

Proposed Filing - Coversheet

Instructions:

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the “Rule on Rulemaking” ([CVR 04-000-001](#)) adopted by the Office of the Secretary of State, this filing will be considered complete upon filing and acceptance of these forms and enclosures with the Office of the Secretary of State, and the Legislative Committee on Administrative Rules.

All forms shall be submitted to the Office of the Secretary of State, no later than 3:30 pm on the last scheduled day of the work week.

The data provided in text areas of Proposed Filing Coversheet will be used to generate a notice of rulemaking in the portal of “Proposed Rule Postings” online, and the newspapers of record. Publication of notices will be charged back to the promulgating agency.

**PLEASE REMOVE ANY COVERSHEET OR FORM NOT
REQUIRED WITH THE CURRENT FILING BEFORE DELIVERY!**

Certification Statement: As the adopting Authority of this rule (see 3 V.S.A. § 801 (b) (11) for a definition), I approve the contents of this filing entitled:

Rule 1: Licensing of Cannabis Establishments

_____/s/ James Pepper_____, on 12/9/2021
(signature) (date)

Printed Name and Title:

James Pepper, Chair, Cannabis Control Board

RECEIVED BY: _____

- Coversheet
- Adopting Page
- Economic Impact Analysis
- Environmental Impact Analysis
- Strategy for Maximizing Public Input
- Scientific Information Statement (if applicable)
- Incorporated by Reference Statement (if applicable)
- Clean text of the rule (Amended text without annotation)
- Annotated text (Clearly marking changes from previous rule)
- ICAR Filing Confirmed

1. TITLE OF RULE FILING:

Rule 1: Licensing of Cannabis Establishments

2. ADOPTING AGENCY:

Cannabis Control Board

3. PRIMARY CONTACT PERSON:

(A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE).

Name: David Scherr

Agency: Cannabis Control Board

Mailing Address: 89 Main Street, Montpelier, VT 05620-7001

Telephone: (802) 558-6022 Fax:

E-Mail: david.scherr@vermont.gov

Web URL *(WHERE THE RULE WILL BE POSTED)*:

<https://ccb.vermont.gov/>

4. SECONDARY CONTACT PERSON:

(A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON).

Name: Kimberley Lashua

Agency: Cannabis Control Board

Mailing Address: 89 Main Street, Montpelier, VT 05620-7001

Telephone: (802) 836-7708 Fax:

E-Mail: kimberley.lashua@vermont.gov

5. RECORDS EXEMPTION INCLUDED WITHIN RULE:

(DOES THE RULE CONTAIN ANY PROVISION DESIGNATING INFORMATION AS CONFIDENTIAL; LIMITING ITS PUBLIC RELEASE; OR OTHERWISE, EXEMPTING IT FROM INSPECTION AND COPYING?) Yes

IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

7 V.S.A. § 901(h)

PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:

The exemption keeps information confidential that is related to public safety, security, transportation, and trade secrets in order to keep citizens safe and participants in the cannabis industry on a fair commercial playing field.

6. LEGAL AUTHORITY / ENABLING LEGISLATION:

(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).

7 V.S.A. § 843(b)(1)

7. EXPLANATION OF HOW THE RULE IS WITHIN THE AUTHORITY OF THE AGENCY:

The following statutory citations provide legal authority for the provisions of the proposed rules: 7 V.S.A. §§ 843, 865, 866, 881, 883, 884, 901, 902, 903, 904, 907, Section 8 of Act 164 (2020).

8. CONCISE SUMMARY (150 WORDS OR LESS):

Rule 1 regulates the licensing of any person or entity that seeks to participate in the legal market for cannabis.

9. EXPLANATION OF WHY THE RULE IS NECESSARY:

The Cannabis Control Board is charged with implementing and regulating a legal market for cannabis in Vermont. These rules are necessary to implement and regulate that market.

10. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY AS DEFINED IN 3 V.S.A. § 801(b)(13)(A):

There is extensive factual basis for these rules, the rules are rationally connected to the factual basis, and the Board believes the rules make sense to a reasonable person.

As discussed further below, in formulating these rules the Board has received extensive information from agencies with expertise on relevant portions, incorporated the experience of other states in implementing and regulating their own cannabis markets, and heard input from many prospective market participants and others who will be affected by a legalized cannabis market in Vermont.

The decisions embodied by these rules are directly and rationally connected to the input the Board has received. The decisions made by the Board in drafting these rules will make sense to a reasonable person.

11. LIST OF PEOPLE, ENTERPRISES AND GOVERNMENT ENTITIES AFFECTED BY THIS RULE:

All individuals who seek to participate in a legal cannabis market either as consumers or sellers, businesses that seek to join the market, businesses that may service the cannabis industry, such as construction, HVAC, and agricultural enterprises, the Health Department, the Agency of Agriculture, Food, and Markets, the Board of Natural Resources, the Agency of Natural Resources, and others.

12. BRIEF SUMMARY OF ECONOMIC IMPACT (150 WORDS OR LESS):

These rules set the conditions to participate in a new market that will create extensive economic opportunities for residents of Vermont. Because these rules are creating a new industry, existing small businesses will not be harmed. The rules will affect individuals and businesses looking to enter the adult-use cannabis market as well as consumers, ancillary businesses, and others. Due to the nature of cannabis production and sales, including cannabis' federal status, the market will be heavily regulated for public health and security reasons. But these regulations are designed to prioritize small businesses and social equity applicants as well as minimize the regulatory and cost burdens that fall on those businesses.

13. A HEARING IS SCHEDULED .

IF A HEARING WILL NOT BE SCHEDULED, PLEASE EXPLAIN WHY.

14. HEARING INFORMATION

(THE FIRST HEARING SHALL BE NO SOONER THAN 30 DAYS FOLLOWING THE POSTING OF NOTICES ONLINE).

IF THIS FORM IS INSUFFICIENT TO LIST THE INFORMATION FOR EACH HEARING, PLEASE ATTACH A SEPARATE SHEET TO COMPLETE THE HEARING INFORMATION NEEDED FOR THE NOTICE OF RULEMAKING.

Date: 1/14/2022
Time: 11:00 AM
Street Address: 89 Main Street, Montpelier, VT
Zip Code: 05620-7001

Date:
Time: AM
Street Address:
Zip Code:

Date:

Time: AM

Street Address:

Zip Code:

Date:

Time: AM

Street Address:

Zip Code:

15. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING): 1/21/2022

16. KEYWORDS (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE SEARCHABILITY OF THE RULE NOTICE ONLINE).

Cannabis

Cannabis Control Board

Cannabis Establishment

Licensing

Licensing Cannabis Establishments

Adopting Page

Instructions:

This form must accompany each filing made during the rulemaking process:

Note: To satisfy the requirement for an annotated text, an agency must submit the entire rule in annotated form with proposed and final proposed filings. Filing an annotated paragraph or page of a larger rule is not sufficient. Annotation must clearly show the changes to the rule.

When possible, the agency shall file the annotated text, using the appropriate page or pages from the Code of Vermont Rules as a basis for the annotated version. New rules need not be accompanied by an annotated text.

1. TITLE OF RULE FILING:

Rule 1: Licensing of Cannabis Establishments

2. ADOPTING AGENCY:

Cannabis Control Board

3. TYPE OF FILING (*PLEASE CHOOSE THE TYPE OF FILING FROM THE DROPDOWN MENU BASED ON THE DEFINITIONS PROVIDED BELOW*):

- **AMENDMENT** - Any change to an already existing rule, even if it is a complete rewrite of the rule, it is considered an amendment if the rule is replaced with other text.
- **NEW RULE** - A rule that did not previously exist even under a different name.
- **REPEAL** - The removal of a rule in its entirety, without replacing it with other text.

This filing is **A NEW RULE** .

4. LAST ADOPTED (*PLEASE PROVIDE THE SOS LOG#, TITLE AND EFFECTIVE DATE OF THE LAST ADOPTION FOR THE EXISTING RULE*):

Economic Impact Analysis

Instructions:

In completing the economic impact analysis, an agency analyzes and evaluates the anticipated costs and benefits to be expected from adoption of the rule; estimates the costs and benefits for each category of people enterprises and government entities affected by the rule; compares alternatives to adopting the rule; and explains their analysis concluding that rulemaking is the most appropriate method of achieving the regulatory purpose. If no impacts are anticipated, please specify “No impact anticipated” in the field.

Rules affecting or regulating schools or school districts must include cost implications to local school districts and taxpayers in the impact statement, a clear statement of associated costs, and consideration of alternatives to the rule to reduce or ameliorate costs to local school districts while still achieving the objectives of the rule (see 3 V.S.A. § 832b for details).

Rules affecting small businesses (excluding impacts incidental to the purchase and payment of goods and services by the State or an agency thereof), must include ways that a business can reduce the cost or burden of compliance or an explanation of why the agency determines that such evaluation isn’t appropriate, and an evaluation of creative, innovative or flexible methods of compliance that would not significantly impair the effectiveness of the rule or increase the risk to the health, safety, or welfare of the public or those affected by the rule.

1. TITLE OF RULE FILING:

Rule 1: Licensing of Cannabis Establishments

2. ADOPTING AGENCY:

Cannabis Control Board

3. CATEGORY OF AFFECTED PARTIES:

LIST CATEGORIES OF PEOPLE, ENTERPRISES, AND GOVERNMENTAL ENTITIES POTENTIALLY AFFECTED BY THE ADOPTION OF THIS RULE AND THE ESTIMATED COSTS AND BENEFITS ANTICIPATED:

Individuals and companies that plan to enter the adult-use cannabis market, cannabis consumers, existing medical cannabis businesses, testing facilities, bank and insurance industries, the Cannabis Control Board, and local governments.

4. IMPACT ON SCHOOLS:

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON PUBLIC EDUCATION, PUBLIC SCHOOLS, LOCAL SCHOOL DISTRICTS AND/OR TAXPAYERS CLEARLY STATING ANY ASSOCIATED COSTS:

Schools are not affected by these rules.

5. **ALTERNATIVES:** *CONSIDERATION OF ALTERNATIVES TO THE RULE TO REDUCE OR AMELIORATE COSTS TO LOCAL SCHOOL DISTRICTS WHILE STILL ACHIEVING THE OBJECTIVE OF THE RULE.*

Schools are not affected by these rules.

6. **IMPACT ON SMALL BUSINESSES:**

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON SMALL BUSINESSES (EXCLUDING IMPACTS INCIDENTAL TO THE PURCHASE AND PAYMENT OF GOODS AND SERVICES BY THE STATE OR AN AGENCY THEREOF):

These rules will greatly expand opportunities for Vermont small businesses. The rules will set up a commercial adult-use cannabis system in Vermont that is likely to create hundreds of new business opportunities for outdoor cultivators, indoor cultivators, retailers, product manufacturers, and other licensed businesses. Additionally, these new businesses, which are designed to displace a large unregulated, illicit market will require many services from ancillary businesses, many of which will be small Vermont businesses.

The nature of cannabis production and sales, including the federal status of cannabis, requires that the market be heavily regulated. But these are not additional burdens on existing Vermont businesses. They are the requirements to enter a new industry that is projected to grow to over \$250,000,000 in annual sales within the next 5 years. The rules will provide certainty and clarity to potential businesses, safety for consumers, security for communities, and revenue for the state and municipalities. Implementing these rules will likely create over 100 new employers and over 1000 new jobs while generating tens of millions of dollars in annual tax and fee revenue for the state. These rules can help make Vermont a leader in promoting an equitable and small businesses-focused adult-use cannabis market.

7. **SMALL BUSINESS COMPLIANCE:** *EXPLAIN WAYS A BUSINESS CAN REDUCE THE COST/BURDEN OF COMPLIANCE OR AN EXPLANATION OF WHY THE AGENCY DETERMINES THAT SUCH EVALUATION ISN'T APPROPRIATE.*

As noted above, due to the nature of cannabis production and sales, the industry will need to be heavily regulated. But these rules are designed to ease the burden of compliance for smaller businesses. For instance, certain security regulations have fewer requirements for small businesses and increase as businesses increase in size. Cultivation businesses are tiered in a way to encourage small farmers to enter the cannabis market.

8. **COMPARISON:**

COMPARE THE IMPACT OF THE RULE WITH THE ECONOMIC IMPACT OF OTHER ALTERNATIVES TO THE RULE, INCLUDING NO RULE ON THE SUBJECT OR A RULE HAVING SEPARATE REQUIREMENTS FOR SMALL BUSINESS:

These rules are required to implement adult-use sales. Every effort was made to incorporate the thoughts and concerns of potential new small businesses into the drafting of the rule, including numerous public comment sessions, an advisory committee process that listened to stakeholders, and an open public comment portal through our website. A completely separate rule for small businesses is impossible due to the integrated nature of the market and regulatory requirements necessary to operate an adult-use cannabis sale program, but this feedback helped identify the instances alluded to above where smaller businesses will face lower fees or less onerous regulations based on business size.

9. **SUFFICIENCY:** *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*

The Board has created these rules with extraordinary public input, including from prospective owners of new small businesses that intend to enter the market, and many other stakeholders. For its market size and revenue projections, the Board has relied on a sophisticated model developed by its consultant, VS Strategies, which is available on its website at this page: <https://ccb.vermont.gov/market-structure> (with

the September 9, 2021 materials). A more complete summary of the input the Board has utilized in developing these rules may be found in the "Public Input Maximization Plan" portion of this filing.

Environmental Impact Analysis

Instructions:

In completing the environmental impact analysis, an agency analyzes and evaluates the anticipated environmental impacts (positive or negative) to be expected from adoption of the rule; compares alternatives to adopting the rule; explains the sufficiency of the environmental impact analysis. If no impacts are anticipated, please specify “No impact anticipated” in the field.

Examples of Environmental Impacts include but are not limited to:

- Impacts on the emission of greenhouse gases
- Impacts on the discharge of pollutants to water
- Impacts on the arability of land
- Impacts on the climate
- Impacts on the flow of water
- Impacts on recreation
- Or other environmental impacts

1. TITLE OF RULE FILING:

Rule 1: Licensing of Cannabis Establishments

2. ADOPTING AGENCY:

Cannabis Control Board

3. GREENHOUSE GAS: *EXPLAIN HOW THE RULE IMPACTS THE EMISSION OF GREENHOUSE GASES (E.G. TRANSPORTATION OF PEOPLE OR GOODS; BUILDING INFRASTRUCTURE; LAND USE AND DEVELOPMENT, WASTE GENERATION, ETC.):*

No Impact.

4. WATER: *EXPLAIN HOW THE RULE IMPACTS WATER (E.G. DISCHARGE / ELIMINATION OF POLLUTION INTO VERMONT WATERS, THE FLOW OF WATER IN THE STATE, WATER QUALITY ETC.):*

Section 1.5.2 - requiring pre-authorization of new operations will not stress current water usage or discharge wastewater treatment facilities. Section 1.15.4 - License renewal information requirements - energy efficiency and water benchmarks, actual pesticide application and usage will be required for

cultivators to help the Board measure the strain that cultivation puts on our waterways.

Application of setback ordinances will preserve waterways. Future Cannabis Control Board sustainability programs could require onsite habitat restoration or enhancement.

Impacts on groundwater - due to the size of individual cultivation sites, water demand on a per site basis would have limited impact but cumulative impact of all cultivation sites has the potential to be significant.

5. LAND: EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):

By creating a Tiered System with cultivation size limitations that are significantly smaller than traditional/conventional agriculture, the environmental impacts on a per site basis are presumed to be negligible to insignificant in relation to current farming operations, especially when compared to the average Vermont farm size. The total cumulative impacts of all proposed licenses have the potential to impact the environment. A positive impact of this rule is that by incorporating legacy growers into a licensing and oversight system, negative environmental practices are mitigated and more operations will be subject to Vermont land use regulations and included in supportive programs. The cultivation licensing tiers favor a small cultivation footprint in comparison to traditional agriculture. Small farmers will have more control over their land and be more proactive and perceptive to any negative impacts their practices may have on the environment and local ecology. Smaller farms will also mean more licenses and the total cumulative impact may be more significant over a greater area. There is likely insignificant impact to local biodiversity due to historical disturbance from intensive agriculture in the state.

In order to comply with public health and safety requirements, cannabis products will generate additional packaging waste compared to standard consumer packaged

goods. This additional packaging will increase landfill material. Allowing for organic material to be composted (as is permitted in part by Rule 2.2.8) will remove a significant portion of cultivated wastes from entering the municipal waste stream. Allowing for the collection of recyclable post-consumer packaging at retail locations will increase the amount of material entering the recycling stream. Allowing for hazardous materials such as vape batteries that contain lithium ion will increase the diversion of this material to landfills.

Removing the legal requirements that cannabis packaging be of a certain size and opaqueness would allow producers a greater range in packaging materials which would result in more environmentally friendly options, including increasing the recyclability, reusability, and compostability of consumer products.

6. RECREATION: *EXPLAIN HOW THE RULE IMPACT RECREATION IN THE STATE:*

There will be no impact on recreation.

7. CLIMATE: *EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*

Certain methods of manufacturing can off-gas into the environment, and may require a certain level of investment and expertise to ensure recirculation and other techniques are utilized to minimize climate impacts.

8. OTHER: *EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:*

There is a potential for public concern related to cannabis odors proximate to residential areas. Agricultural operations are not typically monitored for odor and have an Odor Nuisance Exempt from Right to Farm Ordinances. This will not be the case for cannabis. Depending on input during the notice and comment the Board may choose to implement an odor abatement plan requirement that could reduce potential impacts of nuisance odors. Municipalities, however, retain any ability they currently have to regulate nuisances under their own statutory authority.

Cultivation establishments may use pesticides in their production systems which can negatively impact the environment by contaminating water and degrading the

local environment by decreasing biodiversity by affecting non-target species. The Agency of Agriculture, Food, and Markets' rules and guidelines will mitigate these impacts by only allowing state registered pesticides and requiring pesticide applicator training. These requirements are presumed to lower the potential impacts of pesticide use to moderate to low significance.

There is minimal potential for conversion or over-covering of prime soils. There is also minimal potential loss of prime soils from current, or agricultural, use. Our market analysis currently indicates the market will only need approximately 15 total acres across the entire state to accommodate demand, with a majority of that coming from indoor controlled environmental agriculture production. The Board can encourage cover cropping and rotation of outdoor grow operations at a site to mitigate soil depletion.

9. SUFFICIENCY: *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*

For this analysis, the Board has relied on a review of the proposed rules by Jacob Policzer, an outside expert in environmental and sustainability issues related to cannabis.

Public Input Maximization Plan

Instructions:

Agencies are encouraged to hold hearings as part of their strategy to maximize the involvement of the public in the development of rules. Please complete the form below by describing the agency's strategy for maximizing public input (what it did do, or will do to maximize the involvement of the public).

This form must accompany each filing made during the rulemaking process:

1. TITLE OF RULE FILING:

Rule 1: Licensing of Cannabis Establishments

2. ADOPTING AGENCY:

Cannabis Control Board

3. PLEASE DESCRIBE THE AGENCY'S STRATEGY TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE, LISTING THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO COMPLY WITH THAT STRATEGY:

The Board's strategy has been, and will continue to be, to hear from all possible stakeholders in a legal cannabis market.

The Board has already sought and received extraordinary public involvement and input in the development of these rules. Since the Board was seated in May, 2021, the Board has held more than 25 Board meetings, each of which was noticed, recorded, open to the public, and accessible to all through electronic means, and each included a public comment session. The Board has also received more than 100 written comments submitted through its website. During its meetings the Board has heard from small cannabis cultivators and cannabis policy advocates, experts on racial justice and social equity issues and individuals with lived experience of such issues, medicinal cannabis patients and experts, public health experts and advocates, environmental and energy experts and advocates, agricultural experts and

Public Input

advocates, and more. The Board has considered all of this input in formulating its rules.

In addition to the Board's own meetings, the Board's Advisory Committee (provided for by 7 V.S.A. § 843(h)) has met four times, and its Advisory Committee subcommittees have met more than 70 times. Each Advisory Committee and subcommittee meeting was noticed, recorded, open to the public, and included a public comment period. The subcommittees consulted experts and advocates on various aspects of cannabis policy and they produced recommendations for the Board that have been considered by the Board in formulating the proposed rules.

Board members have individually had extensive discussions with members of the public and various experts and advocates.

A consultant working for the Board, the National Association of Cannabis Businesses, held two Social Equity Town Halls and have met with many Vermonters in order to provide informed advice regarding the Board's social equity policies. The Board has also worked with VS Strategies, a cannabis policy consulting firm that has brought national regulatory experience and economic expertise to the Board's efforts to design a functional market.

The Board plans to hold more than one public hearing during the notice and comment period for these rules, and plans to engage seriously with comments that it receives during the notice and comment period. The Board is ready to make appropriate amendments to the rules in the basis of that feedback.

- 4. BEYOND GENERAL ADVERTISEMENTS, PLEASE LIST THE PEOPLE AND ORGANIZATIONS THAT HAVE BEEN OR WILL BE INVOLVED IN THE DEVELOPMENT OF THE PROPOSED RULE:**

Public Input

In addition to the people and organizations named above, the Board has relied extensively on the expertise of other Vermont state government agencies. The Department of Health helped design warning labels and packaging. The Agency of Agriculture, Food, and Markets provided expertise on laboratory testing and cannabis cultivation issues. The Department of Public Service provided expertise on building and energy standards. The Agency of Natural Resources assisted with environmental standards. The Natural Resources Board consulted on matters related to Act 250.

The Board will continue to seek the advice of experienced regulators to ensure any changes that may be made during the notice and comment period are consistent with the best practices of regulatory experts in the relevant field.

Scientific Information Statement

THIS FORM IS ONLY REQUIRED IF THE RULE RELIES ON SCIENTIFIC INFORMATION FOR ITS VALIDITY.

PLEASE REMOVE THIS FORM PRIOR TO DELIVERY IF IT DOES NOT APPLY TO THIS RULE FILING:

Instructions:

In completing the Scientific Information Statement, an agency shall provide a summary of the scientific information including reference to any scientific studies upon which the proposed rule is based, for the purpose of validity.

1. TITLE OF RULE FILING:

Rule 1: Licensing of Cannabis Establishments

2. ADOPTING AGENCY:

Cannabis Control Board

3. BRIEF EXPLANATION OF SCIENTIFIC INFORMATION:

These are not primarily rules that are based on scientific information, but portions touch on scientific issues. These portions include laboratory testing, building and energy standards, and environmental standards.

4. CITATION OF SOURCE DOCUMENTATION OF SCIENTIFIC INFORMATION:

The laboratory testing standards were largely drafted by the Agency of Agriculture, Food, and Markets, based on their own Cannabis Quality Control Program, with appropriate amendments for the adult use market. The Public Service Department's Commercial Building Energy Standards provided the basis for energy standards, with appropriate amendments as stated in Rule 2, for the adult use cannabis market. Rules from the Agency of Natural Resources Department of Environmental Conservation provided the basis for regulations regarding water usage.

5. INSTRUCTIONS ON HOW TO OBTAIN COPIES OF THE SOURCE DOCUMENTS OF THE SCIENTIFIC INFORMATION FROM THE AGENCY OR OTHER PUBLISHING ENTITY:

Information from the Agency of Agriculture's Cannabis Quality Control Program can be found here:

<https://agriculture.vermont.gov/public-health-agricultural-resource-management-division/hemp-program/hemp-potency-and-contaminant>. The Commercial

Building Energy Standards can be found here:

https://publicservice.vermont.gov/energy_efficiency/cbes. Water usage regulations can be found here:

<https://dec.vermont.gov/water>.

Incorporation by Reference

THIS FORM IS ONLY REQUIRED WHEN INCORPORATING MATERIALS BY REFERENCE. PLEASE REMOVE PRIOR TO DELIVERY IF IT DOES NOT APPLY TO THIS RULE FILING:

Instructions:

In completing the incorporation by reference statement, an agency describes any materials that are incorporated into the rule by reference and how to obtain copies.

This form is only required when a rule incorporates materials by referencing another source without reproducing the text within the rule itself (e.g., federal or national standards, or regulations).

Incorporated materials will be maintained and available for inspection by the Agency.

1. TITLE OF RULE FILING:

Rule 1: Licensing of Cannabis Establishments

2. ADOPTING AGENCY:

Cannabis Control Board

3. DESCRIPTION (*DESCRIBE THE MATERIALS INCORPORATED BY REFERENCE*):

The Board incorporated a portion of the Code of Federal Regulations regarding Disadvantaged Business Enterprises into its definition of social equity applicant. This rule references Board Rule 2, filed at the same time as this rule.

4. FORMAL CITATION OF MATERIALS INCORPORATED BY REFERENCE:

The citations for the incorporated regulations are: 49 C.F.R. § 26.67(a)(1) and (b)(2)-(3), 49 C.F.R. § 26.69 and 49 C.F.R. § 26.71.

5. OBTAINING COPIES: (*EXPLAIN WHERE THE PUBLIC MAY OBTAIN THE MATERIAL(S) IN WRITTEN OR ELECTRONIC FORM, AND AT WHAT COST*):

Copies of the relevant sections may be found here at no cost: <https://www.ecfr.gov/current/title-49/subtitle-A/part-26/subpart-D/section-26.67>,
<https://www.ecfr.gov/current/title-49/subtitle-A/part->

26/subpart-D/section-26.69,
<https://www.ecfr.gov/current/title-49/subtitle-A/part-26/subpart-D/section-26.71>.

Other Board rules can be accessed at no cost on the Board's website: <https://ccb.vermont.gov/>.

6. MODIFICATIONS (*PLEASE EXPLAIN ANY MODIFICATION TO THE INCORPORATED MATERIALS E.G., WHETHER ONLY PART OF THE MATERIAL IS ADOPTED AND IF SO, WHICH PART(S) ARE MODIFIED*):

The federal regulations are modified as described in proposed Rule 1.1.3(k) and (l).

Run Spell Check

**STATE OF VERMONT
CANNABIS CONTROL BOARD**

RULE 1: LICENSING OF CANNABIS ESTABLISHMENTS

- 1.1 Section 1: General Provisions
 - 1.1.1 Authority
 - 1.1.2 Scope and Purpose
 - 1.1.3 Definitions
 - 1.1.4 Applicability
 - 1.1.5 Time
 - 1.1.6 Severability
- 1.2 Section 2: License Application Format and Fees
 - 1.2.1 Form
 - 1.2.2 Fees
- 1.3 Section 3: License Tiers
 - 1.3.1 Cultivation License Tiers
 - 1.3.2 Retail License Tiers
 - 1.3.3 Manufacturing License Tiers
- 1.4 Section 4: License Application Requirements for All License Types
 - 1.4.1 Operating plans
 - 1.4.2 Record Checks
 - 1.4.3 Financiers
 - 1.4.4 Compliance and Management Plans
 - 1.4.5 Insurance, Taxation, and Banking Requirements
 - 1.4.6 Location Information
 - 1.4.7 Security
 - 1.4.8 Information Sharing with State Agencies
 - 1.4.9 Plans Related to Positive Impact Criteria
 - 1.4.10 Statement of Truthfulness and Accuracy
- 1.5 Section 5: License Application Requirements for Cultivators
 - 1.5.1 Location Information
 - 1.5.2 Water and Wastewater Requirements
 - 1.5.3 Indoor Cultivators
- 1.6 Section 6: License Application Requirements for Manufacturers
- 1.7 Section 7: License Application Requirements for Retailers
- 1.8 Section 8: License Application Requirements for Testing Laboratories
- 1.9 Section 9: License Application Requirements for Integrated Licensees

- 1.10 Section 10: License Application Acceptance Periods
- 1.11 Section 11: Criminal Records and License Qualification Determinations
 - 1.11.1 Effect of Criminal Records on Application
 - 1.11.2 Presumptive Disqualification
 - 1.11.3 Overcoming Presumptive Disqualification
- 1.12 Section 12: Issuance of Licenses
- 1.13 Section 13: Provisional Licenses
 - 1.13.1 Purpose of Provisional Licenses
 - 1.13.2 Limits of Provisional Licenses
 - 1.13.3 Forms and Fees for Provisional Licenses
 - 1.13.4 Provisional License Application Acceptance Periods
 - 1.13.5 Provisional License Application and Issuance
 - 1.13.6 Converting a Provisional License to a Full License Application
- 1.14 Section 14: Priority of Board Considerations for License Applications
- 1.15 Section 15: License Renewal Procedures
 - 1.15.1 License Renewal Timeframes
 - 1.15.2 Change of Control Requires a License Renewal Application
 - 1.15.3 License Renewal Form and Fees
 - 1.15.4 License Renewal Information Requirements
 - 1.15.5 Conditions For Renewal
- 1.16 Section 16: Cannabis Identification Cards
 - 1.16.1 Identification Cards for Owners and Principals
 - 1.16.2 Forms and Fees for Employee Cannabis Identification Cards
 - 1.16.3 Application Requirements for Employee Cannabis Identification Cards
 - 1.16.4 Qualification for Employee Cannabis Identification Cards
 - 1.16.5 Temporary Employee Work Permit
 - 1.16.6 Ongoing Duty to Disclose
 - 1.16.7 Identification Card Renewal
- 1.17 Section 17: Applicant’s Ongoing Duty to Disclose
- 1.18 Section 18: Confidentiality

1. Rule 1: Licensing of Cannabis Establishments

1.1 Section 1: General Provisions

- 1.1.1 Authority

The Cannabis Control Board adopts this rule pursuant to 7 V.S.A. §§ 881, 883, 884, 901, 902, 903, Section 8 of Act 164 (2020), and other applicable law.

1.1.2 Scope and Purpose

The Board is charged with implementing and regulating a legal market for Cannabis in Vermont. This rule regulates the licensing of Cannabis Establishments.

1.1.3 Definitions

All definitions in 7 V.S.A. § 861 shall apply to this rule. The following definitions shall also apply:

- (a) “Flammable Solvent” means a liquid that has a flash point below 100 degrees Fahrenheit.
- (b) “Indoor cultivation” means growing Cannabis using artificial lighting.
- (c) “Inventory Tracking System” means a method implemented by the Board for tracing all Cannabis and Cannabis Products grown, manufactured, and sold in Vermont.
- (d) “Interest holder” has the same meaning as defined in 11A V.S.A. § 11.01(11).
- (e) “Licensee” means a person who has been issued a license pursuant to this rule. A licensee does not include a person who has been issued a provisional license.
- (f) “Outdoor cultivation” means growing Cannabis in an expanse of open or cleared ground that is not enclosed by a structure and in a manner that does not use artificial lighting.
- (g) “Physical site of operations” means:
 - i. A cultivator’s grow site,
 - ii. A wholesaler’s product storage facility,
 - iii. A manufacturer’s site of manufacture,
 - iv. A retailer’s store location, or
 - v. A testing laboratory’s testing facility.
- (h) “Provisional license” means a certification issued by the Board in, accordance with this rule, prior to a person’s approval as a licensee. A provisional license does not permit the recipient to operate a Cannabis Establishment.
- (i) “Social equity applicant” means either a “social equity individual applicant” or a “social equity business applicant” as those terms are defined in this rule.
- (j) “Social equity individual applicant” means an individual who is a resident of Vermont and who meets one of more of the following criteria:
 - i they are a socially disadvantaged individual, as defined below,
 - ii they have been arrested, convicted, or incarcerated for a cannabis-related offense, or
 - iii they have a family member who has been arrested, convicted, or incarcerated for a cannabis-related offense.
 - 1 For the purposes of this definition, “family member” shall mean the following: a spouse, domestic partner (as defined in 17 V.S.A. §2414(e)(1)), child, step-child who resided with the family member when the child was a minor, minor in their guardianship, legal guardian, parent, sibling, grandparent, or grandchild.

- (k) “Social equity business applicant” means a corporation, partnership, or other business entity that meets the federal standards for Disadvantaged Business Enterprises (DBEs) as set forth in 49 C.F.R. §§ [26.69](#) and [26.71](#), even if the entity has not applied for any federal DBE programs. In determining whether a business applicant meets the federal standards for DBEs, the Board will consider only participants in the business who meet the definition of socially disadvantaged individual as defined by section 1.1.3(1)(i) of this rule and who are residents of Vermont.
- (l) “Socially disadvantaged individual” is an individual who meets at least one of the following criteria:
 - i They meet the criteria for social disadvantage as set forth in the following federal regulations regarding DBEs: [49 C.F.R. § 26.67\(a\)\(1\) and \(b\)\(2\)-\(3\)](#), whether or not they have applied for any DBE programs, provided that no person shall be excluded from this definition because of their citizenship or immigration status; or
 - ii They are (1) from a community that has historically been disproportionately impacted by cannabis prohibition and (2) able to demonstrate to the Board that they were personally harmed by the disproportionate impact. In assessing this personal harm, the Board may consider factors such as educational impacts, lost employment opportunities, or housing insecurity.

1.1.4 Applicability

This rule applies to persons who engage in the transfer or sale of Cannabis or Cannabis Products, including transfers or sales related to cultivating, manufacturing, wholesaling, or retailing Cannabis or Cannabis Products, except that this rule does not apply to activities regulated by Chapters 35 and 37 of Title 7 of the Vermont statutes and by Rule 3 of the Board’s rules. This rule also applies to those who provide laboratory testing services to persons who engage in the transfer or sale of Cannabis or Cannabis Products.

1.1.5 Time

- (a) In computing any time period, measured in days, that is established or allowed by this rule or by order of the Board or Chair:
 - (1) the day of the act or event that triggers the period shall be excluded;
 - (2) every day, including intermediate Saturdays, Sundays, and legal holidays shall be counted;
 - (3) the last day of the period shall be counted, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.
- (b) A “legal holiday” means:
 - (1) any day declared a holiday by the President or Congress of the United States; and
 - (2) any day declared a holiday by the State of Vermont.

1.1.6 Severability

If any portion of this rule is found to be invalid, the remaining portion of the rule shall remain in force and effect.

1.2 Section 2: License Application Format and Fees

1.2.1 Form

Applicants are required to submit an application in a format determined by the Board. The Board will make the application form readily accessible to the public.

1.2.2 Fees

Applicants will be required to pay fees, or demonstrate that they qualify for a fee waiver or reduction, in accordance with a fee schedule and waiver or reduction policy that the Board will make readily accessible to the public. The fee waiver or reduction policy will include a schedule of waivers and reductions for social equity applicants.

1.3 Section 3: License Tiers

The Board establishes the following tiers for cultivation, retail, and manufacturing licenses.

1.3.1 Cultivation License Tiers

(a) Outdoor Cultivation:

Tier	Max Sq Ft of Total Plant Canopy
1	1,000
2	2,500
3	5,000
4	10,000
5	20,000
6	37,500

(b) Indoor Cultivation:

Tier	Max Sq Ft of Total Plant Canopy
1	1,000
2	2,500
3	5,000
4	10,000
5	15,000
6	25,500

- (c) Mixed-Use Cultivation Licenses: mixed-use cultivation license holders are permitted to have a maximum of 1,000 square feet of indoor cultivation plant canopy and grow up to 50 plants in outdoor cultivation at the same location.

1.3.2 Retail License Tiers

- (a) Retail – Storefront: This tier is a stand-alone retail location that sells Cannabis and Cannabis Products to consumers. A Retail – Storefront licensee may also sell all products a Retail – Nursery may sell.
- (b) Retail – Nursery: This tier enables the licensee to sell seeds and clones to home cultivators or other licensees.

1.3.3 Manufacturing License Tiers

- (a) Tier 1 Manufacturer: A Tier 1 Manufacturer may, purchase, process, manufacture, transfer, and sell Cannabis as well as finished and in-process Cannabis Products to other Licensees but not directly to consumers. A Tier 1 Manufacturer may produce Cannabis Products using all lawful methods of extraction.
- (b) Tier 2 Manufacturer: A Tier 2 Manufacturer may purchase, process, manufacture, transfer, and sell Cannabis as well as finished and in-process Cannabis Products to other Licensees but not directly to consumers. A Tier 2 Manufacturer may produce Cannabis Products using the following methods but may not utilize unapproved flammable solvent chemical extraction or flammable solvent chemical synthesis.
 - i. Water-Based Extraction: extraction using only water, ice, or other freezing substrate or process as approved by the Board.
 - ii. Food-Based Extraction: extraction using propylene glycol, glycerin, butter, coconut or olive oil, other typical cooking fats, or alcohol as approved by the Board.
 - iii. Heat/Pressure-Based Extraction: extraction using heat and/or pressure as approved by the Board.

No manufacturer may violate a prohibition on manufacturing processes contained in 18 V.S.A. § 4230h.

1.4 Section 4: License Application Requirements for All License Types

The requirements in this section apply to all license types authorized under 7 V.S.A. § 901.

1.4.1 Operating plans

Applicants must present an operating plan, which shall include all requirements of 7 V.S.A. §

881(a)(1)(B)(i) and, to the extent they are not required by that provision, the following elements:

- (a) The proposed Cannabis Establishment's legal name and any registered alternate name under which it may conduct business,
- (b) the name of the individual who will serve as primary point of contact with the Board,
- (c) the type of license sought and, if relevant, the license tier,
- (d) documentation that the applicant is an entity registered to do business in Vermont,
- (e) federal tax identification number,
- (f) a list of the principals of the proposed Cannabis Establishment,
- (g) a list of all persons having control of the Cannabis Establishment,
- (h) documentation and description, including the persons involved, of any contractual, management, or other agreement that explicitly or implicitly conveys control over the Cannabis Establishment,
- (i) for each person identified in (f) through (h) of this subsection, disclose whether that person would be required to be identified pursuant to (f) through (h) of any other license application, and
- (j) documentation disclosing whether any person named in sections (f) through (h) of this subsection is a controlling interest holder in a past or present Cannabis-related business in another jurisdiction.

1.4.2 Record Checks

An applicant, principal of an applicant, and person who controls an applicant, who is a natural person, shall be 21 years of age or older and shall consent to the release of his or her criminal and administrative records.

Each applicant, principal of an applicant, and person who controls an applicant, who is a natural person, shall submit the following to the Board:

- (a) the individual's full legal name and any aliases,
- (b) the individual's address,
- (c) the individual's date of birth,
- (d) a photocopy of the individual's driver's license or other government-issued identification card,
- (e) a full set of fingerprints in a form and manner as determined by the Board,
- (f) any other authorization or disclosure deemed necessary by the Board for the purpose of conducting a background check,
- (g) a description of any criminal action against an applicant, principal, or person in any jurisdiction that resulted in a conviction, guilty plea, plea of nolo contendere or admission to sufficient facts,
- (h) a description of any civil action in any jurisdiction in which the applicant, principal, or person is or was a named party,
- (i) a description of any administrative action taken against the applicant, principal, or person in any jurisdiction,
- (j) a description of any disciplinary action against a license, registration, or certification held by the applicant, principal, or person, such as a suspension or revocation, including, but not limited to, a license to prescribe or distribute controlled substances, and

(k) a description of any license denial, and the reasons for denial, in any jurisdiction.

1.4.3 Financiers

- (a) Applicants must disclose documentation detailing the sources and amounts of capital resources available to the applicant from any person that will be contributing capital resources to the applicant for the purposes of establishing or operating the proposed Cannabis Establishment.
- (b) In addition to the requirements for applicants, principals, and controllers, financiers of applicants who do not fall into one of those categories must be 21 years of age and may be subject to the following requirements at the Board's discretion:
 - i. requirements to disclose information to a licensed establishment, the Board, or the Department of Financial Regulation;
 - ii. a requirement to conduct a background check for natural persons; and
 - iii. requirements to ensure that a financier complies with applicable State and federal laws governing financial institutions, licensed lenders, and other financial service providers.

1.4.4 Compliance and Management Plans

All applicants must:

- (a) show a plan to register or comply with any Board-required third-party systems (for example, the Inventory Tracking System);
- (b) submit a health and safety plan;
- (c) submit a storage and record keeping plan;
- (d) submit an inventory control plan;
- (e) submit a contingency and continuity plan that addresses the dispersal or disposal of inventory in the event of an abrupt closure;
- (f) submit a timeline for beginning operations of the Cannabis Establishment;
- (g) attest that they will comply with applicable municipal ordinances; and
- (h) attest that they will comply with required inspections or permits from other state and local agencies (for example, certificates of occupancy).

Applicants who intend to hire, or who have hired, employees must provide:

- (i) an overview of positions and staffing levels;
- (j) an overview of general roles and responsibilities of staff;
- (k) an overview of the management structure; and
- (l) employee hiring and training plan, including safety training.

1.4.5 Insurance, Taxation, and Banking Requirements

Each applicant shall submit the following:

- (a) documentation of general liability and product liability insurance coverage, or an approved alternative, at levels enumerated in Board Rule 2.2.2;
- (b) documentation of bond or escrow for cessation of operation of a Cannabis Establishment costs in an amount to be determined by Board guidance;
- (c) documentation of compliance with, or plan to comply with, worker's compensation requirements, if applicable;
- (d) confirmation of current Vermont tax compliance, or confirmation of a plan with the Department of Taxes to come into compliance, provided that this does not apply to tax liability from profits related to Cannabis businesses;
- (e) state tax identification number and school property account number if the applicant owns the property at the physical site of operations;
- (f) authorization to release information to other state agencies, or to banking entities with whom the applicant seeks to bank; and
- (g) sufficient documentation, as determined by the Board, of one of the following:
 - i. a deposit account with a financial institution; or
 - ii. evidence of an attempt to open such an account along with a cash management plan.

1.4.6 Location Information

Applicants must provide both:

- (a) A business address as well as precise location information for the physical site of operations for the proposed Cannabis Establishment. The location information for the physical site of operations must be in the form of GPS coordinates. GPS coordinates must be provided in Decimal Degrees (DD) format.
- (b) Proof that the applicant has a right to occupy the physical site of operations, through proof of ownership, a lease, or other document demonstrating a right to occupy and use the property, or proof that such a right will exist prior to the start of Cannabis Establishment operations.

1.4.7 Security

All applicants must submit a plan to comply with security requirements relevant to any license or licenses they seek to obtain, as enumerated in Board Rule 2.

1.4.8 Information Sharing with State Agencies

By applying, an applicant consents to the Board sharing applicant information with other Vermont state agencies, including, but not limited to, the Department of Financial Regulation and the Department of Labor. Information deemed confidential by 7 V.S.A. § 901(h) will remain confidential even if it is in the possession of another state agency.

1.4.9 Plans Related to Positive Impact Criteria

- (a) To the extent required in subsection (b), applicants must include plans related to the criteria listed in subsections (c) and (d). Failure to do so will not result in disqualification

of their application but will pause their license approval process until they provide the relevant plan information.

- (b) Applicants that are not testing laboratories must show plans for completion of the criteria in subsection (c) and (d) to the following extent:
 - i. Corporations, partnerships, or other business entities that are not sole proprietorships, and any applicants with plans to hire 2 to 10 employees must show plans to satisfy at least one criteria from subsection (c) and at least one criteria from subsection (d).
 - ii. All applicants that plan to hire more than 10 employees must show plans to satisfy at least 3 criteria from subsections (c) and (d).
- (c) To the extent required by subsection (b) of this section, applicants must propose plans to recruit, hire, and implement a development ladder for minorities, women, or individuals who have historically been disproportionately impacted by cannabis prohibition using the following options:
 - i. Inclusive hiring and contracting plans.
 - ii. A plan for providing livable wage and paid leave.
 - iii. Adopting and supporting incubator or accelerator programs that seek to assist businesses that meet the definition of a social equity applicant or are minority or women-owned, including but not limited to providing:
 - 1. grants or access to capital;
 - 2. cultivation, manufacturing, or retail space;
 - 3. management training or other forms of industry-specific technical training; or
 - 4. mentorship from experts;
 - iv. community re-investment, including a contribution or contributions to the Cannabis Business Development Fund established by 7 V.S.A. § 987.
- (d) To the extent required by subsection (b) of this section, applicants must propose plans to incorporate principles of environmental resiliency or sustainability, including energy efficiency, using the following options:
 - i. Sustainable agricultural practices.
 - ii. Sourcing energy from renewables.
 - iii. Prioritizing the use of recyclable, compostable, or reusable materials.
 - iv. Exceeding minimum waste standards, as provided by Rule 2.2.8, or exceeding minimum efficiency standards as provided by Rule 2.5, if applicable.
 - v. Contribute to anti-pollution efforts, which could include but is not limited to the use of carbon off-sets.

1.4.10 Statement of Truthfulness and Accuracy

All applicants shall attest to the truthfulness and accuracy of the information contained in their application.

1.5 Section 5: License Application Requirements for Cultivators

The requirements in this section apply to applications for a cultivator license.

1.5.1 Location Information

In addition to the information required in subsection 1.4.5 of this rule, an applicant must provide:

- (a) A diagram or a site plan of the physical site of operation that is clearly legible and includes:
 - i. north arrow;
 - ii. standard scale;
 - iii. size of property in acres (for outdoor cultivator) or total square feet (for indoor cultivator);
 - iv. total plant canopy dimensions;
 - v. for outdoor cultivators, use of land and structures that share the property;
 - vi. for indoor cultivators, a diagram of how non-cultivation parts of the facility will be utilized.
- (b) A map showing the boundaries of the planned growing area, provided that this requirement applies only to outdoor cultivator Tiers 2-6.
- (c) The location for outdoor cultivators must comply with Rule 2.4.4 regarding visibility from a public road.

1.5.2 Water and Wastewater Requirements

General water supply and municipal wastewater requirements:

- (a) Cultivators on a municipal water supply must submit a letter from the water utility certifying the utility's capacity to provide a sufficient quantity of water to the applicant at the physical site of operation.
- (b) Cultivators using municipal wastewater, or other offsite wastewater system, must submit a letter certifying the wastewater system's capacity to accept the quantity and anticipated strength of wastewater from the physical site of operation.

Tier 5 and 6 Cultivator applicants must:

- (c) state the following if their water use and wastewater generation are covered by the Wastewater System and Potable Water Supply Rule, as promulgated by the Department of Environmental Conservation:
 - i. where they are planning on withdrawing water;
 - ii. by what means will they withdraw and, if necessary, store the water prior to use;
 - iii. when on-site water is also used for potable/sanitary purposes for employees;
 - iv. how many people may be on-site in a given day;
- (d) specify the volume and strength of the wastewater that the facility anticipates generating, using design flows from the Wastewater System and Water Supply Rule where appropriate and specify how it will be treated and disposed;

- (e) state whether the Cannabis Establishment needs to comply with the Indirect Discharge Rules and Underground Injection Control Rules as promulgated by the Department of Environmental Conservation; and
- (f) describe the anticipated means of collecting, storing, treating, and discharging wastewater.

1.5.3 Indoor Cultivators

Indoor cultivation Cannabis Establishments must identify whether their water supply and wastewater systems must comply with any applicable portion of the Department of Environmental Conservation's Drinking Water and Groundwater Protection Division rules.

1.6 Section 6: License Application Requirements for Manufacturers

The requirements in this section apply to applications for a manufacturing license.

Manufacturers must provide a list of intended production items and the means of production, in a format to be determined by the Board.

1.7 Section 7: License Application Requirements for Retailers

The requirements in this section apply to applications for a retail license.

Retailers must provide:

- (a) a list of intended sale items;
- (b) whether an intended sale item contains CBD, hemp, or a hemp-derived compound, or is a consumable item that is not intoxicating.

1.8 Section 8: License Application Requirements for Testing Laboratories

The requirements in this section apply to applications for a testing laboratory license.

Applications for testing laboratories may be reviewed for qualification by the Board or a Board designee.

At its discretion, the Board may waive or reduce licensing requirements, including fees, for a laboratory that has a current certification under the Cannabis Quality Control Program established by the Vermont Agency of Agriculture, Food and Markets under 6 V.S.A. § 567.

A testing laboratory applicant must submit:

- (a) current laboratory accreditation certificates, or proof of certification under the Cannabis Quality Control Program established by the Vermont Agency of Agriculture, Food and Markets under 6 V.S.A. § 567;

- (b) laboratory quality assurance manual or procedures which document the lab quality control system, and an outline of the quality management system;
- (c) the laboratory standard operating procedures for analysis of Cannabis and Cannabis Products;
- (d) a master list of all analytical and non-analytical (i.e., safety and training) standard operating procedures indicating the latest revision and review dates and current effective dates;
- (e) documentation of educational and technical credentials for all key technical and management personnel;
- (f) current organization chart, including reporting relationships;
- (g) example Certificates of Analysis (CoA) to be issued by the laboratory for each test area, containing all information required in a CoA;
- (h) the latest proficiency results for Cannabis testing or similar matrix (i.e., food, solids,) for all test areas in which it states it is certified, if available;
- (i) proof of analytical proficiency.

1.9 Section 9: License Application Requirements for Integrated Licensees

The requirements in this section apply to applications for an integrated license.

An integrated license applicant must meet all requirements in sections 1.4-1.8 of this rule, and must also submit:

- (a) A plan to provide reduced cost or free Cannabis to patients with documented, verified financial hardship who are utilizing the dispensary operation;
- (b) a plan to ensure 25% of Cannabis flower sold is obtained from Tier 1 cultivators,
- (c) a list of products purchased by registered patients in the preceding 12 months;
- (d) plan to ensure continuity of products for patients accessing the dispensary operation;
- (e) plan to contribute \$50,000 to the Cannabis business development fund by October 1, 2022; and
- (f) attestation of good standing with respect to their medical Cannabis dispensary license in accordance with 7 V.S.A. § 903(a)(1). For the purposes of this subsection (f), good standing shall mean the dispensary is in compliance with Chapter 86 of Title 18 of the Vermont Statutes, and with all associated rules.

1.10 Section 10: License Application Acceptance Periods

- (a) The Board will accept license applications in accordance with legislatively mandated time periods.
- (b) Other than legislatively mandated time periods, the Board may open or close acceptance periods for applications at its discretion, provided that the Board will give public notice no less than 30 days prior to opening or closing an application acceptance period.
- (c) The Board may set separate application acceptance periods for each of the license types and may set separate application acceptance periods for each tier within tiered license types.

- (d) Other than legislatively mandated application acceptance periods, the Board may open application periods at their discretion, subject to the following limitations:
 - i. the Board shall accept applications for license types, other than cultivation license types, for no less than 30 days each calendar year; and
 - ii. the Board shall accept applications for Tiers 1 and 2 of both indoor and outdoor cultivation license types for no less than 30 days each calendar year.

1.11 Section 11: Criminal Records and License Qualification Determinations

1.11.1 Effect of Criminal Records on Application

Except as provided in 1.11.2, no criminal offense committed by an applicant, the principal of an applicant, or a person who owns or controls an applicant, will have a negative effect on their application or disqualify them from obtaining a license.

1.11.2 Presumptive Disqualification

Convictions for offenses in the following categories presumptively disqualify an applicant, the principal of an applicant, or a person who owns or controls an applicant from gaining a license to operate a Cannabis Establishment, provided that a person may overcome the presumption as specified in section 1.11.3:

- (a) A listed crime as defined in subsection 13 V.S.A. § 5301(7) or the equivalent in another jurisdiction;
- (b) a state or federal felony offense involving fraud, deceit, or embezzlement;
- (c) trafficking of a regulated substance other than Cannabis. For the purposes of this subsection (c), trafficking will mean a violation of 18 V.S.A. §§ 4231(c), 4233(c), 4233a(b), 4234a(c), or a non-violent drug distribution offense in another jurisdiction that carries a maximum penalty of 30 years of incarceration or greater;
- (d) dispensing cannabis to a person under 21 years of age in violation of 18 V.S.A. § 4230f, or the equivalent offense in another jurisdiction;
- (e) misdemeanor convictions that occurred within the 2 years preceding the application; except for non-violent drug offenses; or
- (f) felony convictions that occurred within the 5 years preceding the application, except for non-violent drug offenses.

1.11.3 Overcoming Presumptive Disqualification

The Board may deem an individual qualified to obtain a license even if they were convicted of an offense enumerated in section 1.11.2. In making this decision, the Board shall consider the following factors:

- (a) The nature and seriousness of the crime or offense;
- (b) The circumstances under which the crime or offense occurred;
- (c) The date of the crime or offense;

- (d) The age of the person when the crime or offense was committed;
- (e) Whether the individual committed subsequent offenses;
- (f) Any social conditions that may have contributed to the commission of the crime or offense;
- (g) The nature and responsibility of the position that the person with a conviction would hold, has held, or currently holds; and
- (h) Any evidence of rehabilitation.

License applications will allow applicants to provide additional information related to these factors, if relevant.

1.12 Section 12: Issuance of Licenses

- (a) The Board shall issue licenses to applicants who meet all requirements for their licenses contained in this rule and all requirements for their licenses contained in Chapter 33 of Title 7 of the Vermont Statutes.
- (b) Notwithstanding subsection (a) of this section 1.12, the Board retains the right to deny a license to an applicant that the Board finds would threaten public health or safety if the applicant were to obtain a license. Such a decision shall be supported by written findings.
- (c) Applicants who falsely attest to the truthfulness and accuracy of the information in their application will be deemed unqualified for a license. If an applicant applies for a license again subsequent to such a denial, the Board may request additional information from the applicant, at the Board's discretion, to assess the truthfulness and accuracy of the subsequent application.

1.13 Section 13: Provisional Licenses

1.13.1 Purpose of Provisional Licenses

The Board at its discretion may choose to accept provisional license applications, in accordance with this section, for the purposes of smoothing the application process for applicants as well as assisting the Board in anticipating the structure of the market.

1.13.2 Limits of Provisional Licenses

A provisional license does not permit the recipient to operate a Cannabis Establishment. An applicant does not become a licensed Cannabis Establishment, and is not permitted to operate, until the Board issues the applicant a license subsequent to the submission of the applicant's complete and successful application in accordance with this rule.

1.13.3 Forms and Fees for Provisional Licenses

- (a) Those applying for a provisional license are required to submit an application in a format

determined by the Board. The Board will make the application form readily accessible to the public.

- (b) Applicants will be required to pay fees, or show they qualify for a fee waiver or reduction, in accordance with a fee schedule and waiver or reduction policy that the Board will be make readily accessible to the public. The fee waiver or reduction policy will include a schedule of waivers and reduction for social equity applicants.

1.13.4 Provisional License Application Acceptance Periods

The Board may choose to accept provisional license applications at its discretion. It will provide public notice of its intention to accept provisional licenses no less than 30 days prior to opening the acceptance period. It will provide public notice of its intention to close a provisional license application acceptance period no less than 30 days prior to closure.

1.13.5 Provisional License Application and Issuance

- (a) Provisional license applications shall consist of the materials required by sections 1.4.1 and 1.4.2 of this rule.
- (b) The Board shall certify a provisional license for any provisional license application that meets the requirements of subsections 1.4.1 and 1.4.2 of this rule and is not in violation of 7 V.S.A. § 901(d)(3).

1.13.6 Converting a Provisional License to a Full License Application

Provisional licenses shall remain valid for 365 days from the date of issuance. They may be rescinded by the Board if the Board learns that information provided in the provisional license was not truthful or accurate. Persons with a provisional license must do the following to convert their provisional license into a full license application:

- (a) update all information submitted in accordance with section 1.13.5 of this rule, and
- (b) provide all other applicant information required by this rule.

1.14 Section 14: Priority of Board Considerations for License Applications

- (a) The Board shall consider applications under a priority system that is laid out in a policy readily available to the public.
- (b) The policy shall give top priority to social equity applicants when considering applications.
- (c) The policy shall also utilize the factors listed in 7 V.S.A. § 903(a).

1.15 Section 15: License Renewal Procedures

1.15.1 License Renewal Timeframes

- (a) Licenses are valid for the time period provided in 7 V.S.A. § 901, except as provided in subsection 1.15.2.
- (b) The Board will send notice for license renewals no less than 120 days prior to the expiration of a license.
- (c) Renewal applications may be submitted up to 90 days prior to their expiration.
- (d) A licensee must apply for renewal no less than 30 days prior to the license's expiration date, provided that:
 - i. if a licensee fails to meet this deadline, they may submit a renewal application accompanied by a written explanation for the untimely filing, and
 - ii. the Board may accept such a renewal application and, if necessary, continue the licensee's existing license until such time as the renewal process is completed.
- (e) If a licensee files a timely renewal application but does not receive a response from the Board prior to the expiration date for their license their license shall continue to be valid until such time as the Board provides a response, at which time their license will be renewed if the application is granted or terminated if it is not.
- (f) A licensee who does not submit a license renewal application prior to the expiration of their license is no longer a licensee upon the date their license expires. Such a person may no longer operate the Cannabis Establishment.

1.15.2 Change of Control Requires a License Renewal Application

- (a) If an interest holder who has control of a licensee will be changed, including by adding a person who will be an interest holder and will have control, removing a person who is an interest holder and has control, or transferring control from one person who is an interest holder to another person who is an interest holder, the licensee must apply for a renewal of their license prior to executing the change of control, except as provided by subdivision (a)(i) of this section 1.15.2.
 - i. In the event of the death of an interest holder who has control of a licensee, the licensee may notify the Board of the death at the time the license would have been required to be renewed pursuant to 7 V.S.A. § 901.
- (b) The renewal must have all application information updated to reflect the proposed changes of control. These updates must include, but are not limited to, updates of the information required in sections 1.4.1 and 1.4.2 of this rule.
- (c) A licensee who fails to renew their license prior to executing a change of control will be considered a licensee who failed to renew their license before it expired, as provided for in section 1.15.1(f) of this rule.
- (d) The fees required by section 1.15.3 of this rule will apply to renewal applications submitted pursuant to this section, provided that the Board will retain discretion to waive or reduce fees for such renewals.
- (e) Upon Board approval of a license renewal application submitted pursuant to this section the time period for which a license remains valid, as provided by 7 V.S.A. § 901, will start again.

- (f) If the Board does not approve a license renewal application submitted pursuant to this section, the licensee may not proceed with the proposed change in control. The licensee's existing license will remain in effect until such time as renewal would otherwise have been required by 7 V.S.A. § 901.

1.15.3 License Renewal Form and Fees

- (a) Licensees must apply for renewal in a format determined by the Board. The Board will make the application form readily accessible to the public.
- (b) Applicants will be required to pay fees, or show they qualify for a fee waiver or reduction, in accordance with a fee schedule and waiver or reduction policy that the Board will make readily accessible to the public. The fee waiver or reduction policy will include a schedule of waivers and reduction for social equity applicants.

1.15.4 License Renewal Information Requirements

Licensees must submit the following information with their renewal applications, if applicable:

- (a) efficiency and water benchmarks as required by Board Rule 2.5.6;
- (b) pesticide applicator reports as required by Board Rule 2.3.1;
- (c) a description of changes or adjustments to an outdoor cultivation site, if any, providing the same type of location information as required by sections 1.4.5 and 1.5.1 of this rule;
- (d) all other updates to the information submitted in a licensee's application or prior renewal application; and
- (e) information regarding progress on the licensees required goals as required by section 1.4.9 of this rule.

Nothing in this section should be interpreted to supersede or alter a licensee's continuing duty to disclose as provided by Board Rule 2.11.

1.15.5 Conditions For Renewal

The Board shall renew the license of a licensee that meets the following requirements:

- (a) Remains in compliance with this rule, with all other relevant Board Rules, and with the provisions of Chapter 33 of Title 7 of the Vermont Statutes, provided that Notices of Violation will be dealt with in accordance with subsection (d) of this section 1.15.5;
- (b) has paid any fee required by 1.15.3;
- (c) has provided the information required by 1.15.4; and
- (d) is in good standing with the Board. For the purposes of this section, good standing is defined as having no unpaid or otherwise unsatisfied final Notice of Violation against the licensee issued pursuant to Board Rule 4, provided that:
 - 1. a Notice of Violation will not be considered final for the purposes of this section until all appeals have been exhausted or waived, and

2. A licensee who is complying with a Board-approved plan to remediate harm stemming from a violation will be considered in good standing.

A licensee whose license has been suspended or revoked pursuant to Board Rule 4 will not be considered a licensee for the purposes of this section. License reinstatement in those circumstances, if available, is governed by Board Rule 4.

1.16 Section 16: Cannabis Identification Cards

1.16.1 Identification Cards for Owners and Principals

- (a) For the purposes of this section, an "owner" means a natural person who controls, or shares control of, a Cannabis Establishment.
- (b) All owners and principals will be issued cannabis identification cards upon the issuance of a license to operate a Cannabis Establishment.

1.16.2 Forms and Fees for Employee Cannabis Identification Cards

- (a) Those applying for employee identification cards are required to submit an application in a format determined by the Board. The Board will make the application form readily accessible to the public.
- (b) Applicants will be required to pay fees, or show they qualify for a fee waiver or reduction, in accordance with a fee schedule and waiver or reduction policy that the Board will make readily accessible to the public. The fee waiver or reduction policy will include a schedule of waivers and reduction for social equity applicants.

1.16.3 Application Requirements for Employee Cannabis Identification Cards

To apply for a Cannabis Establishment identification card the following information must be submitted to the Board:

- (a) the licensed Cannabis Establishment where the individual intends to work,
- (b) the individual's full legal name and any aliases,
- (c) the individual's address,
- (d) the individual's date of birth,
- (e) a photocopy of the individual's driver's license or other government-issued identification card,
- (f) a full set of fingerprints in a form and manner as determined by the Board,
- (g) any other authorization or disclosure deemed necessary by the Board for the purpose of conducting a background check,
- (h) a listing of criminal convictions, including any pending offenses,
- (i) information listed in section 1.11.3 of this rule, if applicable,
- (j) if the applicant holds or has held a similar card in another jurisdiction, the name of the issuing authority, and the approximate dates held, and
- (k) if a similar card is or has been held in another jurisdiction, whether that card was revoked and the reason for revocation.

1.16.4 Qualification for Employee Cannabis Identification Cards

Individuals who submit a complete application for an employee cannabis identification card will be issued a card after a background check is complete, except that:

- (a) No individual under 21 years of age will be issued an employee cannabis identification card; and
- (b) the Board may deny an individual a cannabis identification card if an applicant has a record of any of the following:
 - i. a presumptively disqualifying criminal offense as defined in 1.11.2, provided that the Board will also consider mitigating factors as defined in 1.11.3;
 - ii. diversion of Cannabis from a past Cannabis Establishment employer in the regulated market in Vermont or another state;
 - iii. failure to disclose required information on their application;
 - iv. revocation of a similar identification card from Vermont or another jurisdiction in the last 2 years, or more than twice;
 - v. fraudulent use of the identification card in Vermont or other jurisdictions including, but not limited to, tampering, falsifying, altering, modifying, duplicating, or allowing another person to use, tamper, falsify, alter, modify, or duplicate the card;
 - vi. failure to notify the Board of a lost, stolen, or destroyed card; and
 - vii. failure to notify the Board of convictions pending at the time of application or convictions that occur after the card is issued.
- (c) The Board will retain discretion to issue cannabis identification cards to individuals who have a record of behavior as outlined in subsection (b) if they demonstrate evidence of rehabilitation or show mitigating social factors surrounding the behavior. Identification card applications will allow for individuals to provide such evidence or explanation, if relevant.

1.16.5 Temporary Employee Work Permit

- (a) Upon receipt of an application for an identification card and prior to the completion of a background check the Board will issue a temporary work permit allowing the individual to work at the Cannabis Establishment if the applicant is over 21 years old and discloses no record of behavior related to 1.16.4(b) of this rule, except that the Board retains discretion to deny a temporary license to any applicant if the Board has knowledge of such a record.
- (b) The Board may withdraw a temporary permit if they gain knowledge of behavior related to 1.16.4(b) after issuing a permit.
- (c) If an application for an identification card discloses behavior related to 1.16.4(b) of this rule, the Board retains discretion to issue a temporary work permit if the Board determines it can do so consistent with public health and safety.

- (d) A temporary permit will expire after 4 months, or upon the issuance or denial of an identification card, whichever comes first. If a temporary permit expires before the Board decides whether to issue or deny an identification card, the Board shall issue a new temporary permit card.

1.16.6 Ongoing Duty to Disclose

The holder of a Cannabis Establishment identification card has an ongoing duty to fully and transparently disclose any information relevant to the criteria in section 1.16.4 of this rule.

1.16.7 Identification Card Renewal

All holders of cannabis identification cards will undergo a background check by the Board prior to renewal.

Requests to renew identification cards will be considered pursuant to the standard in section 1.16.4 of this rule.

Identification cards will expire in accordance with the timeline provided by 7 V.S.A. § 884.

Requests to renew identification cards will adhere to the following timeline:

- (a) A card holder must apply for renewal no less than 30 days prior to the card's expiration date, provided that:
 - i. if a card holder fails to meet this deadline, they may submit a renewal application accompanied by a written explanation for the untimely filing, and
 - ii. the Board may accept such a renewal application and, if necessary, continue the card holder's existing card until such time as the renewal process is completed.
- (b) If a card holder files a timely renewal application but does not receive a response from the Board prior to the expiration date for their card the card shall continue to be valid until such time as the Board provides a response, at which time their card will be renewed if the application is granted or terminated if it is not.
- (c) A card holder who does not submit a license renewal application prior to the expiration of their card is no longer a card holder upon the date their card expires. Such a person may no longer work at a Cannabis Establishment.

1.17 Section 17: Applicant's Ongoing Duty to Disclose

An applicant has an ongoing duty to fully and transparently update their application while it is pending if there are changes to any information submitted in their application.

1.18 Section 18: Confidentiality

The Board will keep confidential application information to the extent required by 7 V.S.A. §

901(h).

From: [Mazza-Paquette, Melissa](#)
To: [Scherr, David](#)
Subject: RE: Cannabis Control Board Pre-Filing
Date: Wednesday, November 24, 2021 4:06:02 PM
Attachments: [image001.png](#)

Thank you!

Also, feel free to forward the calendar invite I sent to you for the 12/15 meeting with anyone else you'd like to attend.

Take care,
Melissa



Melissa Mazza-Paquette | Office of the Secretary of Administration
109 State Street, 5th Floor | Montpelier, VT 05609-0201
melissa.mazza-paquette@vermont.gov
ph: (802) 828-3322

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From: Scherr, David <David.Scherr@vermont.gov>
Sent: Wednesday, November 24, 2021 4:04 PM
To: Mazza-Paquette, Melissa <Melissa.Mazza-Paquette@vermont.gov>
Subject: RE: Cannabis Control Board Pre-Filing

Wonderful, thank you very much for letting me know.

Have a Happy Thanksgiving!

From: Mazza-Paquette, Melissa <Melissa.Mazza-Paquette@vermont.gov>
Sent: Wednesday, November 24, 2021 4:02 PM
To: Scherr, David <David.Scherr@vermont.gov>
Cc: Hare, Brynn <Brynn.Hare@vermont.gov>; Corliss, Louise <louise.corliss@vermont.gov>
Subject: RE: Cannabis Control Board Pre-Filing

Thanks so much for the updated filings. I have added these proposed rules to the December 15th [ICAR draft agenda](#).

May you enjoy the long weekend ahead,

Melissa



Melissa Mazza-Paquette | Office of the Secretary of Administration

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From: Scherr, David <David.Scherr@vermont.gov>

Sent: Wednesday, November 24, 2021 3:24 PM

To: Mazza-Paquette, Melissa <Melissa.Mazza-Paquette@vermont.gov>; Corliss, Louise <louise.corliss@vermont.gov>

Cc: Hare, Brynn <Brynn.Hare@vermont.gov>

Subject: RE: Cannabis Control Board Pre-Filing

Hi Melissa,

Although my prior discussions with the Secretary of State's Office indicated that filing both rules in one filing is permissible, to minimize confusion during this process I will instead file each rule as its own separate filing.

Please find these filings attached.

My apologies for the misunderstanding on the signature. I had thought that the signature was only required when filing these forms with the Secretary of State's Office, not for a pre-filing. Chair Pepper has now signed the attached filings.

If you could let me know that you have received these, and that they are now complete, that would be most helpful.

Thank you very much,

David

From: Mazza-Paquette, Melissa <Melissa.Mazza-Paquette@vermont.gov>

Sent: Wednesday, November 24, 2021 2:44 PM

To: Scherr, David <David.Scherr@vermont.gov>; Corliss, Louise <louise.corliss@vermont.gov>
Cc: Hare, Brynn <Brynn.Hare@vermont.gov>
Subject: RE: Cannabis Control Board Pre-Filing

Good afternoon David,

Thank you for your email.

I don't recall having two proposed rules included in one pre-filing so will defer to the Office of the Secretary of State to respond on whether that is permissible.

The copy of the filing you sent was not signed, therefore please resubmit once complete and after we hear from Louise.

Thank you - wishing you a wonderful Thanksgiving,
Melissa



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#OurShotVT

From: Scherr, David <David.Scherr@vermont.gov>

Sent: Wednesday, November 24, 2021 2:27 PM

To: Mazza-Paquette, Melissa <Melissa.Mazza-Paquette@vermont.gov>

Cc: Corliss, Louise <louise.corliss@vermont.gov>; Hare, Brynn <Brynn.Hare@vermont.gov>

Subject: Cannabis Control Board Pre-Filing

Hello Melissa,

Attached please find the Cannabis Control Board's pre-filing of two proposed rules for review by ICAR. Although there are two rules included in this pre-filing, the Board is doing a single filing containing both rules.

Please respond by email to confirm you have received this pre-filing, and please confirm that it is complete.

Thank you very much for your assistance.

Best,

David

David Scherr
General Counsel
Vermont Cannabis Control Board
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802-558-6022



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Susanne R. Young, Secretary

INTERAGENCY COMMITTEE ON ADMINISTRATIVE RULES (ICAR) AGENDA
Wednesday, December 15, 2021, 1:00 p.m.

Virtual Option: Via Microsoft Teams
Physical Location: Montpelier, VT

To join in-person or for virtual public comment, please email ADM.Secretary@vermont.gov or call (802) 828-3322 to request information.

- Welcome
- Review and approval of the minutes from the [November 15, 2021](#) meeting
- Note any additions or deletions from the agenda
- Public comment
- Presentation of the following proposed rules:
 - 1) Reportable and Communicable Diseases Rule, Agency of Human Services, Department of Health
 - a. This rulemaking adds COVID-19 and multisystem inflammatory syndrome in children to the list of reportable diseases and removed animal diseases based on the latest public health data and stakeholder input. Additional definitions were added, and portions of the rule have been reorganized for clarity. Moreover, demographic information is now required to be reported, which is critical to the State's ability to track and respond accordingly. It also clarifies administrative specimen collection procedures to ensure accuracy. It defines the timeframe VDH is to receive reportable laboratory findings. It also establishes a clear connection in data sharing between the Vermont Information Exchange and the Vermont Department of Health.
 - 2) Licensing Regulations for Afterschool Child Care Programs, Agency of Human Services, Department for Children and Families
 - a. Rule 3.15 is amended to include non-discriminatory enrollment language found in both the Center Based Child Care and Preschool Program (CBCCPP) licensing regulations and Registered and Licensed Family Child Care Homes (FCCH) licensing regulations. Rule 4.7 is amended to include the non-discrimination assurance language found in both the CBCCPP and FCCH licensing regulations. Rule 8.6 is amended to include the respect for diversity language found in both the CBCCPP and FCCH licensing regulations. Rule 18.66 (Rule Variance) is amended to exempt rules 3.15, 4.7, and 8.6.
 - 3) Child Care Licensing Regulations: Center Based Child Care and Preschool Programs, Agency of Human Services, Department for Children and Families
 - a. Rule 2.7 (Rule Variance) is amended to exempt rules 3.5 (Nondiscriminatory Enrollment), 4.7 (Communicating CBCCPP Policies and Procedures), 6.1.4.3 (Respect for Diversity), and 6.2.5.1 (Quality of Interactions).



- 4) Licensing Regulations for Registered and Licensed Family Child Care Homes, Agency of Human Services, Department for Children and Families
 - a. Rule 2.7 (Rule Variance) is amended to exempt rules 3.4 (Nondiscriminatory Enrollment), 4.7 (Communicating FCCH Policies and Procedures), 6.1.4.3 (Respect for Diversity), and 6.2.3 (Quality of Interactions).
 - 5) Rule 1: Licensing of Cannabis Establishments, Cannabis Control Board
 - a. Rule 1 regulates the licensing of any person or entity that seeks to participate in the legal market for cannabis.
 - 6) Rule 2: Regulation of Cannabis Establishments, Cannabis Control Board
 - a. Rule 2 regulates the operation of any entity that has received a license to participate in the legal market for cannabis.
- Committee discussion of administrative rules in other states (if time allows)
 - Other business
 - Next meeting date: Wednesday, January 12, 2022, 1:00 PM
 - Adjournment

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