary's limited access area, as defined in this Part, and is not a qualifying patient, designated caregiver, dispensary agent, emergency personnel or service professional.

"Written certification" means a document dated and signed by a physician, stating:

that the qualifying patient has a debilitating medical condition and specifying the debilitating medical condition the qualifying patient has; and

that

the physician is treating or managing treatment of the patient's debilitating medical condition; or

an Opioid Alternative Pilot Program participant has a medical condition for which opioids have been or could be prescribed.

A written certification shall be made only in the course of a bona fide physician-patient relationship, after the physician has completed an assessment of either a qualifying patient's medical history or Opioid Alternative Pilot Program participant, reviewed relevant records related to the patient's debilitating condition, and conducted a physical examination. [Section 10(y) of the Act].

(Source: Amended by emergency rulemaking at 42 Ill. Reg. 23202, effective December 3, 2018, for a maximum of 150 days)

SUBPART C: APPLICATION REQUIREMENTS FOR A MEDICAL CANNABIS DISPENSARY REGISTRATION AUTHORIZATION

Section 1290.30 Dispensing Organization Principal Officers

EMERGENCY

a) In addition to the individuals identified in the dispensing organization's by-laws as principal officers, the following individuals are considered principal officers:

- 1) If a corporation, the officers of the corporation;
- 2) If a partnership, the partners;
- 3) If a limited liability company, the members and managers of the limited liability company;
- 4) If an association or cooperative, the members of the association or cooperative;
- 5) If a joint venture, the individuals who signed the joint venture agreement; and
- 6) If a business organization other than the types listed in subsections (a)(1) through (5), the members of the business organization.

b) A dispensing organization may not be established as a trust. A trust may not have an ownership interest in a registered dispensing organization.

c) If a dispensing organization parent company, holding company or any other entity exerts management or control over the dispensing organization, that entity is a dispensing organization principal officer, including the officers, board members and the individuals with an ownership interest in it that have more than a one percent ownership interest in the dispensing organization.

(Source: Amended by emergency rulemaking at 42 Ill. Reg. 23202, effective December 3, 2018, for a maximum of 150 days)

Section 1290.40 Dispensing Organization Authorization Process

EMERGENCY

a) The Division shall review applications and issue authorizations according to the requirements of the Act and this Part.

1) An applicant shall file an application with the Division for authorization to register a dispensing organization.

2) Applications for authorizations shall be made on forms furnished by the Division. The application shall be signed by all principal officers certifying under penalty of perjury that all information contained in the application is true and accurate.

3) An applicant is limited to one application for authorization per District .

4) The instructions on the application will reflect the total maximum number of points available for each required criteria and bonus point category. The instructions and application will also identify the minimum number of points necessary from the required criteria to be eligible for consideration of the bonus point categories. All applications will be reviewed and points awarded based upon the same point system in a fair and unbiased manner.

5) An applicant may submit separate applications for authorization in up to five Districts.

6) Each application requires one application fee (see Section 1290.80). Applications for authorization will be scored in five required categories. Should the applicant meet the minimum percentage in the five required categories, it may be eligible to be scored in the bonus category. The required five categories and the bonus category will be scored based on the following point structure:

A) The suitability of the proposed dispensary category is 150 points.

B) The business and operation plan category is 200 points.

C) The security plan category is 200 points.

D) The recordkeeping and inventory plan category is 200 points.

E) The financial disclosure category is 150 points.

F) The bonus category is 100 points.

7) If submitting an application in more than one District, the applicant shall identify the Districts it has applied in or Districts where it is registered.

8) Each applicant must submit to and qualify through a fingerprint-based criminal history records check as set forth in Section 1290.230.

9) The Division shall review each application to determine whether it meets the minimum criteria and shall determine qualified applicants.

10) The Division may consider the location of a proposed dispensary relevant to other proposed or existing dispensaries, in the same or adjacent Districts, to ensure that dispensaries are geographically dispersed.

11) If the Division determines that the number of qualified applicants exceeds the number of authorizations available, the Division will select the most qualified applicant in that District using the selection process established in Section 1290.60.

12) Qualified applicants chosen through the selection process will receive an authorization issued by the Division.

13) If the Division determines that a District has no qualified applicants or fewer qualified applicants than authorized registrations, the Division shall post a notification on the Division's website detailing the dates of the next open application period.

14) No person or entity shall have a financial interest in more than five registrations or hold itself out as an owner of more than five registrations. No person shall be a principal officer in more than five registered dispensing organizations. If a qualified applicant has been granted more than five authorizations or registrations by the Division, the applicant shall promptly notify the Division.

15) If a dispensing organization's registration is void or invalid for any reason, including but not limited to revocation, suspension or nonrenewal, the Division will post a notification on the Division's website detailing the dates of the next open application period.

b) Upon receipt of the authorization notice, the applicant may submit for registration approval.

(Source: Amended by emergency rulemaking at 42 Ill. Reg. 23202, effective December 3, 2018, for a maximum of 150 days)

Section 1290.50 Dispensing Organization — Application Requirements for Authorization

EMERGENCY

a) Applications must be submitted on Division-provided forms and include the following information:

1) The legal name of the proposed dispensing organization.

2) The name, address, telephone number, date of birth, social security number and e-mail address of the proposed dispensing organization's principal officers. A post office box may not be used.

3) The name of the proposed dispensary.

4) If the entity applying is a sole proprietorship, a copy of creation documents.

5) If the entity applying is a business organization other than a sole proprietorship, the following information for the entity applying:

A) The type of business organization.

B) If a partnership, a copy of any partnership or joint venture documents, and if there is no written agreement, a statement signed by all principal officers affirming there is no agreement.

C) If a limited liability company, a copy of the Articles of Organization, operating agreement, and certificate of good standing issued by the Secretary of State or obtained from the Secretary of State's website dated within seven days prior to the date the application is filed with the Division. Limited liability company applicants shall include a listing of all affiliated persons or business entities holding an ownership interest in the company.

D) If a corporation, the name of the registered agent, a copy of the Articles of Incorporation, Corporate Resolutions if any, and a certificate of good standing issued by the Secretary of State or obtained from the Secretary of State's website within seven days prior to the date the application is filed with the Division. If using an assumed name, a copy of the assumed name registration issued by the Secretary of State. Corporate applicants shall include a listing of all persons or businesses holding an ownership interest in the corporation.

E) If an unincorporated association, organization or not-for-profit organization, documents or agreements relevant to its creation, ownership, profit sharing and liability. If there are no documents as detailed in this subsection (a)(5)(E), a statement signed by all principal officers stating so.

6) From each principal officer, a statement indicating whether that person:

A) Has held an ownership interest in a dispensing organization, other cannabis-related business, or its equivalent in another state or territory of the United States that had the dispensary registration or license suspended, revoked, placed on probationary status or subjected to other disciplinary action.

B) Is a physician that will be on the dispensing organization's board of directors or an employee, pursuant to Section 35(b)(5) of the Act.

C) Is a registered qualified patient, designated caregiver, provisional patient or OAPP patient.

7) Disclosure of whether any principal officer has ever:

A) Filed for bankruptcy; or

B

B) Defaulted on alimony or child support obligation.

8) A resume for each principal officer, including whether that person has an academic degree, certification or relevant experience with a medical cannabis business or in a related industry.

9) A patient education plan detailing the benefits or drawbacks of cannabis strains or products in connection with the debilitating conditions identified in the Act and an OAPP participant education plan

detailing the benefits or drawbacks of cannabis strains or products in connection with medical conditions for which opioids can or are prescribed for, and initiatives to keep product costs reasonable.

10) A description of the training and education that will be provided to dispensary agents.

11) A copy of the proposed operating by-laws.

12) A copy of the proposed business plan that complies with the requirements in this Part, including, at a minimum, the following:

A) A description of products intended to be offered;

B) A description of services to be offered; and

C) A description of the process of dispensing cannabis from a restricted access area to a limited access area.

13) A copy of the proposed security plan that complies with the requirements in this Part, including:

A) A description of the delivery process by which cannabis will be received from a cultivation center, including receipt of manifests and protocols that will be used to avoid diversion, theft or loss at the dispensary acceptance point;

B) The process or controls that will be implemented to monitor the dispensary, secure the premises, agents, patients, opioid participants and currency, and prevent the diversion, theft or loss of cannabis; and

C) The process to ensure that access to the limited access areas is restricted to qualifying patients, provisional registration patients, Opioid Alternative Pilot Program ("OAPP") participants, designated caregivers, registered agents, service professionals or persons authorized by the Act and this Part.

14) A proposed inventory control plan that complies with this Part.

A) The process for integrating the dispensary's point of sale with the state verification system and Illinois Cannabis Tracking System using a program interface to record sales and patients, provisional patients, designated caregivers and OAPP participants in real time.

B) A description of the medical cannabis order fulfillment process for patients, provisional patients and OAPP participants;

C) A description of the patient, provisional patient and OAPP participant sale process;

D) A description of the process of dispensing cannabis from the restricted access area to the limited access area.

15) A proposed recordkeeping plan and verification system for patients, provisional patients, designated caregivers and OAPP participants that complies with this Part.

16) A copy of the current local zoning ordinance sections relevant to dispensary operations. Documentation, if any, of the approval, the conditional approval or the status of a request for zoning approval from the local zoning office that the proposed dispensary location is in compliance with the local zoning rules and the zoning provisions in Section 130 of the Act.

17) For the building or land to be used as the proposed dispensary:

A) If the property is not owned by the applicant, a written statement from the property owner and landlord, if any, certifying consent that the applicant may operate a dispensary on the premises; or

B) If the property is owned by the applicant, confirmation of ownership.

18) A copy of any proposed marketing or advertising plan or materials.

19) A map of the area surrounding the proposed dispensary, extending a minimum of 1,000 feet from the property line in all directions. The map must clearly demonstrate that the property line of the proposed dispensary is not located within 1,000 feet of the property line of a pre-existing public or private preschool or elementary or secondary school or day care center, day care home, group day care home or part day child care facility. The map must clearly demonstrate that the dispensary is not in an area zoned for residential use and identify the existing adjacent businesses. For purposes of this subsection (a)(19), "pre-existing" means existing as of the date the proposed dispensing organization submitted its application to the Division.

20) A plot plan of the dispensary drawn to scale. The applicant shall submit general specifications of the building exterior and interior layout.

21) A statement that the dispensing organization agrees to respond to the Division's supplemental requests for information.

b) Financial Disclosure

The applicant shall provide a statement disclosing relevant business transactions and financial information connected with the application. Financial disclosures include:

1) A Table of Organization, Ownership and Control including the ownership structure and names of the principal officers of the dispensing organization, .

2) A current organization chart that includes position descriptions and the names and resumes of each person holding each position. The resumes shall establish specific skills, education, experience or significant accomplishments that are relevant to owning or operating a dispensing organization.

3) Depending on business type as applicable, agreements between any two or more principal officers that relate to the assets, liabilities, property, revenue, royalties, profit or future profit of the dispensing organization or comparable documents that establish the legal structure of the applicant, operations, management and control.

4) A copy of compensation agreements among any persons having a financial interest in the dispensing organization.

5) The nature, type, terms, covenants and priorities of all outstanding debts, including but are not limited to bonds, loans, mortgages, trust deeds, lines of credit, notes issued or executed, or to be issued or executed, in connection with the proposed dispensary.

6) Audited financial statements for the previous fiscal year, which shall include, but are not limited to, an income statement, balance sheet, statement of retained earnings or owners' equity, statement of cash flows, and all notes to those statements and related financial schedules, prepared in accordance with generally accepted accounting principles, with the accompanying independent auditor's report. The audit must be compiled by and certified by an auditor or CPA. If the applicant was formed within the year preceding the application, provide certified financial statements for the period of time the applicant has been in existence.

7) Complete copies of all federal, state and foreign (with translation) tax returns filed by the principal officers of the proposed dispensing organization for the last three years, or for the period each principal officer has filed tax returns if less than three years.

8) Disclosure of all funding sources used for the proposed dispensing organization, including documentation verifying the source of the funds and copies of closing documents in connection with the purchase of a registered business.

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9) The applicant has a continuing duty to promptly disclose material changes in the financial information provided to the Division. If an applicant is issued a registration, this duty of ongoing disclosure shall continue throughout the registered period.

c) Documentation acceptable to the Division that the applicant has at least \$400,000 in liquid assets under its control for each application. Documentation acceptable to the Division includes:

1) A signed statement from an Illinois Licensed CPA or financial institution attesting to proof of \$400,000 in liquid assets under the control of a principal officer or the entity applying.

2) The signed statement must be dated within 10 calendar days before the application is submitted.

3) Documentation otherwise requested by the Division in writing.

d) An attestation under penalty of perjury signed and dated by each principal officer identified in subsection (a)(2):

1) That the person has not been convicted of an excluded offense;

2) That the information provided to the Division is true and correct;

3) That, if the proposed organization is issued an authorization, the applicant will not operate until the Division approves the applicant's registration packet, the dispensary is inspected and the applicant obtains a registration from the Division;

4) That the applicant acknowledges receipt and advisement of the notices contained in the application and agrees to and accepts the limitations of liability and the requirement to indemnify, hold harmless and defend the State of Illinois, including:

A) Limitation of Liability — the State of Illinois shall not be liable to the dispensing organization, dispensing organization employees, family members or guests, qualifying patients or caregivers, qualifying patient's or caregiver's employer or employees, family members or guests for any damage, injury, accident, loss, compensation or claim, based on, arising out of or resulting from the registrant's participation in the Compassionate Use of Medical Cannabis Pilot Program, including, but not limited to, the following: arrest, seizure of persons or property, prosecution pursuant to federal laws by federal prosecutors, any fire, robbery, theft, mysterious disappearance or any other casualty; or the actions of any other registrants or persons. This limitation of liability provision shall survive expiration or the early termination of the registration if the registration is granted; and

B) The Division requires each registrant to include a signed statement in the registration packet that, at minimum, certifies that the applicant has actual notice that, notwithstanding any State law:

- i) Cannabis is a prohibited Schedule I controlled substance under federal law;
 - ii) Participation in the Compassionate Use of Medical Cannabis Pilot Program (program) is permitted only to the extent provided by the strict requirements of the Act and this Part;
 - iii) Any activity not sanctioned by the Act or this Part may be a violation of State law;
 - iv) Growing, distributing or possessing cannabis in any capacity, except through a federally-approved research program, is a violation of federal law;
 - v) Use of medical cannabis may affect an individual's ability to receive federal or state licensure in other areas;
 - vi) Use of medical cannabis, in tandem with other conduct, may be a violation of State or federal law;
 - vii) Participation in the medical cannabis program does not authorize any person to violate federal law or State law and, other than as set out in Section 25 of the Act, does not provide any immunity from or affirmative defense to arrest or prosecution under federal law or State law; and
 - viii) Applicants shall indemnify, hold harmless and defend the State of Illinois for any and all civil or criminal penalties resulting from participation in the program.
- C) The Division has the authority to include additional certifications in the application that would be sufficient to ensure compliance with the program and all other applicable laws.
- e) All proposed principal officers must be natural persons. The Division will communicate with the proposed dispensing organization's principal officers. The Division will not communicate exclusively with a consultant or attorney working on behalf of the proposed dispensing organization.
- f
- f) The non-refundable application fee (see Section 1290.80).

(Source: Amended by emergency rulemaking at 42 Ill. Reg. 23202, effective December 3, 2018, for a maximum of 150 days)

Section 1290.70 Selection Criteria

EMERGENCY

- a) Applicants must submit all required information, including that required in Section 1290.50. Failure by an applicant to submit all required information may result in the application being disqualified.

b) If the Division receives an application with missing information, the Division may issue a deficiency notice to the applicant. The applicant shall have seven calendar days from the date of the deficiency notice to resubmit the incomplete information. Applications that are still incomplete after this opportunity to cure will not be scored and will be disqualified.

c) The Division will award points to administratively complete applications based on the clarity, organization and quality of the applicant's responses to required information. Applicants will be awarded points according to the following categories:

1) Suitability of the Proposed Dispensary

A) A demonstration that the proposed location is suitable for public access, the layout promotes safe dispensing of medical cannabis, it is sufficient in size, power allocation, lighting, parking, handicapped accessible parking spaces, ADA accessible entry and exits, product handling, and storage.

B) A statement of reasonable assurance that the issuance of a registration will not have a detrimental impact on the community.

2) Security and Recordkeeping

A) The security plan will demonstrate the capability for the prevention of the theft or diversion of medical cannabis. The security plan will demonstrate safety procedures for dispensary employees, patients, provisional patients, OAPP participants and caregivers, and safe delivery and storage of cannabis and currency. It will demonstrate compliance with all security requirements in this Part.

B) A plan for recordkeeping, tracking and monitoring inventory, quality control and other policies and procedures that will promote standard recordkeeping and discourage unlawful activity. This plan will include the applicant's strategy to communicate with the Division and ISP on the destruction and disposal of cannabis.

3) Applicant's Business Plan, Financials and Operating Plan

A) The business plan shall describe, at a minimum, how the dispensing organization will be managed on a long-term basis. This shall include a description of the patient verification system, dispensing organization's point of sale system, Illinois Tracking System, purchases and denials of sale, confidentiality, and products and services to be offered.

B) The financial plan shall describe, at a minimum, the source of the \$400,000 liquid asset requirement and the amount and source of the organization's equity and debt commitment to ensure financial stability, including a demonstration of the immediate and longterm financial health and resources for the design, development and operation of the dispensary.

C) The operating plan shall include, at a minimum, a timetable that provides an estimated time from authorization through year one of registration and the assumptions used as the basis for those estimates. It will include best practices for day-to-day dispensary operation and staffing.

4) Knowledge and Experience

A) The applicant's principal officers must demonstrate experience and qualifications in business management or experience with the medical cannabis industry. This includes ensuring optimal safety and accuracy in the dispensing and sale of cannabis.

B) The applicant must demonstrate knowledge of various cannabis product strains or varieties, and describe the types and quantities of products planned to be sold. This includes confirmation of whether the dispensary plans to sell medical cannabis paraphernalia or edibles.

d) The Division will award bonus points for preferred, but not required, initiatives based on the applicant's ability to meet requirements in the following categories:

1) Labor and Employment Practices: The applicant may describe plans to provide a safe, healthy and economically beneficial working environment for its agents, including, but not limited to, codes of conduct, healthcare benefits, educational benefits, retirement benefits, and living wage standards.

2) Research Plan: The applicant may provide the Division with a detailed proposal to conduct, or facilitate, a scientific study or studies related to the medicinal use of cannabis. The applicant may include in its proposal a detailed description of:

A) The methodology of the study to accurately assess the effects of cannabis;

B) The issues to be studied;

C) The methods that will be used to identify and select study participants;

D) The identity of each person or organization associated with the study, including the role of each;

E) The duration of the study and anticipated peer review; and

F) The intended use of the study results.

3) Community Benefits Plan: The applicant may provide a description of plans the applicant has to support the local community, the class of citizens served, or a plan for reduction in product costs for indigent patients that qualify.

4) Substance Abuse Prevention Plan: The applicant may provide a detailed description of any plans it will take to combat substance abuse in its District, including the extent to which the applicant will partner or work with existing substance abuse programs.

5) Local Community/Neighborhood Report: The applicant may provide comments, concerns or support received regarding the potential impact of the proposed location on the local community and neighborhood.

6) Environmental Plan: The applicant may demonstrate an environmental plan of action to minimize the carbon footprint, environmental impact, and resource needs for the dispensary.

7) Verification of Minority-Owned, Female-Owned, Veteran-Owned or Disabled Person-Owned Business: The minority, female, veteran or disabled applicants must own at least 51% of the entity applying for registration. The percentage totals may include any combination of minority, female, veteran or disabled applicants. The minority, female, veteran or disabled applicant must also share in control of management and day-to-day operations of the dispensary. Documentation must be submitted at the time of application that demonstrates the respective status of the applicant, including, but not limited to, certification under the Business Enterprise for Minorities, Females, and Persons with Disabilities Act [30 ILCS 575] for minority, female or disabled person applicants, or a DD214 for veteran applicants. For purposes of this subsection, minority, female, and disabled shall be defined as found in Section 2 of the Business Enterprise for Minorities, Females, and Persons with Disabilities Act [30 ILCS 575/2].

8) Illinois Based Applicants: Documentation that the applicant's principal place of business is headquartered in Illinois, including the names, addresses and verification of the applicant's proposed agents that reside in Illinois. The applicant may also provide a plan for generating Illinois- based jobs and economic development.

e) The Division may verify information contained in each application and accompanying documentation to assess the applicant's character and fitness to operate a dispensary. In addition to the qualifications required in the Act and this Part, the Division may not grant an authorization or registration unless it is satisfied that the applicant is:

1) A person of good character, honesty and integrity;

2) A person whose background, including criminal record, reputation, habits and social or business associations, does not discredit or tend to discredit public confidence and trust in the Illinois medical cannabis industry or the State of Illinois, or pose a threat to the public health, security, safety, morals, good order and general welfare of the State of Illinois;

3) A person who does not create or enhance the dangers of unsuitable, unfair or illegal practices, methods and activities in the conduct of owning a medical cannabis dispensary;

4) A person who does not present questionable business practices and financial arrangements incidental to the conduct of owning a medical cannabis dispensary or otherwise;

5) A person who, either individually or through employees, demonstrates business ability and experience to establish, operate and maintain a business for the type of license for which application is made; and

6) A person who does not associate with, either socially or in business affairs, or employ, persons of notorious or unsavory reputation or who have extensive police records, or who have failed to cooperate with an officially constituted investigatory or administrative body.

f) The Division may, in its discretion, refuse to issue an authorization to any applicant:

1) Who is unqualified to perform the duties required of the applicant;

2) Who fails to disclose or states falsely any information called for in the application;

3) Who has been found guilty of a violation of the Act, or whose medical cannabis dispensary or cultivation center license was suspended, restricted, revoked or denied for just cause in any other state; or

4) For any other just cause.

g) Should the applicant be awarded an authorization, the information and plans provided in the application become a condition of the authorization. Dispensing organizations have a duty to disclose any material changes to the application. All changes shall be equal to or better than the original information or plans. Failure to comply with the conditions or requirements in the application may subject the dispensing organization to discipline, up to and including suspension or revocation of its authorization by the Division. Revocation of an authorization shall serve as a final administrative decision by the Division.

(Source: Amended by emergency rulemaking at 42 Ill. Reg. 23202, effective December 3, 2018, for a maximum of 150 days)

SUBPART D: DISPENSARY REGISTRATION

Section 1290.100 Dispensing Organization — Registration Process

EMERGENCY

a) No person may own, operate or act as a dispensing organization or represent that the person or organization is a registered dispensing organization unless first obtaining a registration from the Division.

b) The registration process shall include the following:

1) If the Division issues an authorization to an applicant, the Division will notify the applicant that it may file for a registration with the Division.

2) Only an applicant granted an authorization is permitted to register a dispensing organization.

3) A dispensing organization shall submit to the Division all supporting information and documents in a registration packet. The registration packet shall include all required registration materials in accordance with this Section and this Part. All registration materials shall be submitted together.

4) A dispensing organization must file the registration packet with the Division within 120 days after the date of the authorization notification, unless otherwise authorized by the Division.

5) The Division may identify incomplete or missing information from the registration packet, may request additional information from the applicant or deny the registration packet.

6) If a registration packet is denied by the Division, the dispensing organization may refile it within 10 business days with the information or documents that caused its denial. If the registration packet is denied by the Division more than three times, the Division may withdraw the authorization. A letter withdrawing an authorization shall serve as a final administrative decision by the Division.

c) Once all required information and documents have been submitted, the Division will review the registration packet. The Division may request revisions and retains final approval over dispensary features. Once the registration packet is complete and meets the Division's approval, the Division will conditionally approve the registration. Final approval is contingent on the build-out and Division inspection.

d) Upon completion of the dispensary, the dispensing organization shall request an inspection. The Division will inspect the dispensary to confirm compliance with the registration packet, the Act and this Part.

e) A registration will be issued only after the completion of a successful inspection.

f) Once the Division has issued a registration, the dispensary organization shall notify the Division of the proposed opening date.

g) A dispensing organization is not prohibited from applying for a cultivation center permit in connection with DOA's rules.

(Source: Amended by emergency rulemaking at 42 Ill. Reg. 23202, effective December 3, 2018, for a maximum of 150 days)

Section 1290.110 Dispensing Organization — Registration Requirements

EMERGENCY

a) The registration packet will be equal to or better than the information contained in the application, and shall provide additional detail on construction, start-up, operation, security measures and dispensing procedures.

b) A person granted an authorization shall submit a registration packet to the Division that includes the following registration requirements:

1) The legal name of the dispensing organization;

2) The name of the dispensary ;

3) The registry identification number for the dispensing organization;

4) The proposed physical address of the dispensary facility;

5) The address, telephone number and e-mail address of the applicant's principal place of business, if different from the location where the medical cannabis will be dispensed. A post office box is not permitted;

6) The name, address, date of birth and social security number for each proposed dispensing organization agent;

7) The proposed hours of operation;

8) Any proposed text or graphic materials to be shown on the exterior of the proposed dispensary;

9) The distance from the proposed dispensary's property line to the property line of the closest pre-existing public or private preschool or elementary or secondary school or day care center, day care home, group day care home and part day child care facility. For purposes of this subsection (b)(9), "pre-existing" means existing as of the date the proposed dispensing organization submitted its application to the Division.

10) The anticipated date the dispensing organization will be ready for a Division inspection;

11) An attestation under penalty of perjury that the information provided to the Division for registration is true and correct;

12) Certification issued by the local jurisdiction's zoning office authorizing the use of the proposed plot as a dispensary;

13) A site plan drawn to scale of the proposed dispensary showing streets, traffic direction, sidewalks, trees, alleys, property lines, additional buildings on-site, parking areas and handicapped parking spaces, fences, exterior walled areas, garages, vehicle delivery access doors, hangars, security features and outdoor areas as applicable.

14) A floor plan or blueprint drawn to scale of the dispensary building that shall, at a minimum, show and identify:

A) Layout and square footage of each room;

B) Overall square footage of the dispensary facility;

C) Name and function of each room;

D) Doorways or pathways between rooms;

E) Means of ingress and egress;

F) Location of restricted, limited and public access areas. All limited and restricted access areas shall be clearly described in the floor plan of the premises, in the form and manner determined by the Division, reflecting walls, partitions, counter heights, and all areas of entry and exit. The floor plan shall show all storage, disposal and retail sales areas;

G) Location of cannabis storage areas while the dispensary is open for business;

H) Location of cannabis storage areas while the dispensary is closed for business;

I) Location of the patient, provisional patient or OAPP participant counseling area;

J) Location of all safes and/or vaults that will be used to store cannabis, cannabis-infused products or currency, identifying day storage and night storage;

K) Location of each computer used to check qualifying patient cards, designated caregiver registry cards, provisional registrations and verify OAPP participants;

L) Location of each computer and cash register used for point of sale transactions and to access the Division's verification system and Illinois Cannabis Tracking System;

M) Location of bullet-proof glass, if any;

N) Location of drawer, grate or conduit through the bullet-proof glass, if any;

O) Location of bullet-proof walls, if any;

P) Location of fire exits;

Q) Location of each toilet facility;

R) Location of a break room and personal storage lockers, if any;

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S) Location of each video camera;

T) Location of each panic button; and

U) Location of natural windows or skylights.

15) Policies and procedures that comply with the requirements in this Part, outlined in an Operation and Management Practices Plan, including:

A) Inventory control and recordkeeping using the State's verification system and Illinois Cannabis Tracking System;

B) Qualifying patient, designated caregiver, provisional patients and OAPP participants recordkeeping;

C) Dispensing medical cannabis to patients, designated caregivers, provisional patients, and OAPP participants that comply with the requirements in Section 1290.430 and 1290.435.

D) Inventory control and recordkeeping using the dispensary's point of sale recordkeeping;

E) Security;

F) Patient care education and support;

G) Accessible business hours and safe dispensing; and

H) A staffing plan that ensures adequate staffing, training and education.

16) An explanation of related products or services to be offered, if any, other than cannabis.

17) A plan for working with cultivation centers to acquire medical cannabis and ensure the dispensary has a continuous supply for registered qualifying patients, designated caregivers, provisional patients and OAPP participants.

18) The estimated volume of cannabis it plans to store at the dispensary.

19) A detailed description of air treatment systems that will be installed to reduce odors.

20) A description of the features that will provide accessibility to qualifying patients, designated caregivers, provisional patients and OAPP participants as required by the ADA.

21) A plan detailing how the dispensing organization will perform a physical daily inventory of all medical cannabis to ensure inventory is balanced in the State's verification, Illinois Cannabis Tracking System and point of sale system.

22) An attestation that the dispensing organization will have a reinforced vault room with dimensions sufficient for storage of cannabis, cash and currency.

23) Documentation that the building meets State and local building and fire codes, and that all local ordinances are met for the proposed location.

24) A reasonable assurance that the issuance of a registration will not have a detrimental impact on the community.

25) A plan to prevent patient, provisional patient, designated caregiver and OAPP participant overflow in waiting rooms and patient care areas.

26) A signed statement by each principal officer or agent that they will not divert medical cannabis.

27) The registration fee (see Section 1290.80).

28) Any additional information requested by the Division.

c) The registration packet shall be signed and dated by each principal officer.

d) Upon Division approval of the registration packet, the information and plans in the registration packet become a condition of the registration. Dispensing organizations have a duty to disclose any material changes to the information contained in the registration packet.

e) Once all registration documentation is complete, reviewed, confirmed and meets the Division's approval, the Division may issue a conditional approval.

f) After receipt of a conditional approval, and when the dispensing organization is ready to open, it shall contact the Division for an inspection. The dispensary shall not open until it has passed inspection and the Division has issued a registration.

g) Prior to opening, the dispensing organization shall notify the Division of the proposed opening date.

h) The Division may refuse to issue a registration or a registration must be denied pursuant to Section 115(f) of the Act for a violation of this Part, or any of the following reasons:

1) The applicant failed to submit the materials required by the Act and this Part;

2) The applicant selected a location that is not in compliance with local zoning rules and cannot cure the zoning deficiency in a reasonable time;

3) The applicant does not meet the requirements of Section 130 or 140 of the Act;

4) One or more of the principal officers has been convicted of an excluded offense;

5) One or more of the principal officers has served as an owner or officer of a registered medical cannabis dispensing organization that had its registration revoked;

6) One or more of the principal officers is under 21 years of age;

7) One or more of the principal officers is a registered qualifying patient or a designated caregiver.

(Source: Amended by emergency rulemaking at 42 Ill. Reg. 23202, effective December 3, 2018, for a maximum of 150 days)

Section 1290.120 Dispensing Organization — Financial Responsibility

EMERGENCY

Evidence of financial responsibility is a requirement for the issuance of a registration, maintenance of a registration, or reactivation of a registration. Evidence of financial responsibility shall be used to guarantee that the dispensing organization timely and successfully completes dispensary construction, operates in a manner that provides an uninterrupted supply of cannabis, faithfully pays registration renewal fees, keeps accurate books and records, makes regulatorily required reports, complies with State tax requirements, and conducts the dispensary in conformity with the Act and this Part. Evidence of financial responsibility shall be provided by one of the following:

a) Establishing and maintaining an escrow or surety account in a financial institution in the amount of \$50,000, with escrow terms, approved by the Division, that it shall be payable to the Division in the event of circumstances outlined in this Section.

1) A financial institution may not return money in an escrow or surety account to the dispensing organization that established the account or a representative of the organization unless the organization or representative presents a statement issued by the Division indicating that the account may be released.

2) The escrow or surety account shall not be cancelled on less than 30 days' notice in writing to the Division, unless otherwise approved by the Division. If an escrow or surety account is canceled and the registrant fails to secure a new account with the required amount on or before the effective date of cancellation, the registrant's registration may be revoked. The total and aggregate liability of the surety on the bond is limited to the amount specified in the escrow or surety account.

b) Providing a surety bond in the amount of \$50,000, naming the dispensing organization as principal of the bond, with terms, approved by the Division, that the bond defaults to the Division in the event of circumstances outlined in this Section. Bond terms shall include:

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1) The business name and registration number on the bond must correspond exactly with the business name and registration number in the Division's records.

2) The bond must be written on a form approved by the Department.

3) A copy of the bond must be received by the Division within 90 days after the effective date.

4) The bond shall not be canceled by a surety on less than 30 days' notice in writing to the Division. If a bond is canceled and the registrant fails to file a new bond with the Division in the required amount on or before the effective date of cancellation, the registrant's registration may be revoked. The total and aggregate liability of the surety on the bond is limited to the amount specified in the bond.

(Source: Amended by emergency rulemaking at 42 Ill. Reg. 23202, effective December 3, 2018, for a maximum of 150 days)

Section 1290.140 Request to Relocate a Dispensary

EMERGENCY

a) A dispensing organization may relocate a dispensary in the District where the dispensary is registered or awarded an authorization. To relocate a registered dispensary, the dispensing

organization shall submit an application requesting the change and the relocation fee (see Section 1290.80) to the Division.

b) The new dispensary location shall meet all the requirements of the Act and this Part.

c) If the information and documents submitted by the dispensing organization comply with the Act and this Part and the proposed location is equal to or better than the prior location, the Division will issue a conditional approval to relocate. The dispensary organization may continue to operate at the existing location, until the new location is ready. The dispensary organization may not operate two locations under the same registration number.

d) Once the new dispensary is finished, the dispensing organization shall notify the Division and request an inspection.

e) Prior to issuing a registration and approval to operate, the Division will inspect the dispensary to confirm compliance with the Act and this Part. Final approval for the dispensing organization to operate will be issued by the Division only after the completion of a successful inspection.

f) A dispensing organization shall not dispense medical cannabis at the new location until the Division approves the dispensary and issues an amended registration noting the new location.

g) Once the Division has issued an amended registration, the dispensing organization shall notify the Division of the proposed dispensary opening date.

h) The registration that includes the new address shall retain the expiration date of the previously issued registration.

i) An application for a relocation of a dispensary may not be combined with an application for renewing a dispensing organization registration. The Division shall process each application separately.

j) Should the dispensing organization relocate, it shall inform its existing patients of the new dispensary location.

(Source: Amended by emergency rulemaking at 42 Ill. Reg. 23202, effective December 3, 2018, for a maximum of 150 days)

SUBPART E: REGISTRATION OF DISPENSING ORGANIZATION AGENTS

Section 1290.200 Dispensing Organization Agent-in-Charge

EMERGENCY

a) Every dispensing organization shall designate, at a minimum, one agent-in-charge for each registered dispensary. The designated agent-in-charge must hold a dispensing organization agent identification card. Maintaining an agent-in-charge is a continuing requirement for the registration, except as provided in subsection (g).

b) The agent-in-charge shall be a principal officer or a full-time agent of the dispensing organization and shall manage the dispensary. Managing the dispensary includes, but is not limited to, responsibility for opening and closing the dispensary, delivery acceptance, oversight of sales and dispensary agents, recordkeeping, inventory, dispensary agent training, and compliance with the Act and this Part. Participation in affairs also includes the responsibility for maintaining all files subject to inspection by the Division at the dispensary.

c) The agent-in-charge is responsible for promptly notifying the Division of any change of information required to be reported to the Division.

d) In determining whether an agent-in-charge manages the dispensary, the Division may consider the responsibilities identified in this Section, the number of dispensary agents under the supervision of the agent-in-charge, and the employment relationship between the agent-in-charge and the dispensing organization, including the existence of a contract for employment and any other relevant fact or circumstance.

e) The agent-in-charge is responsible for notifying the Division of a change in the employment status of all dispensing organization agents within five business days after the change, including notice to the Division if the termination of an agent was for diversion of product or theft of currency.

f) In the event of the separation of an agent-in-charge due to death, incapacity, termination or any other reason and if the dispensary does not have an active agent-in-charge, the dispensing organization shall immediately contact the Division and request a temporary certificate of authority allowing the continuing operation. The request shall include the name of an interim agent-in-charge until a replacement is identified, or shall include the name of the replacement. The Division shall issue the temporary certificate of authority promptly after it approves the request. If a dispensing organization fails to promptly request a temporary certificate of authority after the separation of the agent-in-charge, its registration shall cease until the Division approves the temporary certificate of authority or registers a new agent-in-charge. No temporary certificate of authority shall be valid for more than 90 days. The succeeding agent-in-charge shall register with the Division in compliance with this Part. Once the permanent succeeding agent-in-charge is registered with the Division, the temporary certificate of authority is void. No temporary certificate of authority shall be issued for the separation of an agent-in-charge due to disciplinary action by the Division related to his or her conduct on behalf of the dispensing organization.

g) The dispensing organization agent-in-charge registration shall expire annually on the date it was issued. The agent-in-charge's registration shall be renewed annually. The Division shall review the dispensary's compliance history when determining whether to grant the request to renew.

h) Upon termination of an agent-in-charge's employment, the dispensing organization shall immediately reclaim the dispensary agent identification card. The dispensing organization shall promptly return the identification card to the Division.

i) The Division may deny an application or renewal, discipline or revoke an agent-in-charge identification card for any of the following reasons:

1) Submission of misleading, incorrect, false or fraudulent information in the application or renewal application;

2) Violation of the requirements of the Act or this Part;

3) Fraudulent use of the agent-in-charge identification card;

4) Selling, distributing, transferring in any manner, or giving medical cannabis to any unauthorized person;

5) Tampering with, falsifying, altering, modifying or duplicating an agent-in-charge identification card;

6) Tampering with, falsifying, altering, modifying the surveillance video footage, point of sale system, Illinois Cannabis Tracking System, or the state's verification system;

7) Tampering with, falsifying, altering, modifying patient, provisional patient, designated caregiver or OAPP participant applications;

8) Failure to notify the Division immediately upon discovery that the agent-in-charge identification card has been lost, stolen or destroyed;

9) Failure to notify the Division within five business days after a change in the information provided in the application for an agent-in-charge identification card;

10) Conviction of an excluded offense or any incident listed in Section 1290.200 or 1290.510 following the issuance of an agent-in-charge identification card;

11) Overdispensing; or

12) For any just cause.

(Source: Amended by emergency rulemaking at 42 Ill. Reg. 23202, effective December 3, 2018, for a maximum of 150 days)

Section 1290.210 Dispensing Organization Agents

EMERGENCY

a) All principal officers, agents-in-charge and agents of the dispensing organization are dispensing organization agents and shall hold an agent identification card. No person shall enter a dispensary to begin work at a dispensary prior to holding an agent identification card.

b) Only a dispensing organization principal officer or an agent-in-charge may apply for an agent identification card for himself or herself or other dispensary agents.

c) A dispensing organization agent shall visibly display an agent identification card issued by the Division at all times while at the dispensary.

d) An agent registration application shall be submitted by a dispensing organization principal officer or agent-in-charge on forms provided by the Division, along with the following:

1) The name of the dispensing organization employing the agent, and the address of the dispensary;

2) A full set of fingerprints submitted to ISP as outlined in this Part;

3) A copy of the applicant's valid driver's license or State issued identification;

4) Electronic picture of applicant;

5) A document verifying the applicant's place of residency, such as a bank statement, cancelled check, insurance policy, etc. The document must contain the applicant's full residence address;

6) A sworn statement that the applicant has not been convicted of an excluded offense in any jurisdiction;

7) The applicant's social security number;

8) The registration fee (see Section 1290.80); and

9) Any additional information requested by the Division in the verification process.

e) The Division will deny an application or renewal of an agent identification card for a person convicted of an excluded offense.

f) If no excluded offense is found relating to the fingerprints, the applicant has submitted all required information and the applicant is otherwise qualified under the Act, the Division may approve the application or renewal. Within 15 days after approving an application or renewal, the Division shall issue an agent identification card that will be valid for the period specified on the face of the card and will be renewable upon the conditions set forth in this Part.

g) Dispensing organization agents have access to restricted access areas. They are responsible for the sale of cannabis and dispensary operations. Agents may accept deliveries from cultivation centers, and must document sales in compliance with the Act and this Part.

h) It is the responsibility of each registered dispensing organization to notify the Division of an agent's change of address.

i) Dispensing organization agents must promptly report any diversion or theft, or suspicion of diversion or theft, of cannabis or currency to the Division.

j) At least 30 days prior to the expiration of an agent identification card, the dispensing organization or the agent shall request the Division renew the annual agent identification card, include any information requested by the Division, and authorize ISP to conduct a criminal background check.

k) No dispensing organization shall, after the expiration of an agent identification card, employ or retain the holder of the card in any capacity. Upon expiration of an agent registration, the agent shall not enter the dispensary.

l) Upon termination of employment, the agent identification card shall be immediately returned to the dispensing organization. The dispensing organization shall promptly return the agent identification card to the Division.

m) The agent identification card is not transferable. It is the property of the State of Illinois and shall be surrendered upon demand of the Director.

n) A dispensing organization agent shall promptly report an arrest and any subsequent conviction of an excluded offense to the dispensing organization and to the Division.

o) Should the Division not be able to obtain the State or federal criminal records check from ISP as required by the Act and this Part, the Division may contract with a private detective or investigating agency licensed under the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004 [225 ILCS 447] and in good standing with the Department for the purpose of conducting the records checks.

p) The Division may deny an application or a renewal, or discipline or revoke an agent identification card for any of the following reasons:

- 1) Submission of misleading, incorrect, false or fraudulent information in the application or renewal application;
- 2) Violation of the requirements of the Act or this Part;
- 3) Fraudulent use of the agent identification card;
- 4) Selling, distributing, transferring in any manner, or giving medical cannabis to any unauthorized person;
- 5) Tampering with, falsifying, altering, modifying or duplicating an agent identification card;
- 6) Tampering with, falsifying, altering, modifying the surveillance video footage, point of sale system, Illinois Cannabis Tracking System, or the State's verification system;
- 7) Tampering with, falsifying, altering, modifying patient, provisional patient, designated caregiver or OAPP participant applications;
- 8) Failure to notify the Division within five business days after becoming aware that the agent identification card has been lost, stolen or destroyed;
- 9) Failure to notify the Division within five business days after a change in the information provided in the application for an agent identification card or renewal;
- 10) Conviction of an excluded offense following the issuance of an agent identification card;
- 11) For conduct that demonstrates incompetence or unfitness to work in a dispensary; or
- 12) For any just cause.

(Source: Amended by emergency rulemaking at 42 Ill. Reg. 23202, effective December 3, 2018, for a maximum of 150 days)

Section 1290.230 State and Federal Criminal History Records Check

EMERGENCY

a) Persons required to submit to a State and federal criminal history records check for convictions of an excluded offense shall submit to a fingerprint-based criminal history records check by providing a full set of fingerprints in an electronic format to an ISP livescan vendor whose equipment has been certified by ISP or a fingerprint vendor agency licensed by the Department, unless otherwise approved by the Division.

- b) The ISP will act as the Division's agent, receiving electronic fingerprints and conducting background checks of each individual applying for an agent identification card.
- c) ISP will conduct background checks for conviction information contained in the ISP and Federal Bureau of Identification criminal history databases, as permitted.
- d) For verification of a statutorily imposed duty to conduct background checks pursuant to the Act, ISP will transmit the results of the background check to the Division and the transmittal shall conclude the verification process.
- e) The electronic background checks shall be submitted as outlined in either the Uniform Conviction Information Act [20 ILCS 2635] or 20 Ill. Adm. Code 1265.30 (Electronic Transmission of Fingerprint Requirements).
- f) Electronic transmission of fingerprint data to ISP shall be accomplished utilizing livescan procedures or other comparable technology approved for use by ISP.
- g) Manual fingerprints will not be accepted and shall not be scanned and converted into an electronic format, unless otherwise approved by the Division.
- h) Fingerprints shall be taken within one month prior to the application date or renewal date for an agent identification card, unless otherwise approved by the Division.
- i) Fingerprint images of the individual being fingerprinted, and related alphanumeric identification data submitted, shall be submitted electronically to ISP.
- j) If the fingerprints are rejected by ISP, the dispensary agent shall have his or her fingerprints collected electronically by a live scan fingerprint vendor a second time.
- k) In the event of equipment malfunction or other special circumstance that make electronic transmission of fingerprint data impractical, the Division may allow limited use of paper fingerprint records.
- l) The dispensing organization shall submit to the Division a copy of the livescan request form, with the agent identification card application or renewal and the receipt provided from the livescan fingerprint vendor containing the Transaction Control Number (TCN), as proof that fingerprints have been collected.
- m) Dispensary agent identification card applications submitted without a copy of the livescan request form and receipt will be deemed incomplete and will not be processed until fingerprinting is completed.

n) Fees associated with the livescan fingerprint-based criminal history records check shall be the responsibility of the dispensing organization seeking an agent identification card.

(Source: Amended by emergency rulemaking at 42 Ill. Reg. 23202, effective December 3, 2018, for a maximum of 150 days)

SUBPART F: DISPENSARY OPERATION

Section 1290.300 Operational Requirements

EMERGENCY

a) It is the duty of the Division to enforce the provisions of the Act and this Part relating to the registration and oversight of dispensing organization, unless otherwise provided in the Act.

b) A dispensing organization awarded a registration shall operate in accordance with the representations made in its application and registration packet. It shall be in compliance with the Act and this Part while registered with the Division.

c) Only a dispensing organization that has been issued a registration by the Division shall own and operate a dispensary.

d) A dispensing organization must include the name of the dispensary on the packaging of any cannabis product it sells.

e) All medical cannabis and cannabis-infused products must be obtained from an Illinois registered cultivation center (see 8 Ill. Adm. Code 1000).

f) A dispensing organization shall inspect and count product received by the cultivation center before dispensing it.

g) A dispensing organization may only accept medical cannabis deliveries into a restricted access area. Deliveries may not be accepted through the public or limited access areas unless otherwise approved by the Division.

h) A dispensing organization shall maintain compliance with State and local building, fire and zoning requirements or regulations.

i) A dispensing organization shall submit a list to the Division of the name of all service professionals that will work at the dispensary. The list shall include a description of the type of business or service provided. Changes to the service professional list shall be promptly provided. No service professional shall work in the dispensary until the name is provided to the Division on the service professional list.

j) A registration shall allow the registrant to operate at a single location.

k) A dispensary may operate between 6 a.m. and 8 p.m. local time.

l) A dispensing organization must keep all lighting outside and inside the dispensary in good working order and wattage sufficient for security cameras.

m) A dispensing organization shall not:

1) Produce or manufacture cannabis;.

2) Allow consumption of cannabis at the dispensary;.

3) Accept a cannabis product from a cultivation center unless it is prepackaged and labeled in accordance with this Part, 8 Ill. Adm. Code 1000 and 77 Ill. Adm. Code 946;

4) Sell cannabis or cannabis-infused products to a consumer unless the individual presents an active registered qualifying patient, provisional patient, OAPP participant or designated caregiver card issued by DPH;

5) Enter into an exclusive agreement with any cultivation center. Dispensaries shall provide patients, provisional patients and participants an assortment of products from various cultivation centers. The Division may request that a dispensary diversify its products as needed;

6) Refuse to conduct business with a cultivation center that has the ability to properly deliver the product and is permitted by DOA, on the same terms as other cultivation centers with whom it is dealing;

7) Operate drive through windows;

8) Transport cannabis to residences of registered qualifying patients, provisional patients, OAPP participants or designated caregivers;

9) Operate a dispensary if its video surveillance equipment is inoperative;

10) Operate a dispensary if the point of sale equipment is inoperative;

11) Operate a dispensary if the State's medical cannabis electronic verification system or Illinois Cannabis Tracking System is inoperative;

12) Have fewer than two people working at the dispensary at any time while the dispensary is open;

13) Contract with, pay, or have a profit sharing arrangement with third party groups that assist individuals with finding a physician or completing the patient or participant application; or

14) Pay a referral fee to a third-party group for sending patients or participants to a specific dispensary.

(Source: Amended by emergency rulemaking at 42 Ill. Reg. 23202, effective December 3, 2018, for a maximum of 150 days)

Section 1290.320 Dispensary Access Oversight

EMERGENCY

a) Access to a dispensary is restricted as defined in the Act and this Part. No person, except the following, are permitted entry into the restricted access areas in the dispensary:

1) Dispensing organization agents, the Division or the Division's authorized representative, ISP, or other federal or State officials performing duties as required by federal or State law;

2) Cultivation center agents with cultivation center agent identification cards may deliver medical cannabis to a dispensary;

3) Emergency personnel when necessary to perform official duties;

4) In connection with Part 300(i), a dispensing organization may allow service professionals to enter when working on a job that requires their presence at the dispensary, such as installing or maintaining security devices or providing construction services; and

5) Any person, other than a dispensary agent, authorized to be at a dispensary pursuant to this subsection (a) and with access to the restricted access area must be accompanied at all times by a dispensing organization agent.

b) No person, except the following, are permitted entry into the dispensary's limited access areas:

1) Qualified patients, provisional patients, and designated caregivers;

2) OAPP participants;

3) Dispensing organization agents, the Division or the Division's authorized representative, ISP, or other federal, State or local representatives performing duties as required by federal or State law;

4) Emergency personnel when necessary to perform official emergency duties;

5) In connection with Part 300(i), a dispensing organization may allow service professionals to enter when they are working on a job that requires their presence at the dispensary, such as installing or maintaining security devices or providing construction services;

6) Upon a dispensary's prior written request, the Division may approve a request to allow a visitor to enter the limited access area of a dispensary. The written request must include the name of the dispensing organization agent requesting the visit, the name of the visitor, the reason for the visit and the date and time of the proposed visit. Visits must be for a purpose in furtherance of the Act. The Division must issue written approval before the dispensing organization allows a visitor access to the dispensary. Visitors are prohibited from entering the restricted access area.

7) Any person, other than a dispensary agent, authorized to be at a dispensary pursuant to this subsection (b) shall be monitored while in the limited access area at all times by dispensing organization agent.

d) All persons authorized to be at a dispensary pursuant to subsection (a) or (b) must present valid government issued identification with a picture prior to entry.

1) Once the person is verified, a dispensing organization agent shall record the person in a log with the date, time and purpose of the visit. The log shall be maintained at the dispensary and made available to the Department, at any time, for a period of five years.

2) A dispensing organization agent shall issue a numbered identification badge to persons authorized to be in a dispensary. Identification badges shall be worn while in the dispensary. All visitor identification badges shall be returned to a dispensing organization agent upon exit.

3) The dispensing organization shall institute best practices to preserve confidentiality of patient and OAPP participant identity and patient and OAPP participant sales.

(Source: Added by emergency rulemaking at 42 Ill. Reg. 23202, effective December 3, 2018, for a maximum of 150 days)

SUBPART G: SECURITY AND RECORDKEEPING

Section 1290.400 Inventory Control System

EMERGENCY

) A dispensing organization agent-in-charge shall have primary oversight of the dispensing organization's medical cannabis inventory verification system, its point of sale system, and Illinois Cannabis Tracking System. The inventory point of sale system shall be real-time, web-based and accessible by the Division 24 hours a day, seven days a week.

b) A dispensing organization shall establish an account with the State's verification system and Illinois Cannabis Tracking System that documents:

1) Each sales transaction at the time of sale and each day's beginning inventory, acquisitions, sales, disposal and ending inventory.

2) Acquisition of medical cannabis and medical cannabis-infused products from a permitted cultivation center, including:

A) A description of the products including the quantity, strain, variety and batch number of each product received;

B) The name and registry identification number of the permitted cultivation center providing the medical cannabis;

C) The name and registry identification number of the permitted cultivation center agent delivering the medical cannabis;

D) The name and registry identification number of the dispensing organization agent receiving the medical cannabis; and

E) The date of acquisition.

3) The disposal of medical cannabis, including:

A) A description of the products, including the quantity, strain, variety, batch number and reason for the cannabis being disposed;

B) The method of disposal ; and

C) The date and time of disposal.

c) A dispensing organization shall use a point of sale system that establishes and maintains a real time interface with the State's web-based verification system to track patient and provisional patient limits, patient and provisional patient sales at the time of sale, inventory, currency and destruction consistent with the Act and this Part.

d) A dispensing organization shall use a point of sale system that establishes and maintains a real time interface with the State's Illinois Cannabis Tracking System to track OAPP participant's limits, OAPP participant sales at the time of sale, inventory, currency, OAPP participant's chosen dispensary and written certification.

e) Upon medical cannabis delivery, a dispensing organization shall confirm the product's name, strain name, weight and identification number on the manifest matches the information on the medical cannabis product label and package. The product name listed and the weight listed in the State's verification system and Illinois Cannabis Tracking System shall match the product packaging.

f) The agent-in-charge shall conduct daily inventory reconciliation documenting and balancing medical cannabis inventory by confirming the State's verification system and Illinois Cannabis Tracking System matches the dispensing organization's point of sale system and the amount of physical product at the dispensary.

1) A dispensing organization must receive Division approval prior to completing an inventory adjustment. It shall provide a detailed reason for the adjustment. Inventory adjustment documentation shall be kept at the dispensary for two years from the date performed.

2) If the dispensing organization identifies an imbalance in the amount of medical cannabis after the daily inventory reconciliation due to mistake, the dispensing organization shall determine how the imbalance occurred and immediately upon discovery take and document corrective action. If the dispensing organization cannot identify the reason for the mistake within two calendar days after first discovery, it shall inform the Division immediately in writing of the imbalance and the corrective action taken to date. The dispensing organization shall work diligently to determine the reason for the mistake.

3) If the dispensing organization identifies an imbalance in the amount of medical cannabis after the daily inventory reconciliation or through other means due to theft, criminal activity or suspected criminal activity, the dispensing organization shall immediately determine how the reduction occurred and take and document corrective action. Within 24 hours after the first discovery of the reduction due to theft, criminal activity or suspected criminal activity, the dispensing organization shall inform the Division and ISP in writing in connection with Section 1290.445.

4) The dispensing organization shall file an annual compilation report with the Division, including a financial statement that shall include, but not be limited to, an income statement, balance sheet, profit and loss statement, statement of cash flow, wholesale cost and sales and any other documentation requested by the Division in writing. The financial statement shall include any other information the Division deems necessary in order to effectively administer this Act and all rules, regulations, orders and final decisions promulgated under this Act. Statements required by this section shall be filed with the Division within 60 days after the end of the calendar year. The compilation report shall include a letter authored by a licensed CPA that it has been reviewed and is accurate based on the information provided. The dispensing organization, financial statement and accompanying documents are not required to be audited unless specifically requested by the Division.

g) A dispensing organization shall:

1) Maintain the documentation required in this Section in a secure locked location at the dispensing organization for five years from the date on the document;

2) Provide any documentation required to be maintained in this Section to the Division for review upon request; and

3) If maintaining a bank account, retain for a period of five years a record of each deposit or withdrawal from the account.

h) A dispensing organization shall not accept returns of medical cannabis. If cannabis is abandoned at the dispensary, it shall be accounted for and destroyed in compliance with this Part.

(Source: Amended by emergency rulemaking at 42 Ill. Reg. 23202, effective December 3, 2018, for a maximum of 150 days)

Section 1290.405 Storage Requirements

EMERGENCY

a) Authorized On-Premises Storage. A dispensing organization must store inventory on the registered premises. All inventory stored on the registered premises must be secured in a restricted access area and tracked consistently with the inventory tracking rules.

b) A dispensary shall be of suitable size and construction to facilitate cleaning, maintenance and proper operations.

c) A dispensary shall maintain adequate lighting, ventilation, temperature, humidity control and equipment.

d) Containers storing medical cannabis that have been tampered with or opened shall be labeled with the date opened and quarantined from other medical cannabis products in the vault until they are disposed.

e) Medical cannabis that was tampered with or damaged shall not be stored at the registered premises for more than seven calendar days.

f) Medical cannabis samples shall be in a sealed container. Samples shall be maintained in the restricted access area.

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g) The dispensary storage areas shall be maintained in accordance with the security requirements (see Section 1290.410).

h) Medical cannabis must be stored at appropriate temperatures and under appropriate conditions to help ensure that its packaging, strength, quality and purity are not adversely affected.

(Source: Amended by emergency rulemaking at 42 Ill. Reg. 23202, effective December 3, 2018, for a maximum of 150 days)

Section 1290.410 Security Requirements

EMERGENCY

a) A dispensing organization shall implement security measures to deter and prevent entry into and theft of cannabis or currency.

b) A dispensing organization shall submit changes to the floor plan or security plan to the Division for pre-approval. All cannabis shall be maintained and stored in a restricted access area during construction.

c) The dispensing organization shall implement security measures to protect the premises, registered qualifying patients, provisional patients, designated caregivers, OAPP participants and dispensing organization agents including, but not limited to the following:

) Establish a locked door or barrier between the facility's entrance and the limited access area;

2) Prevent individuals from remaining on the premises if they are not engaging in activity permitted by the Act or this Part;

3) Develop a policy that addresses the maximum capacity and patient flow in the waiting rooms and patient care areas;

4) Dispose of cannabis in accordance with this Part;

) During hours of operation, store and dispense all cannabis from the restricted access area. During operational hours, cannabis shall be stored in an enclosed locked room or cabinet and accessible only to specifically authorized agents;

6) When the dispensary is closed, store all cannabis and currency in a reinforced vault room in the restricted access area and in a manner as to prevent diversion, theft or loss;

7) Keep the reinforced vault room and any other equipment or cannabis storage areas securely locked and protected from unauthorized entry;

8) Keep an electronic daily log of dispensary agents with access to the reinforced vault room and knowledge of the access code or combination;

9) Keep all locks and security equipment in good working order;

10) The security and alarm system shall be operational at all times.

11) Prohibit keys, if applicable, from being left in the locks, or stored or placed in a location accessible to persons other than specifically authorized personnel;

12) Prohibit accessibility of security measures, including combination numbers, passwords or electronic or biometric security systems to persons other than specifically authorized agents;

13) Ensure the dispensary interior and exterior premises are sufficiently lit to facilitate surveillance;

14) Ensure that trees, bushes and other foliage outside of the dispensary premises do not allow for a person or persons to conceal themselves from sight;

15) Develop emergency policies and procedures for securing all product and currency following any instance of diversion, theft or loss of cannabis, and conduct an assessment to determine whether additional safeguards are necessary; and

16) Develop sufficient additional safeguards in response to any special security concerns, or as required by the Division.

d) The Division may request or approve alternative security provisions that it determines are an adequate substitute for a security requirement specified in this Part. Any additional protections may be considered by the Division in evaluating overall security measures.

e) A dispensing organization shall provide additional security as needed and in a manner appropriate for the community where it operates.

f) Restricted Access Areas

1) All restricted access areas must be identified by the posting of a sign that shall be a minimum of 12" x 12" and that states "Do Not Enter - Restricted Access Area - Authorized Personnel Only" in lettering no smaller than one inch in height.

2) All restricted access areas shall be clearly described in the floor plan of the registered premises, in the form and manner determined by the Division, reflecting walls, partitions, counters and all areas of entry and exit. The floor plan shall show all storage, disposal and retail sales areas.

3) All restricted access areas must be secure, with locking devices that prevent access from the limited access areas.

g) Security and Alarm

1) A dispensing organization shall have an adequate security plan and security system to prevent and detect diversion, theft or loss of cannabis, currency or unauthorized intrusion using commercial grade equipment installed by an Illinois licensed private alarm contractor or private alarm contractor agency that shall, at a minimum, include:

A) A perimeter alarm on all entry points and glass break protection on perimeter windows;

B) Security shatterproof tinted film on exterior windows;

C) A failure notification system that provides an audible, text or visual notification of any failure in the surveillance system, including but not limited to, panic buttons, alarms, and video monitoring system. The failure notification system shall provide an alert to designated dispensing organization agents within five minutes after the failure, either by telephone or text message;

D) A duress alarm, panic button and alarm, or holdup alarm and after-hours intrusion detection alarm that by design and purpose will directly or indirectly notify, by the most efficient means, the Public Safety Answering Point (PSAP) for the law enforcement agency having primary jurisdiction;

E) Security equipment to deter and prevent unauthorized entrance into the dispensary, including electronic door locks on the limited and restricted access areas that include devices or a series of devices to detect unauthorized intrusion that may include a signal system interconnected with a radio frequency method, cellular, private radio signals or other mechanical or electronic device;

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2) All security system equipment and recordings shall be maintained in good working order, in a secure location so as to prevent theft, loss, destruction or alterations.

3) Access to surveillance monitoring recording equipment resides shall be limited to persons that are essential to surveillance operations, law enforcement authorities acting within their jurisdiction, security system service personnel and the Division. A current list of authorized dispensary agents and service personnel that have access to the surveillance equipment must be available to the Division upon request.

4) All security equipment shall be inspected and tested at regular intervals, not to exceed one month from the previous inspection and test to ensure the systems remain functional.

5) The security system shall provide protection against theft and diversion that is facilitated or hidden by tampering with computers or electronic records.

6) The dispensary shall ensure all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage.

h) To monitor the dispensary, the dispensing organization shall incorporate continuous electronic video monitoring including the following:

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1) All monitors must be 19-inches or greater;

2) Unobstructed video surveillance of all enclosed dispensary areas, unless prohibited by law, including all points of entry and exit that shall be appropriate for the normal lighting conditions of the area under surveillance. The cameras shall be directed so all areas are captured, including, but not limited to, safes, vaults, sales areas and areas where cannabis is stored, handled, dispensed or destroyed. Cameras shall be angled to allow for facial recognition, the capture of clear and certain identification of any person entering or exiting the dispensary area and in lighting sufficient during all times of night or day;

- 3) Unobstructed video surveillance of outside areas, the storefront and the parking lot, that shall be appropriate for the normal lighting conditions of the area under surveillance. Cameras shall be angled so as to allow for the capture of facial recognition, clear and certain identification of any person entering or exiting the dispensary, the immediate surrounding area and license plates of vehicles in the parking lot;
- 4) Twenty-four-hour recordings from all video cameras available for immediate viewing by the Division upon request. Recordings shall not be destroyed or altered and retained for at least 90 days. Recordings shall be retained as long as necessary if the dispensing organization is aware of the loss or theft of cannabis or a pending criminal, civil or administrative investigation, or legal proceeding for which the recording may contain relevant information;
- 5) The ability to immediately produce a clear, color still photo from the surveillance video, either live or recorded;
- 6) A date and time stamp embedded on all video surveillance recordings. The date and time shall be synchronized and set correctly and shall not significantly obscure the picture;
- 7) The ability to remain operational during a power outage and ensure all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage;
- 8) All video surveillance equipment shall allow for the exporting of still images in an industry standard image format, including .jpg, .bmp and .gif. Exported video shall have the ability to be archived in a proprietary format that ensures authentication of the video and guarantees that no alteration of the recorded image has taken place. Exported video shall also have the ability to be saved in an industry standard file format that can be played on a standard computer operating system. All recordings shall be erased or destroyed prior to disposal;
- 9) The video surveillance system shall be operational during a power outage with a four-hour minimum battery backup;
- 10) A video printer capable of immediately producing a clear still photo from any video camera image;
- 11) A video camera or cameras recording at each point of sale location allowing for the identification of the dispensary agent distributing the cannabis and any qualifying patient or designated caregiver purchasing medical cannabis. The camera or cameras shall capture the sale, the individuals and the computer monitors used for the sale;
- 12) Storage of video recordings from the video cameras for at least 90 calendar days;

13) A failure notification system that provides an audible and visual notification of any failure in the electronic video monitoring system; and

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14) All electronic video surveillance monitoring must record at least the equivalent of eight frames per second and be available to the Division and ISP 24 hours a day in real-time via a secure web-based portal with reverse functionality.

i) The dispensing organization shall maintain policies and procedures that include:

1) Security plan with protocols for patient, provisional patient, OAPP participant, caregiver and agent safety and management and security of cannabis and currency as outlined in the Act and this Part;

2) Restricted access to the areas in the dispensary that contain cannabis to authorized agents;

3) Identification of authorized agents;

4) Controlled access and prevention of loitering both inside and outside the dispensary;

5) Conducting electronic monitoring; and

6) Use of a panic button.

(Source: Amended by emergency rulemaking at 42 Ill. Reg. 23202, effective December 3, 2018, for a maximum of 150 days)

Section 1290.415 Recordkeeping

EMERGENCY

a) Dispensing organization records must be maintained electronically and be available for inspection by the Division upon request. The dispensing organization shall develop recordkeeping policies and procedures consistent with this Part.

b) Required written records include, but are not limited to, the following:

1) Operating procedures;

2) Inventory records, policies and procedures;

3) Security Records;

4) Audit records;

5) Staffing plan; and

6) Business records that shall include manual or computerized records of:

A) Assets and liabilities;

B) Monetary transactions;

C) Written or electronic accounts that shall include bank statements, journals, ledgers and supporting documents, agreements, checks, invoices, receipts and vouchers; and

D) Any other financial accounts reasonably related to the dispensary operations.

7) Storage and transfer of records. If a dispensary closes due to insolvency, revocation, bankruptcy or for any other reason, all records must be preserved at the expense of the dispensing organization for at least three years in a form and location in Illinois acceptable to the Division. The dispensing organization shall keep the records longer if requested by the Division. The dispensing organization shall notify the Division of the location where the dispensary records are stored or transferred.

8) All other records, policies and procedures required by the Act and this Part.

(Source: Amended by emergency rulemaking at 42 Ill. Reg. 23202, effective December 3, 2018, for a maximum of 150 days)

Section 1290.420 Cleaning and Sanitation

EMERGENCY

a) A dispensing organization shall ensure that any building or equipment used by a dispensing organization for the storage or sale of medical cannabis is maintained in a clean and sanitary condition.

b) The dispensary shall be free from infestation by insects, rodents, or pests.

(Source: Amended by emergency rulemaking at 42 Ill. Reg. 23202, effective December 3, 2018, for a maximum of 150 days)

Section 1290.425 Administration

EMERGENCY

a) A dispensing organization shall operate continuously and maintain an uninterrupted supply of medical cannabis for qualifying patients, provisional patients, OAPP participants and designated caregivers.

b) A dispensary shall be open for a minimum of 35 hours a week, except as otherwise authorized by the Division.

c) A dispensing organization shall establish, maintain and comply with written policies and procedures as submitted in an Operations and Management Practices Plan, approved by the Division, for the security, storage, inventory and distribution of cannabis. These policies and procedures shall include methods for identifying, recording and reporting diversion, theft or loss, and for correcting errors and inaccuracies in inventories. At a minimum, dispensing organizations shall ensure the written policies and procedures provide for the following:

1) Conduct mandatory and voluntary recalls of cannabis products. The procedure shall be adequate to deal with recalls due to any action initiated at the request of the Division and any voluntary action by the dispensing organization to remove defective or potentially defective cannabis from the market or any action undertaken to promote public health and safety ;

2) Prepare for, protect against, and handle any crises that affects the security or operation of a dispensary in the event of strike, fire, flood or other natural disaster, or other situations of local, State or national emergency;

3) Ensure that outdated, damaged, deteriorated, misbranded or adulterated cannabis is segregated from other cannabis and destroyed. This procedure shall provide for written documentation of the cannabis disposition;

4) Ensure the oldest stock of a cannabis product is distributed first. The procedure may permit deviation from this requirement, if such deviation is temporary and appropriate;

5) Train agents in the provisions of the Act and the Division's administrative rules, to effectively operate the point of sale system, the State's Verification system, Illinois Cannabis Tracking System, proper inventory handling and tracking, adhere to patient, provisional patient, OAPP participant and caregiver confidentiality requirements, specific uses of cannabis or cannabis-infused products, instruction regarding regulatory inspection preparedness and law-enforcement interaction; awareness of the legal requirements for maintaining status as an agent and other topics as specified by the dispensing organization or the Division. The dispensing organization shall maintain evidence of all training provided for every agent in its files and subject to inspection and audit by the Division. The Dispensing Organization shall ensure agents receive a minimum of eight hours of training annually, unless otherwise approved by the Division;

6) Develop and maintain business records consistent with industry standards, including by-laws, consents, manual or computerized records of assets and liabilities, audits, monetary transactions, journals, ledgers and supporting documents, including agreements, checks, invoices, receipts and vouchers. These records shall be retained for five years;

7) Inventory control, including:

A) Tracking qualifying patient and provisional patient records, including purchases, denials of sale and confidentiality;

B) Tracking OAPP participant records, including purchases, denials of sale, verification of written certification, selected dispensary, and confidentiality; and

C) Disposal of unusable or damaged cannabis as required by the Act and this Part; and

8) Patient and Participant education and support, including:

A) Updated information about the purported effectiveness of various forms and methods of medical cannabis administration;

B) Updated information about the purported effectiveness of strains of medical cannabis on specific conditions;

C) Current educational information issued by DPH about the health risks associated with the use or abuse of cannabis;

D) Whether possession of cannabis is illegal under federal law;

E) Information about possible side effects;

F) Prohibition on smoking medical cannabis in public places; and

G) Offer any other appropriate patient education or support materials.

d) A dispensing organization shall maintain copies of the policies and procedures on the dispensary premises and provide copies to the Division upon request.

e) A dispensing organization shall review dispensing organization policies and procedures at least once every 12 months from the issue date of the registration and update as needed or as requested by the Division.

f) A dispensing organization shall ensure that each principal officer and each dispensary agent has a current agent identification card in the agent's immediate possession when the agent is at the dispensary.

g) A dispensing organization shall ensure that any identifying information about a qualifying patient, provisional patient, OAPP participant or caregiver is kept in compliance with the privacy and security rules of HIPAA (45 CFR 164).

h) A dispensing organization shall provide prompt written notice to the Division, including the date of the event, when a dispensing organization agent no longer is employed by the dispensing organization;

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i) A dispensing organization shall promptly document and report any loss or theft of medical cannabis from the dispensary to the ISP and the Division. It is the duty of any agent who becomes aware of the loss or theft to report it as provided in this Part. If the dispensing organization knows that a principal officer or dispensary agent has been arrested for or convicted of an excluded offense, the dispensing organization shall promptly notify the Division.

j) A dispensing organization shall post the following information in a conspicuous location in an area of the dispensary accessible to consumers:

1) The dispensing organization's registration; and

2) The hours of operation.

k) A dispensing organization shall not:

1) Allow a physician to conduct a physical examination of a patient for purposes of diagnosing a debilitating medical condition or a medical condition for which opioids have been or could be prescribed at the dispensary;

2) Allow a physician to hold a direct or indirect economic interest in the dispensary if the physician recommends the use of medical cannabis to patients or OAPP participants or is in a partnership or other fee or profit-sharing relationship with a physician who recommends medical cannabis;

3) Accept referral of patients or OAPP participants from a physician; or

4) Allow a physician to advertise at the dispensary.

l) A physician may work as an independent contractor with a dispensing organization, provided that the physician's involvement is limited exclusively to designing, implementing or conducting non-proprietary medical research or studies.

m) Violation of any requirement under this Section may subject the dispensing organization to discipline, up to and including revocation of its registration.

(Source: Amended by emergency rulemaking at 42 Ill. Reg. 23202, effective December 3, 2018, for a maximum of 150 days)

Section 1290.430 Dispensing Medical Cannabis to Patients and Provisional Patients

EMERGENCY

a) A person provided a written certification for a debilitating medical condition who has submitted a valid completed online application to the Department and his or her designated caregiver shall receive a provisional registration and shall be entitled to purchase medical cannabis from a specified licensed dispensing organization for a period of 90 days or until his or her application has been denied or he or she receives a registry identification card, whichever is earlier. (Section 55(b) of the Act).

b) Before a dispensing organization allows a qualifying patient or designated caregiver into the limited access area, it must verify the person's identity by comparing the DPH issued patient identification card or designated caregiver card with an Illinois driver's license or State identification card or federally issued identification.

c) Before a dispensing organization allows a provisional patient into the limited access area, it must verify the person's identity by comparing the provisional patient's provisional registration along with state or federally issued identification.

d) Before a dispensing organization agent dispenses medical cannabis to a qualifying patient, provisional patient or a designated caregiver, the agent shall:

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1) Verify the validity of the qualifying patient or designated caregiver's DPH patient registry identification card or verify the validity of the provisional patient's provisional registration;

2) Confirm the qualifying patient, provisional patient or designated caregiver's registry identification number in the State's electronic verification system;

3) Verify that the qualifying patient or designated caregiver has a current authorization by DPH to purchase medical cannabis;

4) Verify that the provisional patient's provisional registration has not expired and is authorized by DPH to purchase medical cannabis

5) Verify that the amount of medical cannabis the qualifying patient, provisional patient or designated caregiver is requesting would not cause the qualifying patient or provisional patient to exceed the limit on obtaining no more than two and one-half ounces of medical cannabis during any 14-calendar-day period, unless approved by DPH; and

6) Enter the following information into the State's verification system for the qualifying patient, provisional patient or designated caregiver:

A) The dispensing organization agent's registry identification number;

B) The dispensing organization's identification number;

C) The amount, type and strain of medical cannabis dispensed;

D) Identity of the individual to whom the medical cannabis was dispensed, whether the qualifying patient, provisional patient or the qualifying patient's designated caregiver; and

E) The date and time the medical cannabis was dispensed.

e) A dispensary may not dispense more than the DPH approved amount of usable cannabis to a qualifying patient, provisional patient or designated caregiver during a period of 14 days.

f) In the event a dispensing organization dispenses in excess of a patient's usable amount, it shall notify the Division in writing within 48 hours. The notification shall include the date and time of the transaction which caused the overage, the name of the agent in charge on duty, the amount of the overage, the patient or provisional patient's registry identification number and a detailed narrative of the circumstances surrounding the overage. The notification report shall outline the methods the dispensary will use to self-correct and prevent this type of over- dispensing from reoccurring.

g) A dispensing organization shall notify the DPH if it determines a person is attempting to submit or did submit a fraudulent written certification in the patient application.

h) A dispensary that sells edible cannabis-infused products must do so in compliance with the Act, DPH's Administrative Rules and this Part.

(Source: Amended by emergency rulemaking at 42 Ill. Reg. 23202, effective December 3, 2018, for a maximum of 150 days)

Section 1290.431 Dispensing Medical Cannabis to OAPP participants

EMERGENCY

a) Before a dispensing organization allows an OAPP participant into the limited access area, it must verify the person's identity by comparing the OAPP participant's name and date of birth in the Illinois Cannabis Tracking System with a state or federally issued identification.

b) Before a dispensing organization agent dispenses medical cannabis to an OAPP participant, the agent shall:

1) Confirm the OAPP participant is in the Illinois Cannabis Tracking System and is authorized by DPH to purchase medical cannabis;

2) Verify the OAPP participant's identity by confirming the following:

A) Name, phone number, and participant's identity using a state or federal identification card;

B) Date of birth and that the participant is not under 21 years of age;

C) Original written certification was submitted in the application and includes the name of the issuing physician;

D) The written certification was issued within 90 days of registering in the Opioid Participant Pilot Program; and

E) The start and expiration date the OAPP participant can purchase medical cannabis.

3) Confirm the OAPP participant is not a registered qualifying patient or provisional patient;

4) Verify that the amount of medical cannabis the OAPP participant is requesting would not cause the OAPP participant to exceed the limit of obtaining more than two and one-half ounces of medical cannabis during any 14-calendar day period; and

5) Enter the following information into the Illinois Cannabis Tracking System for the OAPP participant:

A) The dispensing organization agent's identification number;

B) The dispensing organization's registry identification number;

C) The amount, type, strain, weight and usable weight of medical cannabis dispensed;

D) Identity of the individual to whom medical cannabis was dispensed; and

E) The date and time the medical cannabis was dispensed.

6) In the event a dispensing organization dispenses in excess of an OAPP participant's usable amount, it shall notify the Division in writing within 48 hours. The notification shall include the date and time of the transaction which caused the overage, the name of agent-in-charge on duty, the amount of the overage, the OAPP participant's registry identification number, and a detailed narrative of the circumstances surrounding the overage. The notification report shall outline the methods the dispensary will use to self-correct and prevent this type of over- dispensing from reoccurring.

7) A dispensing organization shall notify DPH if it determines a person is attempting to submit or did submit a fraudulent written certification in an OAPP application.

(Source: Added by emergency rulemaking at 42 Ill. Reg. 23202, effective December 3, 2018, for a maximum of 150 days)

Section 1290.440 Recall of Medical Cannabis

EMERGENCY

a) A dispensing organization must establish a policy for communicating a recall for cannabis or a cannabis-derived product that has been shown to present a reasonable or a remote probability that use of or exposure to the product will cause serious adverse health consequences. This policy should include:

1) A mechanism to contact all patients, provisional patients, OAPP participants, and designated caregivers who have, or likely have, obtained the product from the dispensary. The communication must include information on the policy for return of the recalled product;

2) A mechanism to contact the cultivation center or vendor that manufactured the cannabis;

3) Communication with the Division, DOA and DPH within 24 hours; and

4) Outreach via media, as necessary and appropriate.

b) Any recalled cannabis product must be disposed of by the dispensing organization.

(Source: Amended by emergency rulemaking at 42 Ill. Reg. 23202, effective December 3, 2018, for a maximum of 150 days)

Section 1290.445 Report of Loss or Theft of Cannabis

EMERGENCY

a) A dispensing organization shall promptly document and report any loss or theft of cannabis, criminal activity or suspected criminal activity to ISP and the Division.

b) The dispensing organization shall promptly make the report to the Division by phone, and in writing by email, within 24 hours after having reasonable cause to believe that cannabis has been lost or stolen from the dispensary or of the discovery of the loss or theft.

c) The report to the Division shall include the name and address of the dispensary, the amount and type of cannabis lost or stolen, the circumstances surrounding the loss or theft, the date and time of the loss or theft, the date the loss or theft was discovered, the person who discovered the loss or theft and the person responsible for the loss or theft if known and any other information that the reporter believes might be helpful in establishing the cause of the loss or theft.

d) Persons required to make reports or cause reports to be made under this Section include dispensing organization agents and employees of the State of Illinois who are involved in investigating or regulating dispensaries if the report has not been made by the dispensary organization.

e) In addition to the persons required to report loss or theft of cannabis, any other person may make a report to the Division, or to any law enforcement officer, if the person has reasonable cause to suspect loss or theft of cannabis.

f) A person required to make reports or cause reports to be made under this Section who fails to comply with the requirements of this Section is guilty of, at a minimum, a Class A misdemeanor.

g) The Division shall initiate an administrative investigation of each report of loss or theft under the Act and this Part.

h) If, during the investigation of a report made pursuant to this Section, the Division obtains information indicating possible criminal acts, the Division shall refer the matter to the appropriate law enforcement agency for further investigation or prosecution.

(Source: Amended by emergency rulemaking at 42 Ill. Reg. 23202, effective December 3, 2018, for a maximum of 150 days)

Section 1290.450 Destruction and Disposal

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a) Cannabis and cannabis-infused products must be destroyed by rendering it unusable following the methods set forth in this Section.

b) Any product to be destroyed shall be destroyed on the same day and time weekly unless otherwise approved by the Division. A dispensing organization shall notify the Division and ISP of this day and time at the initial registration inspection. Any change in the day and time must be communicated to the Division and ISP at least three days before implementation.

c) The allowable method to render cannabis waste unusable is by grinding and incorporating the cannabis waste with other ground materials so the resulting mixture is at least 50% non-cannabis waste by volume. Other methods to render cannabis waste unusable must be approved by the Division before implementation. Material used to grind with the cannabis falls into two categories, compostable waste and non-compostable waste.

1) Compostable Mixed Waste: Cannabis waste to be disposed as compost feedstock or in another organic waste method (for example, anaerobic digester) may be mixed with the following types of waste materials:

A) Food waste;

B) Yard waste; or

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C) Other wastes as approved by the Division (e.g., agricultural material, biodegradable products and paper, clean wood, fruits and vegetables, plant matter).

2) Non-compostable Mixed Waste: Cannabis waste to be disposed in a landfill or by another disposal method may be mixed with the following types of waste materials:

A) Paper waste;

B) Cardboard waste;

C) Plastic waste;

D) Soil; or

E) Other wastes as approved by the Division (e.g., non-recyclable plastic, broken glass, leather).

d) Cannabis waste rendered unusable following the methods described in this Section can be disposed. Disposal of the cannabis waste rendered unusable may be delivered to a permitted solid waste facility for final disposition. Examples of acceptable permitted solid waste facilities include:

1) Compostable Mixed Waste: Compost, anaerobic digester or other facility with approval of the jurisdictional health department.

2) Non-compostable Mixed Waste: Landfill, incinerator or other facility with approval of the jurisdictional health department.

e) All waste and unusable product shall be weighed, recorded and entered into the State's verification system prior to rendering it unusable. This event shall be performed by an agent-in-charge or under the supervision of the agent-in-charge and conducted under video surveillance.

f) Electronic documentation of destruction and disposal shall be maintained for a period of at least five years.

(Source: Amended by emergency rulemaking at 42 Ill. Reg. 23202, effective December 3, 2018, for a maximum of 150 days)

SUBPART H: DISCIPLINE

Section 1290.500 Investigations

EMERGENCY

a) Dispensing organizations are subject to random and unannounced dispensary inspections and cannabis testing by the Division and ISP.

b) The Division and its authorized representatives may enter any place, including a vehicle, in which cannabis is held, stored, dispensed, sold, produced, delivered, transported, manufactured or disposed of and inspect in a reasonable manner, the place and all pertinent equipment, containers and labeling, and all things including records, files, financial data, sales data, shipping data, pricing data, personnel data, research, papers, processes, controls and facility, and inventory any stock of cannabis and obtain samples of any cannabis or cannabis product, any labels or containers for cannabis, or paraphernalia.

c) The Division may conduct an investigation of an applicant, application, dispensing organization, principal officer, dispensary agent, service professional or any other party associated with a dispensing organization for an alleged violation of the Act or this Part or to determine qualifications to be granted a registration by the Division.

d) The Division may require an applicant or dispensing organization to produce documents, records or any other material pertinent to the investigation of an application or alleged violations of the Act or this Part. Failure to provide the required material may be grounds for denial or discipline.

e) Every person charged with preparation, obtaining or keeping records, logs, reports or other documents in connection with the Act and this Part, and every person in charge, or having custody, of those documents shall, upon request by the Division, make the documents immediately available for inspection and copying by the Division, the Division's authorized representative or others authorized by law to review the documents.

f) All information collected by the Division in the course of an examination, inspection or investigation of a registrant or applicant, including, but not limited to, any complaint against a registrant filed with the Division and information collected to investigate a complaint, shall be maintained for the confidential use of the Division and shall not be disclosed, except as otherwise provided in the Act.

(Source: Amended by emergency rulemaking at 42 Ill. Reg. 23202, effective December 3, 2018, for a maximum of 150 days)

Section 1290.510 Grounds for Discipline

EMERGENCY

a) The Division, after notice to the applicant or registrant, may refuse to issue or renew, place on probation, temporarily suspend, suspend, or revoke a dispensing organization registration or agent identification card in any case in which the Division finds any of the following:

- 1) Material misstatement in furnishing information to the Division;
- 2) Violations of the Act or this Part;
- 3) Obtaining an authorization or registration by fraud or misrepresentation;
- 4) A pattern of conduct that demonstrates incompetence or unfitness to work in or operate a dispensary;
- 5) Aiding or assisting another person in violating any provision of the Act or this Part;
- 6) Failing to respond to a written request for information by the Division within 30 days;
- 7) Engaging in unprofessional, dishonorable or unethical conduct of a character likely to deceive, defraud or harm the public;
- 8) Discipline by another U.S. jurisdiction or foreign nation;
- 9) A finding by the Division that the registrant, after having his or her registration placed on suspended or probationary status, has violated the terms of the suspension or probation;

- 10) Conviction, entry of a plea of guilty, nolo contendere or the equivalent in a state or federal court of an excluded offense, a felony, or of two or more misdemeanors involving moral turpitude during the previous five years as shown by a certified copy of a court record;
- 11) Excessive use or addiction to alcohol, narcotics, stimulants or any other chemical agent or drug;
- 12) A finding by the Division of a discrepancy in a Division audit of medical cannabis;
- 13) A finding by the Division of a substantial discrepancy in a Division audit of capital or funds;
- 14) A finding by the Division of acceptance of medical cannabis from a source other than a cultivation center registered by DOA;
- 15) An inability to operate using reasonable judgment, skill or safety due to physical or mental illness or other impairment or disability, including without limitation, deterioration through the aging process or loss of motor skills or mental incompetence;
- 16) Failing to report to the Division within the timeframes established, or if not identified, 14 days, of any adverse final action taken against the dispensing organization or an agent by a licensing jurisdiction in any state or any territory of the United States or any foreign jurisdiction, any governmental agency, any law enforcement agency or any court defined in this Section;
- 17) Failing to comply with a subpoena issued by the Division;
- 18) Failure to promptly inform the Division of any change of address;
- 19) Disclosing customer names, personal information or protected health information in violation of any State or federal law;
- 20) Operating a dispensary before obtaining a registration from the Division;
- 21) Dispensing cannabis to any person other than a qualifying patient, provisional patient, designated caregiver, or OAPP participant with either a valid registry identification card, provisional registration or confirmation in the Illinois Cannabis Tracking System;
- 22) A principal officer or agent-in-charge failing to report to the Division when he or she knows or should have known that an agent was using medical cannabis when the agent does not have a qualifying patient registry identification card, provisional registration or is not an OAPP participant;
- 23) Dispensing cannabis when prohibited by the Act or this Part;

24) Any fact or condition which, if it had existed at the time of the original application for the registration, would have warranted the denial of the registration;

25) Permitting a person without a valid agent identification card to be employed by the dispensing organization;

26) Failure to assign an agent-in-charge as required by this Part;

27) Personnel insufficient in number or unqualified in training or experience to properly operate the dispensary business;

28) Any pattern of activity that causes a harmful impact on the community;

29) Failing to prevent diversion, theft or loss of medical cannabis; or

30) For any just cause.

b) If the Division determines that the dispensing organization committed a violation, the Division may take any disciplinary or non-disciplinary action as the Division may deem proper, including fines not to exceed \$10,000 for each violation.

c) If the Division determines that a person or entity is a principal officer or holds a financial interest in more than five dispensary registrations in violation of this Part, the Division will suspend the registrations of all dispensaries held by that person until the person is divested from all dispensing organizations that exceed the limit provided for in this Part. If the person or persons does not divest from all dispensing organizations that exceed the limit provided for in this Part within 30 days, the Division will revoke the registration for the dispensaries, based on date acquired, that exceed the limit.

d) A notice of violation issued by the Division shall include a clear and concise statement of each violation, the statute or rule violated, the discipline sought and a notice of opportunity for hearing.

e) If a dispensing organization contests the violation, it shall provide written notice to the Division requesting a hearing within 10 days after service of the notice of violation.

f) Upon receipt of the request for hearing, the Division shall confirm receipt of the notice and hold an administrative hearing as provided in the Act and this Part.

g) If a dispensing organization does not contest a revocation notice, it may surrender its registration by written notice to the Division and return its registration.

h) The effective date of nonrenewal or revocation of a registration by the Division shall be any of the following:

1) Until otherwise ordered by the circuit court, revocation is effective on the date set by the Division in the revocation notice, or upon final action after hearing under the Act and this Part, whichever is later;

2) Until otherwise ordered by the circuit court, nonrenewal is effective on the date of expiration of the existing registration, or upon final action after hearing under the Act and this Part, whichever is later; however, a registration shall not be deemed to have expired if the Division fails to respond to a timely request for renewal under this Act or for a hearing to contest nonrenewal under this Part.

i) All fines imposed under this Section shall be paid within 60 days after the effective date of the order imposing the fine or as otherwise specified in the order.

j) A circuit court order establishing that an agent-in-charge or principal officer holding a registration is a person in need of mental health treatment may operate as a suspension of the registration.

k) In a contested case, administrative hearings conducted under the jurisdiction of the Department will be subject to the Division's Rules as they apply to hearings. [68 IAC 1110].

(Source: Amended by emergency rulemaking at 42 Ill. Reg. 23202, effective December 3, 2018, for a maximum of 150 days)

Section 1290.540 Subpoenas; Oaths; Attendance of Witnesses (Repealed)

EMERGENCY

(Source: Repealed by emergency rulemaking at 42 Ill. Reg. 23202, effective December 3, 2018, for a maximum of 150 days)

Section 1290.550 Request for Hearing (Repealed)

EMERGENCY

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(Source: Repealed by emergency rulemaking at 42 Ill. Reg. 23202, effective December 3, 2018, for a maximum of 150 days)

