

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 amendments at 38 Ill. Reg. 17798, effective August 8, 2014, for a maximum of 150 days.

#### SUBPART A: GENERAL PROVISIONS

##### **Section 1290.10 Definitions**

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 granted 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 backer" means any person or entity with a direct or indirect financial interest in the dispensing organization, but does not include a person or entity holding an interest not exceeding one percent of the total ownership or interest rights and the person does not participate directly or indirectly in the control, management or operation of the dispensing organization.

"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).

"ISP" means Illinois Department of State Police.

"Limited access area" means a building, room or other area under the control of the dispensing organization and upon the registered premises with access limited to qualifying patients, designated caregivers, dispensary owners and other dispensary agents or service professionals conducting business with the dispensing organization.

"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 and United States certified mail.

"Ownership structure" means a description of the business type, structure and identity of each person with an ownership 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.

"Principal Officer" includes a prospective dispensing organization or dispensing organization board member, owner, president, vice president, secretary, treasurer, partner, officer, member, shareholder or person with a profit sharing arrangement and is further defined in this Part.

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

"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 building, room or other contiguous area under control of the dispensing organization and upon the registered premises with access limited to dispensary agents only, where cannabis is stored, 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.

"Third party vendor" means an entity providing industry related goods or services, but does not include common utilities, for example, electric, water, phone or gas.



"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.

"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.

#### SUBPART B: DISPENSING ORGANIZATION DISTRICTS

##### **Section 1290.20 Dispensing Organization Districts**

- a) To geographically disperse 60 dispensing organizations throughout the State, the following Dispensing Organization Districts are created with the accompanying allocation of registrations.
  - 1) That part of the State, outside of the Chicago metropolitan area, shall be allocated 22 registrations as follows:
    - A) Illinois State Police Districts 1, 6, 7, 12, 13, 14, 17, 18, 19, 20, 21 and 22 shall each be a Dispensing Organization District and shall be allocated one registration each.
    - B) Illinois State Police Districts 8, 9, 10, 11 and 16 shall each be a Dispensing Organization District and shall be allocated two registrations each.
  - 2) That part of the State within the Chicago metropolitan area but outside of Cook County shall be allocated 14 registrations as follows:
    - A) DeKalb County shall be a Dispensing Organization District and shall be allocated one registration.
    - B) DuPage County shall be a Dispensing Organization District and shall be allocated three registrations.
    - C) Grundy and Kendall Counties combined shall be a Dispensing Organization District and shall be allocated one registration.
    - D) Kane County shall be a Dispensing Organization District and shall be allocated two registrations.

- E) Lake County shall be a Dispensing Organization District and shall be allocated three registrations.
  - F) McHenry County shall be a Dispensing Organization District and shall be allocated one registration.
  - G) Will County shall be a Dispensing Organization District and shall be allocated three registrations.
- 3) That part of Cook County outside of the City of Chicago shall be allocated 11 registrations as follows:
- A) Barrington, Hanover and Palatine Townships combined shall be a Dispensing Organization District and shall be allocated one registration.
  - B) Elk Grove and Schaumburg Townships combined shall be a Dispensing Organization District and shall be allocated one registration.
  - C) Maine and Wheeling Townships combined shall be a Dispensing Organization District and shall be allocated one registration.
  - D) New Trier and Northfield Townships combined shall be a Dispensing Organization District and shall be allocated one registration.
  - E) Evanston and Niles Townships combined shall be a Dispensing Organization District and shall be allocated one registration.
  - F) Leyden, Norwood Park and Proviso Townships combined shall be a Dispensing Organization District and shall be allocated one registration.
  - G) Berwyn, Cicero, Oak Park, River Forest and Riverside Townships combined shall be a Dispensing Organization District and shall be allocated one registration.

- H) Lemont, Lyons and Palos Townships combined shall be a Dispensing Organization District and shall be allocated one registration.
  - I) Calumet, Stickney and Worth Townships combined shall be a Dispensing Organization District and shall be allocated one registration.
  - J) Bremen, Orland and Rich Townships combined shall be a Dispensing Organization District and shall be allocated one registration.
  - K) Bloom and Thornton Townships combined shall be a Dispensing Organization District and shall be allocated one registration.
- 4) The City of Chicago shall be allocated 13 registrations as follows:
- A) Jefferson Township shall be a Dispensing Organization District and shall be allocated two registrations.
  - B) Hyde Park Township shall be a Dispensing Organization District and shall be allocated two registrations.
  - C) Lake Township shall be a Dispensing Organization District and shall be allocated two registrations.
  - D) Lakeview Township shall be a Dispensing Organization District and shall be allocated two registrations.
  - E) North Township shall be a Dispensing Organization District and shall be allocated one registration.
  - F) Rogers Park Township shall be a Dispensing Organization District and shall be allocated one registration.
  - G) South Township shall be a Dispensing Organization District and shall be allocated one registration.
  - H) West Township shall be a Dispensing Organization District and shall be allocated two registrations.

- b) The Division has the authority to reallocate registrations by rule based on patient populations, geography, zoning, location or other reasonable criteria.

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

**Section 1290.30 Dispensing Organization Principal Officers**

- 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 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.

**Section 1290 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 per application period.
  - 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 percentages, as follows:
    - A) The suitability of the proposed dispensary category is 15%.
    - B) The business and operation plan category is 20%.
    - C) The security plan category is 20%.

- D) The recordkeeping and inventory plan category is 20%.
  - E) The financial disclosure category is 15%.
  - F) The bonus category is 10%.
- 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 hold more than five registrations. If a qualified applicant has been granted more than five authorizations or registrations by the Division, the applicant shall promptly notify the Division. No person shall be a principal officer in more than five registered dispensing organizations.
  - 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 38 Ill. Reg. 17798, effective August 8, 2014, for a maximum of 150 days)

EMERGENCY RULE  
TEXT

**Section 1290.50 Dispensing Organization – Application Requirements for Authorization**

- 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 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 or a designated caregiver.
  - 7) Disclosure of whether any principal officer has ever:
    - A) Filed for bankruptcy;
    - B) Defaulted on a student loan; or
    - C) 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 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 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, designated caregivers, registered agents, service professionals and security personnel.
- 14) A proposed inventory control plan that complies with this Part.
- 15) A proposed qualifying patient recordkeeping plan and verification system 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) The ownership structure of the dispensing organization, including percentage ownership of each person or entity.
  - 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, 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) Name of each dispensing organization backer and complete copies of the most recently filed federal, state and foreign (with translation) personal tax returns filed by each dispensing organization backer. If the dispensing organization backer is a business entity, name the principals or board members of the business entity and provide their personal tax returns.
- 9) 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.
- 10) Projected total expenditures expected before the dispensary is operational.

- 11) Projected annual revenue.
  - 12) Projected annual budget.
  - 13) 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 working on behalf of the proposed dispensing organization.
  - f) The name and resume of the proposed agent-in-charge.
  - g) The non-refundable application fee (see Section 1290.80).

#### **Section 1290.60 Selection Process**

- a) The Division will conduct a comprehensive, fair and impartial evaluation of the applications timely received. It will award dispensing organization authorizations on a competitive basis.
- b) Applications will be assessed to determine whether they meet the mandatory minimum qualification criteria. Application items are mandatory unless otherwise indicated. An applicant that fails to submit the information required by this Part may be disqualified prior to the review and scoring process.
- c) The Division will accept applications, assigning each one a unique identification number. During the selection process, the application will be reviewed and referred to by its unique identification number.
- d) An application will be disqualified if one or more of the prospective principal officers has been convicted of an excluded offense.

- e) When the Division receives more than one complete and timely filed application for an authorization in a District, the Division will choose the applicant through a selection and scoring process (see Section 1290.70).
- f) The Division will rank each complete application based on its total score.
- g) Authorizations will be issued to the applicants meeting at least the minimum criteria in each category and with the highest total score overall per District and based on the number of allocated registrations per District.
- h) In the event that two or more applicants receive the same total high score, the Division will select the applicant that received the highest score in the security and recordkeeping categories. In the event that the applicants received the same score in the security and recordkeeping categories, the tied applicants will be interviewed by a panel of three Department employees selected by the Director. The panel will interview the applicants based on the information gathered during the application process. The panel will make a written recommendation to the Director, and the Director will review the recommendation and make a final written determination.
- i) The Division may issue up to 60 dispensing organization authorizations. If the Division concludes that, during the first request for applications, no qualified applications are timely received for a District or Districts, the Division reserves the right to award fewer than 60 authorizations. If a second round of applications is required, the second round will be conducted in the same manner as the first.
- j) An authorization notice will be sent to a successful applicant. The authorization notice will include a registry identification number to be used on all future communication with the Division.
- k) Notwithstanding Section 1290.620, nothing in this Part is intended to confer a property or other right, duty, privilege or interest entitling an applicant to an administrative hearing upon denial of an application.
- l) To reassign a registration, the Division will publish on its website, and in such other places as the Division deems appropriate, a notice of open applications for dispensary registration. The notice shall include:
  - 1) The number of registrations anticipated to be awarded;
  - 2) Information on how to obtain an application;



- 3) The deadline for receipt of applications;
- 4) Acceptable methods for submitting an application; and
- 5) The available District.

**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 exhibits, the Division may issue a notice to the applicant that its application is incomplete. The notice from the Division will identify the missing exhibits. The applicant shall have seven calendar days from the date of the notice to resubmit the incomplete exhibits. Applications that are still incomplete after this one 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 and caregivers, and safe delivery and storage of cannabis and currency. It will evidence 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, 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 long-term 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 additional 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. 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 38 Ill. Reg. 17798, effective August 8, 2014, for a maximum of 150 days)

EMERGENCY RULE  
TEXT

**Section 1290.80 Fees**

The following non-refundable fees shall be paid to the Division.

- a) Application Fees:
  - 1) The authorization application fee is \$5,000. One application fee is to be submitted with each application.
  - 2) The registration fee is \$30,000. One registration fee is required for each registration.
  - 3) The application fee for a dispensing organization agent is \$100. This fee includes the agent identification card.
  - 4) The fee for a request to change the Division approved location of a dispensing organization within its assigned District is \$5,000.
- b) Renewal Fees:
  - 1) The annual renewal fee for a dispensing organization registration is \$25,000.
  - 2) The annual renewal fee for a dispensing organization agent identification card is \$50.
- c) General Fees:
  - 1) The fee for the issuance of a replacement dispensing organization Registration is \$50.
  - 2) The fee for the issuance of a replacement dispensing organization agent identification card is \$50.
- d) All monies collected under the Act shall be deposited in the Compassionate Use of Medical Cannabis Fund in the State treasury.

**SUBPART D: DISPENSARY REGISTRATION****Section 1290.100 Dispensing Organization – Registration Process**



- 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. The Division may request additional information from the applicant, or the Division may 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.

### **Section 1290.110 Dispensing Organization – Registration Requirements**

- a) The registration packet will be consistent with the information contained in the application, and shall provide additional detail on construction, start-up and operation.
- 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 facility;
  - 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 and limited access 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 sink and refrigerator, if any;
  - J) Location of all safes or vaults that will be used to store cannabis, cannabis products or currency;
  - K) Location of each computer used to check qualifying patient cards or designated caregiver registry cards;
  - L) Location of each computer and cash register used for point of sale transactions and to access the Division's verification system;
  - M) Location of bullet-proof glass;
  - N) Location of drawer, grate or conduit through the bullet-proof glass;
  - 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;
  - S) Location of patient counseling areas;
  - T) Location of each video camera;
  - U) Location of each panic button; and
  - V) Location of natural and artificial lighting sources.
- 15) Policies and procedures that comply with the requirements in this Part, outlined in an Operation and Management Practices Plan, including:
- A) Inventory control;
  - B) Qualifying patient and designated caregiver recordkeeping;

- C) Point of sale recordkeeping;
  - D) Security;
  - E) Patient care education and support;
  - F) Operations manual, including accessible business hours and safe dispensing; and
  - G) 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 and designated caregivers.
  - 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 and designated caregivers as required by the ADA.
  - 21) A plan detailing how the dispensing organization will perform a physical inventory of all medical cannabis on a daily basis.
  - 22) An attestation that the dispensing organization will have safes or vaults 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 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 and the dispensing organization meets the Division's approval, the Division will 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) A registration must be denied pursuant to Section 115(f) of the Act for 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; or
- 7) One or more of the principal officers is a registered qualifying patient or a designated caregiver.

### **Section 1290.120 Dispensing Organization – Registration Bond**

A registration bond is a requirement for the issuance of a registration, maintenance of a registration, or reactivation of a registration. The bond 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 an Illinois 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. 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.
- 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 include:
  - 1) The bond must be written by a surety company authorized and licensed through the Illinois Department of Insurance (see 215 ILCS 5/4).
  - 2) The business name and registration number on the bond must correspond exactly with the business name and registration number in the Division's records.
  - 3) The bond must be written on a form approved by the Department.

- 4) A copy of the bond must be received by the Division within 90 days after the effective date.
- 5) 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.

### **Section 1290.130 Changes to a Dispensing Organization Registration**

- a) A registration shall be issued to the specific dispensing organization identified on the application and for the specific location proposed. The registration is valid only for the owner, premises and name designated on the registration and the location for which it is issued.
- b) A dispensing organization may not transfer or assign a registration.
- c) A dispensing organization shall provide written notice to the Division of the addition or removal of persons or entities listed as principal officers. Notice shall be provided to the Division a minimum of 10 business days prior to the change, unless impracticable and the Division approves a different time in writing.
- d) All proposed new principal officers shall be subject to the requirements of the Act and this Part.
- e) The Division may prohibit the addition of a principal officer to a dispensing organization for failure to comply with the Act or this Part.
- f) A dispensing organization shall provide written notice to the Division of a change in more than 49% of the dispensary ownership. The Division will review the ownership structure to determine whether the change in ownership has had the effect of a transfer of the registration. The dispensing organization shall supply all ownership documents and change of ownership documents requested by the Division.
- g) The dispensing organization shall provide the Division with the personal information for all new dispensary agents as required in this Part and all new dispensary agents shall be subject to the requirements of this Part. A dispensing



organization agent must obtain an agent card from the Division before beginning work at a dispensary.

- h) A principal officer not in compliance with the requirements of the Act and this Part shall be removed from his or her position with the dispensing organization or shall otherwise terminate his or her affiliation. Failure to do so may subject the dispensing organization to discipline, suspension or revocation of its registration by the Division.
- i) Prior to remodeling, expansion, reduction or other physical, non-cosmetic alteration of a dispensary, the dispensing organization must notify the Division and confirm the alterations are in compliance with the Act and this Part.
- j) It is the responsibility of the registered dispensing organization and its principal officers to promptly notify the Division of any change of the principal place of business address.

#### **Section 1290.140 Request to Relocate a Dispensary**

- a) A dispensing organization may relocate a dispensary in the District where the dispensary is registered. To relocate a 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 acceptable to the Division, 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.

#### **Section 1290.150 Dispensing Organization Renewals**

- a) Every dispensing organization registration issued under the Act shall expire annually, on the date it was issued. A registered dispensing organization shall receive written notice 90 days prior to the expiration of its registration that the registration will expire.
- b) The Division will accept renewal applications within 45 days before the date a registration expires. Provided the dispensing organization is in compliance with the Act and this Part, and the renewal fee is paid, the Division shall renew the registration within 45 days after the renewal request submission. (See Section 1290.80.)
- c) If the dispensary premises is leased, when submitting for renewal the dispensing organization must provide documentation that the registered premises has been leased for the following calendar year.
- d) Upon a dispensing organization's request for a renewal, the Division shall consider the dispensing organization's history of compliance with regulations promulgated under the Act, the number and severity of any violations, and the correction of violations, penalties or other enforcement actions.

- e) The Director of the Division may deny a dispensing organization's request to renew a registration due to poor compliance history or if it has been disciplined under the Act or this Part.
- f) If a renewal fee is not paid before the registration's expiration date, and the dispensing organization has not requested an extension of time to renew, the registration expires on the registration expiration date.
- g) Dispensing medical cannabis on an expired registration is unlawful under the Act, unlicensed activity and grounds for discipline.
- h) If the Division, after notice to the dispensing organization, denies the request to renew a registration and the registrant contests the non-renewal, it shall be entitled to an administrative hearing in accordance with the hearing rights prescribed in the Act and this Part.

#### SUBPART E: REGISTRATION OF DISPENSING ORGANIZATION AGENTS

##### **Section 1290.200 Dispensing Organization Agent-in-Charge**

- a) Every dispensing organization shall designate, at a minimum, one agent-in-charge. 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 participate in dispensing organization affairs. Participation in dispensing organization affairs includes, but is not limited to, responsibility for deliveries, oversight of services 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 audit or inspection by the Division. These files shall be located in Illinois.
- 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) If the dispensing organization is a corporation or a limited liability company, the agent-in-charge is responsible for maintaining the good standing of the corporation or limited liability company with the Secretary of State. If the dispensing organization is a foreign corporation, the agent-in-charge is

responsible for maintaining its authorization to conduct business in Illinois in good standing.

- e) In determining whether an agent-in-charge participates in dispensing organization affairs, 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.
- f) The agent-in-charge is responsible for notifying the Division, on forms provided by the Division, of a change in the employment status of all dispensing organization agents, and the nature and reason for the status change, within five business days after the change.
- g) In the event of the separation of an agent-in-charge due to death, incapacity, termination or any other reason, 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.
- h) 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.
- i) 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.

- j) The Division may 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) Failure to notify the Division within five business days after becoming aware that the agent-in-charge identification card has been lost, stolen or destroyed;
  - 7) 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; or
  - 8) Conviction of an excluded offense following the issuance of an agent-in-charge identification card.

### **Section 1290.210 Dispensing Organization Agents**

- a) All principal officers, agents-in-charge and employees of the dispensing organization are dispensing organization agents and shall hold an agent identification card. No person shall 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 and the applicant is otherwise qualified under the Act, the Division may approve the application. Within 15 days after approving an application, 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 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.
- 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 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) Failure to notify the Division within five business days after becoming aware that the agent identification card has been lost, stolen or destroyed;
- 7) 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; or
- 8) Conviction of an excluded offense following the issuance of an agent identification card.

#### **Section 1290.220 Persons with Significant Influence or Control; Disassociation**

- a) Any individual in connection with the dispensing organization who is not a principal officer or agent, and who may significantly influence or control the activities of the dispensing organization, other than a bank or other licensed lending institution holding a mortgage or other lien, may be subject to a background investigation or an examination of the business relationship with the dispensary.
- b) The Division may order the disassociation of any person from the dispensing organization if the person fails to cooperate with the Division's investigation or if the person would be prohibited from being a principal officer pursuant to the Act and this Part. The order issued by the Director shall be directed to the applicant or registrant, and non-compliance with the order may result in the revocation, suspension or other discipline of the registration.

#### **Section 1290.230 State and Federal Criminal History Records Check**

- 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.

- 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.
- h) Fingerprints shall be taken within the 30 days prior to the application date or renewal date for an agent identification card.
- 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.

#### SUBPART F: DISPENSARY OPERATION

##### **Section 1290.300 Operational Requirements**

- 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 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 maintain compliance with State and local building, fire and zoning requirements or regulations.
- g) A dispensing organization shall submit a list of all third party vendors to the Division. Changes to the list of third party vendors shall be promptly provided.
- h) A registration shall allow the registrant to operate at a single location.
- i) A dispensary may operate between 6 a.m. and 8 p.m. local time.

- j) A dispensing organization must keep all lighting outside and inside the dispensary in good working order and wattage sufficient for security cameras.
- k) A dispensing organization shall not:
  - 1) Produce or manufacture cannabis.
  - 2) Allow consumption of cannabis at the dispensary.
  - 3) Sell cannabis unless it is pre-packaged 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 consumer presents an active registered qualifying patient or designated caregiver card issued by DPH.
  - 5) Enter into an exclusive agreement with any cultivation center.
  - 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 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 is inoperative.
  - 12) Have fewer than two people working at the dispensary at any time while the dispensary is open.

#### SUBPART G: SECURITY AND RECORDKEEPING

#### **Section 1290.400 Inventory Control System**

- a) A dispensing organization agent-in-charge shall have primary oversight of the dispensing organization's medical cannabis inventory control system. The inventory control 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 and implement an inventory control system for its medical cannabis that documents:
  - 1) Each transaction 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 the name, address and telephone number of the disposal company; and
    - C) The date of disposal.

- c) The agent-in-charge shall conduct and document an audit of the dispensing organization's daily inventory according to generally accepted accounting principles once every 30 calendar days.
- 1) If the audit identifies a reduction in the amount of medical cannabis in the dispensing organization's inventory not due to documented causes, the dispensing organization shall determine where the loss occurred and immediately take and document corrective action. The dispensing organization shall inform the Division of the loss and the corrective action taken within two business days after first discovery.
  - 2) If the reduction in the amount of medical cannabis in the inventory is due to criminal activity or suspected criminal activity, the dispensing organization shall make a report identifying the circumstances surrounding reduction to the Division and ISP, who may notify local law enforcement authorities.
  - 3) If the audit identifies an increase in the amount of medical cannabis in the dispensing organization's inventory not due to documented causes, the dispensing organization shall determine where the increase occurred and take and document corrective action.
  - 4) The dispensing organization shall submit quarterly audit statements to the Division that shall include, but not be limited to, an income statement, balance sheet and weekly cannabis inventory, including cannabis acquisition, wholesale cost and sales, prepared in accordance with generally accepted accounting principles. Annually, the dispensing organization shall submit an audit including the same information, compiled and certified by an auditor or CPA.
- d) 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.

- e) 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.

#### **Section 1290.405 Storage Requirements**

- 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 premises 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 separated from other medical cannabis products until they are disposed.
- e) Medical cannabis that was tampered with or damaged shall not be stored at the registered premises for more than one week.
- f) The dispensary shall be maintained in a clean and orderly condition.
- g) The dispensary shall be free from infestation by insects, rodents, birds or pests.
- h) The dispensary storage areas shall be maintained in accordance with the security requirements (see Section 1290.410).
- i) Medical cannabis must be stored at appropriate temperatures and under appropriate conditions to help ensure that its identity, strength, quality and purity are not adversely affected.

#### **Section 1290.410 Security Requirements**

- a) A dispensing organization shall implement security measures to deter and prevent entry into and theft from restricted access areas containing cannabis or currency.

- b) A dispensing organization shall submit changes to the floor plan or security plan to the Division for pre-approval.
- c) The dispensing organization shall implement security measures to protect the premises, registered qualifying patients, designated caregivers and dispensing organization agents including, but not limited to the following:
  - 1) Establish a locked door or barrier between the facility's entrance and the limited access area. The limited access area shall only be accessible to registered qualifying patients, designated caregivers, principal officers and agents, service professionals conducting business with the dispensing organization, and persons authorized by the Act and this Part;
  - 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;
  - 5) During hours of operation, store all cannabis in established restricted access area accessible only to specifically authorized agents. The minimum number of dispensary agents essential for efficient operations shall be in the restricted access areas;
  - 6) When the dispensary is closed, store all cannabis and currency in a secure locked safe or vault and in a manner as to prevent diversion, theft or loss;
  - 7) Keep all safes, vaults 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 safe or vault and knowledge of the access code or combination;
  - 9) Keep all locks and security equipment in good working order;
  - 10) The security 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 that the outside perimeter of the dispensary premises is 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 – Access Restricted to 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.
- 4) All service professionals conducting business with the dispensing organization and visitors must obtain a numbered visitor identification badge prior to entering a restricted access area, and shall be escorted at all times by a dispensary agent authorized to enter the restricted access area. All visitors must be logged in and out, and that log shall be maintained for five years on-site and available for inspection by the Division at all times. All visitor identification badges shall be returned upon exit.

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 perimeter windows;
  - B) A failure notification system that provides an audible, text or visual notification of any failure in the surveillance system. The failure notification system shall provide an alert to designated dispensing organization agents within five minutes after the failure, either by telephone, email or text message;
  - C) A duress alarm, panic button and alarm, holdup alarm or 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;
  - D) 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;

- E) 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;
- F) 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;
- G) The ability to immediately produce a clear, color still photo from the surveillance video, either live or recorded;
- H) 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;
- I) 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; and
- J) 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.

- 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 rooms where 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 room must be available to the Division upon request.
  - 4) All security equipment shall be inspected and tested at regular intervals, not to exceed 30 calendar days 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.
- h) To monitor the facility and prevent unauthorized access to medical cannabis at the dispensary, the dispensing organization shall incorporate the following:
- 1) Security equipment to deter and prevent unauthorized entrance into restricted access areas that includes 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.
  - 2) Electronic monitoring including:
    - A) All monitors must be 19-inches or greater;
    - B) A video printer capable of immediately producing a clear still photo from any video camera image;
    - C) Video cameras recording all points of entry and exit from the dispensary, the limited access areas, the restricted access areas and that are capable of identifying activity occurring adjacent to the

- building, with a recording resolution that shall be sufficient to distinctly view the entire area under surveillance;
- D) 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;
  - E) Storage of video recordings from the video cameras for at least 90 calendar days;
  - F) A failure notification system that provides an audible and visual notification of any failure in the electronic monitoring system;
  - G) Sufficient battery backup for video cameras and recording equipment to support recording in the event of a power outage; and
  - H) All electronic video monitoring must be available on a real time 24-hour a day, every day, live feed accessible by the Division.
- 3) The dispensing organization shall maintain policies and procedures that include:
- A) security plan with protocols for patient, caregiver and agent safety and management and security of cannabis and currency;
  - B) Restricted access to the areas in the dispensary that contain cannabis to authorized agents;
  - C) Identification of authorized agents;
  - D) Controlled access and prevention of loitering both inside and outside the facility;
  - E) Conducting electronic monitoring; and
  - F) Use of a panic button.

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**Section 1290.415 Recordkeeping**

- 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 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.

**Section 1290.420 Cleaning and Sanitation**

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.

**Section 1290.425 Administration**

- a) A dispensing organization shall operate continuously and maintain an uninterrupted supply of medical cannabis for qualifying patients 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 by replacing existing cannabis with improved products or packaging;
  - 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 to adhere to 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. At a minimum, agents shall receive eight hours of training annually;
- 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 and vouchers;
- 7) Inventory control, including:
  - A) Tracking qualifying patient records, including purchases, denials of sale and confidentiality; and
  - B) Disposal of unusable or damaged cannabis as required by the Act and this Part; and
- 8) Patient 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 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:
    - 1) Serves as a principal officer of the dispensing organization; or
    - 2) Is employed by the dispensing organization.
  - i) A dispensing organization shall promptly document and report any loss or theft of cannabis from the dispensary to the appropriate law enforcement agency 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 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 qualifying patients or is in a partnership or other fee or profit-sharing relationship with a physician who recommends medical cannabis;
  - 3) Accept referral of patients 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.

#### **Section 1290.430 Dispensing Medical Cannabis**

- a) Before a dispensing organization agent dispenses medical cannabis to a qualifying patient or a designated caregiver, the agent shall:
  - 1) Verify the identity of the qualifying patient or the designated caregiver;
  - 2) Verify the validity of the qualifying patient or designated caregiver's registry identification card;
  - 3) Enter the qualifying patient or designated caregiver's registry identification number listed on the qualifying patient or designated caregiver's registry identification card into the medical cannabis electronic verification system;
  - 4) Verify that the qualifying patient or designated caregiver has a current authorization by DPH to purchase medical cannabis;

- 5) Verify that the amount of medical cannabis the qualifying patient or designated caregiver is requesting would not cause the qualifying 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 medical cannabis electronic verification system for the qualifying patient or designated caregiver:
    - A) The dispensing organization agent's registry identification number;
    - B) The dispensing organization's registry 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 or the qualifying patient's designated caregiver; and
    - E) The date and time the medical cannabis was dispensed.
- b) Any dispensary that sells edible cannabis-infused products must do so in compliance with the Act and this Part.

#### **Section 1290.435 Signage**

*Any dispensing organization that sells edible cannabis-infused products must display a placard that states the following: "Edible cannabis-infused products were produced in a kitchen not subject to public health inspections that may also process common food allergens." The placard shall be no smaller than 24 inches tall by 36 inches wide, with typed letters no smaller than 2 inches. The placard shall be clearly visible and readable by customers and shall be written in English.* (Section 80(a) of the Act) The signage shall be placed in the area where edible cannabis-infused products are sold, and may be translated into additional languages as needed.

#### **Section 1290.440 Recall of Medical Cannabis**

- 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 customers 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.

#### **Section 1290.445 Report of Loss or Theft of Cannabis**

- a) Any principal officer or agent of a dispensing organization shall promptly document and report any loss or theft of cannabis from the dispensary to the appropriate ISP District and the Division.
- b) The dispensing organization shall promptly make the report to the Division by phone, and in writing deposited in the U.S. mail, postage prepaid, within 48 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 the dispensing organization 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. The Division shall make the entire file of its investigation available to the appropriate law enforcement agencies.

#### **Section 1290.450 Destruction and Disposal**

- a) Cannabis and cannabis-infused products must be destroyed by rendering it unusable following the methods set forth in this Section.
- b) At least seven days prior to rendering cannabis unusable and disposing of it, the dispensing organization shall notify the Division and ISP. Notification shall include the date and time the cannabis will be rendered unusable and disposed. If the dispensing organization's policy designates the destruction of cannabis on the same day and time weekly, communication of that day and time shall be sufficient to comply with this subsection (b). Any change in the date and time must be communicated to the Division and ISP.
- 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;

- C) Vegetable based grease or oils; or
  - D) 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 inventory system prior to rendering it unusable. Verification of this event shall be performed by an agent-in-charge and conducted in an area with video surveillance.
- f) Electronic documentation of destruction and disposal shall be maintained for a period of at least five years.

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**Section 1290.455 Dispensary Advertisements**

- a) No registered dispensing organization shall place or maintain, or cause to be placed or maintained, an advertisement of cannabis or a cannabis-infused product in any form or through any medium:
  - 1) Within 1,000 feet of the perimeter of a school grounds, playground, recreation center or facility, child care center, public park or library, or any game arcade admission to which is not restricted to persons age 21 years or older;
  - 2) On or in a public transit vehicle or public transit shelter; or
  - 3) On or in a publicly-owned or-operated property.
- b) This Section does not apply to a noncommercial message.

#### **Section 1290.460 Closure of a Dispensary**

If a dispensing organization decides not to renew its registration or decides to close its business, it shall promptly notify the Division, not less than three months prior to the effective date of the closing date or as otherwise authorized by the Division.

#### **Section 1290.465 Zoning Rules Related to Dispensary**

No local municipality or jurisdiction shall impose zoning ordinances, special use permits, conditions or requirements that conflict with the Act or this Part, that concern or address issues or subject matters that are within the regulatory jurisdiction of the Division, or that would otherwise place unreasonable restrictions on the location of dispensaries contrary to the mandate of the Act that dispensing *organizations shall be geographically dispersed throughout the State to allow all registered qualified patients reasonable proximity and access to a dispensing organization.* (Section 115(a) of the Act.)

### SUBPART H: DISCIPLINE

#### **Section 1290.500 Investigations**

- 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, third party vendor 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.

#### **Section 1290.510 Grounds for Discipline**

- a) The Division, after notice to the registrant, may place on probation, temporarily suspend, suspend, refuse to issue or renew 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;
- 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 a principal officer or agent-in-charge to 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 substantial 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 or designated caregiver with a valid registry identification card;
- 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;
- 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;  
and
  - 29) Failing to prevent diversion, theft or loss of medical cannabis.
- 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 holds an 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.
  - 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.

### **Section 1290.520 Temporary Suspension**

- a) The Director may temporarily suspend a registration or an agent registration without a hearing if the Director finds that public safety or welfare requires emergency action. The Director shall cause the temporary suspension by issuing a suspension notice in connection with the institution of proceedings for a hearing.
- b) If the Director temporarily suspends a registration or an agent registration without a hearing, the registrant is entitled to a hearing within 45 days after the suspension notice has been issued. The hearing shall be limited to the issues cited in the suspension notice, unless all parties agree.
- c) If the Division does not hold a hearing within 45 days after the date the suspension notice was issued, then the suspended registration shall be automatically reinstated and the suspension vacated.
- d) The suspended registrant may seek a continuance of the hearing date, during which time the suspension remains in effect and the registration shall not be automatically reinstated.
- e) Subsequently discovered causes of action by the Division after the issuance of the suspension notice, may be filed as a separate notice of violation. The Division is not precluded from filing a separate cause of action against the suspended registrant.

### **Section 1290.530 Consent to Administrative Supervision Order**

In appropriate cases, the Division may resolve a complaint against a registrant through the issuance of a consent order for administrative supervision. A registrant subject to a consent order shall be considered by the Division to hold a registration in good standing.

**Section 1290.540 Subpoenas; Oaths; Attendance of Witnesses**

- a) The Director or hearing officer may compel by subpoena or subpoena duces tecum the attendance and testimony of witnesses and the production of documents and records pertinent to any inquiry, verification or enforcement action. The fees and mileage shall be paid in the same manner as prescribed in civil cases in the courts of this State.
- b) The Director, the hearing officer or a certified shorthand court reporter may administer oaths at any Division-ordered hearing. Notwithstanding any other statute or Division rule to the contrary, all requests for testimony or production of documents or records shall be in accordance with the Act, Civil Administrative Code [20 ILCS 5], the Division's hearing rules (68 Ill. Adm. Code 1110) and this Part.

**Section 1290.550 Request for Hearing**

The Division shall carry out a request for hearing by an aggrieved person as follows:

- a) Upon receipt of a request in writing for a hearing, the hearing officer shall conduct a hearing to review the contested violation.
- b) Before the hearing is held, notice of the hearing shall be sent by the hearing officer to the person making the request for the hearing and to the person who issued the contested violation. In the notice the hearing officer shall specify the date, time and place of the hearing that shall be held not less than 10 days after the notice is served. The notice shall designate the violation being reviewed. The notice may be served by delivering it personally to a party or its representative or by mailing it regular and certified mail to the party's address on file with the Division.

**Section 1290.560 Findings and Recommendations**

- a) At the conclusion of a hearing, the hearing officer shall present the Director with a written report of the findings of fact, conclusions of law and recommendations. The report shall state whether the hearing officer finds the respondent liable or not liable. If the hearing officer finds the respondent liable, the hearing officer shall specify the violations. The hearing officer shall promptly serve a copy of the written report on the respondent.

- b) The report of findings of fact, conclusions of law and recommendation of the hearing officer shall be a basis for the Director's order refusing to issue, restore or renew a registration, or otherwise discipline a registrant. If the Director disagrees with the recommendations of the hearing officer, the Director may issue an order in contravention of the hearing officer's recommendations. The finding is not admissible as evidence against the person in a criminal prosecution brought for a violation of this Act, but the hearing and finding is not a bar to a criminal prosecution brought for a violation of this Act.

#### **Section 1290.570 Restoration of Registration from Discipline**

At any time after the successful completion of a term of indefinite probation, suspension or revocation of a registration, the Division may restore the registration to active status, unless, after an investigation, the Director determines that restoration is not in the public interest. No person or entity whose registration has been revoked may apply for restoration, unless provided for in the Civil Administrative Code of Illinois.

#### **Section 1290.575 Appointment of a Hearing Officer**

The Director has the authority to appoint any attorney licensed to practice law in the State of Illinois to serve as the hearing officer in any action for refusal to issue, restore or renew a registration or to discipline a registrant. The hearing officer has full authority to conduct the hearing.

#### **Section 1290.580 Transcript; Record of Proceedings**

The Division shall preserve a record of proceedings at the hearing of any case. The notice of hearing, notice of violation and all other documents in the nature of pleadings and written motions filed in the proceedings, the transcript of testimony, the report of the hearing officer, and the orders of the Division shall be the record of the proceedings.

#### **Section 1290.590 Certification of Record; Receipt**

The Division shall not be required to certify any record to the court, to file an answer in court or otherwise to appear in any court in a judicial review proceeding until the Division has received payment of the costs of furnishing and certifying the record from the plaintiff, costs that shall be determined by the Division. Failure on the part of the plaintiff to file a receipt in court is grounds for dismissal of the action.

### SUBPART I: GENERAL

**Section 1290.600 Intergovernmental Cooperation**

- a) Whenever the Division revokes or suspends a registration, it shall notify ISP, DOA, DPH and the police department or sheriff's office whose jurisdiction includes the registrant's dispensing location.
- b) If ISP, any municipality, township, county or local law enforcement agency takes action relating to the operation of the registrant's dispensing location, it shall notify the Division of the action taken and the reason for the action within five days.

**Section 1290.610 Variances**

- a) The Director may grant variances from this Part in cases in which:
  - 1) The applicable provision is not statutorily mandated;
  - 2) No party will be injured by the granting of the variance; and
  - 3) The rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.
- b) An approval for a variance may be revocable, may be granted for a limited period of time or may be granted subject to the conditions as the Director may prescribe.

**Section 1290.620 Administrative Decisions**

Final administrative decisions of the Division are subject to judicial review under the Administrative Review Law [735 ILCS 5/Art III]. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure.