

## **CLARK COUNTY, NEVADA – COUNTY CODE**

### **Chapter 8.60 - Medical Marijuana Establishments**

#### **Sections:**

##### 8.60.005 - Findings.

On November 7, 2000, the voters of the State of Nevada passed an initiative amending Article 4 of the Nevada Constitution to allow the use of marijuana for medicinal purposes. The 2013 Session of the Nevada State Legislation passed, and the Governor signed into law, Senate Bill 374 which amended NRS 453A by providing regulations to allow for medical marijuana establishments to operate within the State of Nevada for the purpose of providing medical marijuana to persons with certain medical conditions or to primary caregivers of such persons that have been issued a registry identification card by the Division of Public Health and Behavioral Health of the Nevada Department of Health and Human Services. NRS 453A requires compliance with any applicable zoning, building or business license requirements or regulations and that each medical marijuana establishment have an appearance, both as to the interior and exterior, that is professional, orderly, dignified and consistent with the traditional style of pharmacies and medical offices and that each medical marijuana establishment have discreet and professional signage that is consistent with the traditional style of signage for pharmacies and medical offices. NAC 453A (LCB File No. R004-14A, Section 51) requires that any sign or advertisement used by a medical marijuana establishment must be approved by the administrator of the Division of Public Health and Behavioral Health of the Nevada Department of Health and Human Services. The board of county commissioners desires to allow medical marijuana establishments to operate within the county to address the needs of persons allowed, under state law, to receive medical marijuana.

The federal law classifies marijuana as a Schedule I controlled substance under the Controlled Substance Act which states that substances in this schedule have a high potential for abuse, have no currently accepted medical use in treatment in the United States, and there is a lack of accepted safety for use of the drug or other substance under medical supervision. In a memo, dated August 29, 2013, from Deputy Attorney General James M. Cole to all United States attorneys ("the Cole memo"), guidance is provided regarding marijuana enforcement. The Cole memo outlines the following eight enforcement priorities that are of particular importance to the federal government:

- (a) Preventing the distribution of marijuana to minors;
- (b) Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
- (c) Preventing the diversion of marijuana from states where it is legal under state law in some form to other states;
- (d) Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;
- (e) Preventing violence and the use of firearms in the cultivation and distribution of marijuana;

- (f) Preventing drugged driving and the exacerbation of other adverse public health consequences associated with marijuana use;
- (g) Preventing the growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and
- (h) Preventing marijuana possession or use on federal property.

In the Cole memo, there is an expectation that states and local governments will implement strong and effective regulatory and enforcement systems that will address any threat to public safety, public health, and other law enforcement interests. Such systems must contain robust written controls and procedures that are effective in practice. Jurisdictions that have implemented strong and effective regulatory and enforcement systems to control the cultivation, distribution, sale, and possession of marijuana, and conduct in compliance with those laws and regulations are less likely to threaten the federal priorities. A robust system may affirmatively address those priorities by, for example, implementing effective measures to prevent diversion of marijuana outside of the regulated system and to other states, prohibiting access to marijuana by minors, and replacing an illicit marijuana trade that funds criminal enterprises with a tightly regulated market which tracks and accounts for revenues. It is the board of county commissioners' intent to provide such a strong and effective regulatory and enforcement system to control the cultivation, distribution, sale and possession of marijuana for medicinal purposes and to be cognizant of the eight enforcement priorities in the Cole memo.

It is found and declared that the public health, safety and welfare of the inhabitants of the unincorporated areas of the county, require the regulation and control of all persons engaged in, associated with, or in control of, the business of medical marijuana establishments. All such persons, as defined in this chapter, shall be licensed and regulated so as to protect the public health, safety and general welfare of the inhabitants of the unincorporated areas of the county and to safeguard the public. It is further found and declared that the right to obtain such a license is a privilege and that the operation of such a medical marijuana establishment, when authorized by such license, is a privileged business subject to regulations, and that the license may be revoked for violation of the conditions of this chapter. In the event of a conflict with any of the provisions contained in any applicable chapter of Title 6 or 7 of the Clark County Code, the provisions of this chapter shall be controlling.

(Ord. No. 4244, § 1, 10-21-2014)

#### 8.60.010 - Definitions.

The words and terms contained in this chapter shall have the meaning ascribed in this section unless a different meaning clearly appears in the context.

(Ord. No. 4244, § 1, 10-21-2014)

#### 8.60.010.005 - Community facility.

"Community facility" means:

- (a) A facility that provides day care to children.
- (b) A public park.
- (c) A playground.
- (d) A public swimming pool.
- (e) A center or facility, the primary purpose of which is to provide recreational opportunities or services to children or adolescents.
- (f) A church, synagogue, or other building, structure or place used for religious worship or other religious purpose.

(Ord. No. 4244, § 1, 10-21-2014)

8.60.010.010 - County.

"County" means, unless otherwise indicated, the unincorporated areas of Clark County, Nevada.

(Ord. No. 4244, § 1, 10-21-2014)

8.60.010.015 - Cultivation facility.

"Cultivation facility" shall have the meaning ascribed to it in NRS 453A.056 and means a business that:

- (a) Is registered with the division pursuant to NRS 453A.322; and
- (b) Acquires, possesses, cultivates, delivers, transfers, transports, supplies, or sells marijuana and related supplies to:
  - (1) Medical marijuana dispensaries;
  - (2) Facilities for the production of edible marijuana products or marijuana-infused products; or
  - (3) Other cultivating facilities.

(Ord. No. 4244, § 1, 10-21-2014)

8.60.010.020 - Department.

Department" means, unless otherwise indicated, the Department of Business License of Clark County, Nevada.

(Ord. No. 4244, § 1, 10-21-2014)

8.60.010.025 - Designated primary caregiver.

"Designated primary caregiver" shall have the meaning ascribed to it in NRS 453A.080 and means a person who:

- (a) Is 18 years of age or older;
- (b) Has significant responsibility for managing the well-being of a person diagnosed with a chronic or debilitating medical condition; and
- (c) Is designated as such in the manner required pursuant to NRS 453A.250.

The term does not include the attending physician of a person diagnosed with a chronic or debilitating medical condition.

(Ord. No. 4244, § 1, 10-21-2014)

8.60.010.030 - Division.

"Division" means the Division of Public and Behavioral Health of the Nevada Department of Health and Human Services.

(Ord. No. 4244, § 1, 10-21-2014)

8.60.010.035 - Edible marijuana products.

"Edible marijuana products" shall have the meaning ascribed to it in NRS 453A.101 and means products that:

- (a) Contain marijuana or an extract thereof;
- (b) Are intended for human consumption by oral ingestion; and
- (c) Are presented in the form of foodstuffs, extracts, oils, tinctures and other similar products.

(Ord. No. 4244, § 1, 10-21-2014)

8.60.010.040 - Electronic verification system.

"Electronic verification system" shall have the meaning ascribed to it in NRS 453A.102 and means an electronic database that:

- (a) Keeps track of data in real time; and
- (b) Is accessible by the division and by registered medical marijuana establishments.

(Ord. No. 4244, § 1, 10-21-2014)

8.60.010.045 - Facility for the production of edible marijuana products or marijuana-infused products.

"Facility for the production of edible marijuana products or marijuana-infused products" shall have the meaning ascribed to it in NRS 453A.105 and means a business that:

- (a) Is registered with the division pursuant to NRS 453A.322; and
- (b) Acquires, possesses, manufactures, delivers, transfers, transports, supplies or sells edible marijuana products or marijuana-infused products to medical marijuana dispensaries.

(Ord. No. 4244, § 1, 10-21-2014)

8.60.010.050 - Gross revenue.

"Gross revenue" means all revenue received by the medical marijuana establishment from sales, service and other business transactions, including the value of product or services traded in exchange for other products or services (i.e., bartering), minus deductions only for returns, refunds, and discounts, and excluding any sales tax or excise tax paid to the state.

(Ord. No. 4244, § 1, 10-21-2014)

8.60.010.055 - Independent testing laboratory.

"Independent testing laboratory" shall have the meaning ascribed to it in NRS 453A.107 and means a facility described in NRS 453A.368, and provides that, "such an independent testing laboratory must be able to determine accurately, with respect to marijuana, edible marijuana products and marijuana-infused products that are sold or will be sold at medical marijuana dispensaries in this state:

- (a) The concentration therein of THC and cannabidiol.
- (b) Whether the tested material is organic or non-organic.
- (c) The presence and identification of molds and fungus.
- (d) The presence and concentration of fertilizers and other nutrients."

(Ord. No. 4244, § 1, 10-21-2014)

8.60.010.060 - Inventory control system.

"Inventory control system" means a process, device or other contrivance that may be used to monitor the chain of custody of marijuana used for medical purposes from the point of cultivation to the end consumer.

(Ord. No. 4244, § 1, 10-21-2014)

8.60.010.065 - Marijuana.

"Marijuana" shall have the meaning ascribed to it in NRS 453A.110 and means:

- (a) All parts of any plant of the genus Cannabis, whether growing or not;
- (b) The seeds thereof;
- (c) The resin extracted from any part of the plant; and
- (d) Every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin.

"Marijuana" does not include the mature stems of the plant, fiber produced from the stems, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stems (except the resin extracted therefrom), fiber, oil or cake, of the sterilized seed of the plant which is incapable of germination.

(Ord. No. 4244, § 1, 10-21-2014)

8.60.010.070 - Marijuana-infused products.

"Marijuana-infused products" shall have the meaning ascribed to it in NRS 453A.112 and means products that:

- (a) Are infused with marijuana or an extract thereof; and
- (b) Are intended for use or consumption by humans through means other than inhalation or oral ingestion.

The term includes, without limitation, topical products, ointments, oils and tinctures.

(Ord. No. 4244, § 1, 10-21-2014)

8.60.010.075 - Medical marijuana dispensary.

"Medical marijuana dispensary" shall have the meaning ascribed to it in NRS 453A.115 and means a business that:

- (a) Is registered with the division pursuant to NRS 453A.322; and
- (b) Acquires, possesses, delivers, transfers, transports, supplies, sells or dispenses marijuana or related supplies and educational materials to the holder of a valid registry identification card.

(Ord. No. 4244, § 1, 10-21-2014)

8.60.010.080 - Medical marijuana establishment.

"Medical marijuana establishment" shall have the meaning ascribed to it in NRS 453A.116 and means:

- (a) An independent testing laboratory;
- (b) A cultivation facility;
- (c) A facility for the production of edible marijuana products or marijuana-infused products;
- (d) A medical marijuana dispensary; or
- (e) A business that has registered with the division and paid the requisite fees to act as more than one of the types of businesses listed in subsections (b), (c) and (d).

(Ord. No. 4244, § 1, 10-21-2014)

8.60.010.085 - Medical marijuana establishment agent.

"Medical marijuana establishment agent" shall have the meaning ascribed to it in NRS 453A.117 and means an owner, officer, board member, employee or volunteer of a medical marijuana establishment.

(Ord. No. 4244, § 1, 10-21-2014)

8.60.010.090 - Medical marijuana establishment registration certificate.

"Medical marijuana establishment registration certificate" shall have the meaning ascribed to it in NRS 453A.119 and means a registration certificate that is issued by the division pursuant to NRS 453A.322 to authorize the operation of a medical marijuana establishment.

(Ord. No. 4244, § 1, 10-21-2014)

8.60.010.095 - Medical use of marijuana.

"Medical use of marijuana" shall have the meaning ascribed to it in NRS 453A.120 and means:

- (a) The possession, delivery, production or use of marijuana;
- (b) The possession, delivery or use of paraphernalia used to administer marijuana; or
- (c) Any combination of the acts described in subsections (a) and (b), as necessary for the exclusive benefit of a person to mitigate the symptoms or effects of his or her chronic or debilitating medical condition.

(Ord. No. 4244, § 1, 10-21-2014)

8.60.010.100 - Paraphernalia.

"Paraphernalia" shall have the meaning ascribed to it in NRS 453A.125 and means accessories, devices and other equipment that is necessary or useful for a person to engage in the medical use of marijuana.

(Ord. No. 4244, § 1, 10-21-2014)

8.60.010.105 - Registry identification card.

"Registry identification card" shall have the meaning ascribed to it in NRS 453A.140 and means a document issued by the division or its designee that identifies:

- (a) A person who is exempt from state prosecution for engaging in the medical use of marijuana; or
- (b) The designated primary caregiver, if any, of a person described in subsection (a).

(Ord. No. 4244, § 1, 10-21-2014)

8.60.010.110 - THC.

"THC" shall have the meaning ascribed to it in NRS 453A.155 and means delta-9-tetrahydrocannabinol, which is the primary active ingredient in marijuana.

(Ord. No. 4244, § 1, 10-21-2014)

8.60.020 - Preliminary review for land use application.

Pursuant to Section 30.16.070 of the Code, prior to the owner of any property located within the County submitting a land use application for a special use permit for the operation of a medical marijuana establishment, the owner or operator of the proposed medical marijuana establishment must:

- (a) Submit the required forms and documents to the department of business license to conduct a review for the proposed use, and
- (b) Obtain written verification that all such forms and documents have been received from the department of business license.

This information will be accepted according to the application process requirements in Section 30.16.070 of the Code and public notice will be provided identifying the period in which the required forms and documents must be submitted.

(Ord. No. 4244, § 1, 10-21-2014)

8.60.030 - Compliance with state and county laws and regulations.

Medical marijuana establishment licensees must comply with all applicable state and county laws, rules and regulations, including, but not limited to, NRS 453A, NAC 453A and Chapters 6.04, 6.08 and 8.60 and Title 30 of the County Code.

(Ord. No. 4244, § 1, 10-21-2014)

#### 8.60.040 - License required.

It is unlawful for anyone to operate a medical marijuana establishment without first obtaining a county business license. In order to obtain a business license, a special use permit must be obtained from the county comprehensive planning department and a medical marijuana establishment registration certificate or provisional registration certificate must be obtained from the division.

(Ord. No. 4244, § 1, 10-21-2014)

#### 8.60.050 - Application for a business license.

Upon the receipt of a provisional medical marijuana establishment registration certificate from the division, each proposed medical marijuana establishment to be located within the unincorporated areas of the county must apply for a county business license on forms approved by the director and provide such other information as the director may require including, but not limited to information to determine the eligibility and ability of the applicant to operate a medical marijuana establishment. The grounds for denial of an application for a business license are found in Section 8.60.250 of this Code.

(Ord. No. 4244, § 1, 10-21-2014)

#### 8.60.060 - Public safety inspections.

Prior to the issuance of a business license for a medical marijuana establishment, and thereafter annually, all of the applicable public safety inspections, including, but not limited to, building, fire, air quality and health, must be completed and any deficiencies or areas of concern corrected or resolved to the satisfaction of the inspecting agencies. Any required permits or approvals must be obtained and any associated fees must be paid by the medical marijuana establishment.

(Ord. No. 4244, § 1, 10-21-2014)

#### 8.60.070 - Suitability investigation.

The department may, in order to determine suitability, conduct a background investigation on anyone having a financial interest in a medical marijuana establishment including, but not limited to, a lender of funds or other assets.

(Ord. No. 4244, § 1, 10-21-2014)

#### 8.60.080 - Application fee.

For each application for a business license for a medical marijuana establishment, the applicant shall pay a one-time, nonrefundable application fee. The application fee shall be one thousand five hundred dollars for each application, unless an applicant submits applications at the same time for more than one medical marijuana establishment for the same location and the medical

marijuana establishment is under the name of the same legal entity and the same ownership. The application fee for more than one medical marijuana establishment filed at the same time for the same location with the same legal entity and ownership shall be one thousand five hundred dollars for the first application and five hundred dollars for each additional application.

(Ord. No. 4244, § 1, 10-21-2014)

8.60.090 - License fees.

(a) Each medical marijuana establishment licensee, other than an independent testing laboratory licensee, shall pay:

- (1) a quarterly license fee of:
  - (A) One percent of the gross revenue that does not exceed one hundred fifty thousand dollars per calendar quarter year; and also
  - (B) Two percent of the gross revenue that exceeds one hundred fifty thousand dollars per calendar quarter year and does not exceed four hundred thousand dollars per calendar quarter year; and also
  - (C) Three percent of the gross revenue that exceeds four hundred thousand dollars per calendar quarter year; and
- (2) a quarterly fee of two hundred fifty dollars, if the medical marijuana establishment transfers or delivers medical marijuana, edible marijuana products or marijuana-infused products to another medical marijuana establishment with common ownership and no sales transaction occurs between the two medical marijuana establishments.

(b) Each independent testing laboratory licensee shall pay a semiannual license fee which is determined by the schedule in Section 6.12.995 of the Code based on the amount of semiannual gross revenue. All such license fees shall be due and subject to any applicable late fees pursuant to Section 6.04.060 of this Code.

(c) All quarterly license fees are due on the last day of each calendar quarter. If the payment is received after fifteen days and before thirty days after the due date, ten percent of the total license fee due shall be assessed as a penalty charge. In addition to the above ten percent penalty, if the payment is received more than thirty days after the due date, a reinstatement fee of fifteen percent of the total license fee due shall be assessed. If reinstatement does not occur within sixty days, the license shall be deemed expired and may be reinstated upon filing a request for reinstatement with the Director, a showing of good cause, and a payment of double license fees for the delinquent period as a penalty charge. If reinstatement does not take place within ninety days following the calendar quarter, the license is deemed terminated and any application for licensure shall be processed as a new license application rather than as a reinstatement and the licensee shall remain liable for the delinquent fees, including the double license fee penalty charge.

(Ord. No. 4244, § 1, 10-21-2014)

8.60.100 - Subject to investigation, inspection and audit.

All licenses are subject to the condition that the licensed premises may, without notice, be inspected for compliance with state and county laws and regulations. Department of business license investigators and agents have the right to enter the licensed premises for the purpose of investigation, inspection or audit of the operations, books and records. Licensees shall not refuse such right to enter the premises to inspect or investigate the premises, facilities, qualifications of personnel, methods of operations, policies and purposes of any medical marijuana establishment and of any person proposing to engage in the operation of a medical marijuana establishment or to audit the books and records. An inspection of a facility may include, without limitation, investigation of standards for public safety and may be conducted jointly with state and other local government agencies as well as law enforcement agencies.

(Ord. No. 4244, § 1, 10-21-2014)

#### 8.60.110 - Support businesses to medical marijuana establishments.

Businesses located within unincorporated Clark County or that provide services within unincorporated Clark County and are not involved with the cultivation, production, dispensing or testing of marijuana or marijuana products that would require a medical marijuana establishment registration certificate from the division or a medical marijuana establishment business license pursuant to this chapter, are required to apply for and obtain a county business license for a medical marijuana support business. The term "medical marijuana support business," as used in this chapter, means a business that:

- (a) is required to obtain a Clark County business license pursuant to Titles 6, 7 or 8 of the Code;
- (b) is engaged in medical marijuana support business activities in unincorporated Clark County; and
- (c) more than fifty percent of the business's total annual revenue from all sales and services within Clark County is derived from providing medical marijuana products or services as described in this section.

Medical marijuana support businesses provide products or services to licensed medical marijuana establishments and/or persons holding a valid registry identification card including, but not limited to:

- a. Security services;
- b. Consulting services;
- c. Insurance coverage for a medical marijuana establishment;
- d. Accounting services;
- e. Financial services;
- f. Real estate services;
- g. Vaporizer products;
- h. Packaging and labeling supplies; and

- i. Devices and other equipment that are necessary or useful for a person to engage in the medical use of marijuana.

The department may, in order to determine suitability, conduct a background investigation on anyone having a financial interest in a medical marijuana support business including, but not limited to, a lender of funds or other assets. Support medical marijuana businesses that are required to obtain a county business license shall pay a semiannual license fee which is determined by the schedule in Section 6.12.995 of the code based on the amount of semiannual gross revenue of the licensee. All such license fees shall be due and subject to any applicable late fees pursuant to Section 6.04.060 of this Code.

(Ord. No. 4244, § 1, 10-21-2014)

#### 8.60.120 - Product testing and reports.

- (a) Upon the request of the department, a cultivation facility and a facility for the production of edible marijuana products or marijuana-infused products must provide a sample of marijuana or marijuana products to an independent testing laboratory designated by the Department for quality assurance compliance checks in a secure manner such that the laboratory can confirm that it has received and is testing the correct sample. The cultivation facility or facility for the production of edible marijuana products or marijuana-infused products is responsible for all costs involved in screening and testing performed pursuant to this section.
- (b) An independent testing laboratory must comply with all applicable laws, regulations and rules of NRS 453A and NAC 453A. The director may request reports from an independent testing laboratory on a random sample basis or on a test of specific samples or may request that certain samples of medical marijuana, edible marijuana products or marijuana-infused products from a cultivation facility or production facility be tested and an independent testing laboratory shall provide such reports at no charge to the county.
- (c) The independent testing laboratory that receives a sample pursuant to Subsection (a) shall, as directed by the department, perform any quality assurance test deemed necessary by the department and report the results to the director.

(Ord. No. 4244, § 1, 10-21-2014)

#### 8.60.130 - Sale or production of products.

It is unlawful for:

- (a) An independent testing laboratory to sell, at retail or wholesale, any marijuana, edible marijuana products or marijuana-infused products to anyone;
- (b) A cultivation facility to sell any marijuana to anyone other than a licensed facility for the production of edible marijuana products or marijuana-infused products, a licensed medical marijuana dispensary or another licensed cultivation facility;

- (c) A facility for the production of edible marijuana products or marijuana-infused products to sell any marijuana, edible marijuana products or marijuana-infused products to anyone other than a licensed medical marijuana dispensary or another facility for the production of edible marijuana products or marijuana-infused products;
- (d) A facility for the production of edible marijuana products or marijuana-infused products to:
  - (1) Produce marijuana-infused beer, wine or spirits; or
  - (2) Compound marijuana with over the counter or prescription drugs;
- (e) A medical marijuana dispensary to:
  - (1) Sell medical marijuana, edible marijuana products or marijuana-infused products to another licensed medical marijuana dispensary; or
  - (2) To sell or provide to an individual other than a holder of a valid registry identification card:
    - (A) Medical marijuana;
    - (B) Edible marijuana products;
    - (C) Marijuana-infused products; or
    - (D) Accessories, devices and other equipment that are necessary or useful for a person to engage in the medical use of marijuana; and
- (f) A medical marijuana dispensary to sell products identified in Subsection 8.60.130(e)(2)(A)—(D) of this Code from a location other than at the licensed location of the dispensary or to make deliveries or allow others to make deliveries of any such products, except as allowed by a designated primary caregiver or pursuant to Section 8.60.140 of this Code.

(Ord. No. 4244, § 1, 10-21-2014)

#### 8.60.140 - Delivery of products.

A medical marijuana establishment agent authorized by the medical marijuana dispensary may deliver any of the products identified in Subsection 8.60.130(e)(2)(A)—(D) of this Code from the medical marijuana dispensary located within unincorporated Clark County to a resident of Clark County who is a patient or is the patient's designated primary caregiver and who holds a valid registry identification card only when the licensed medical marijuana dispensary:

- (a) Before transportation:
  - (1) Validates the resident's registry identification card with the electronic verification system;
  - (2) Confirms verbally with the patient or designated primary caregiver by telephone that the patient or designated primary caregiver ordered the medical marijuana, edible marijuana products, marijuana-infused products or paraphernalia and verifies the identity of the patient;

- (3) Ensures that the quantity of product ordered does not exceed the limit for that patient pursuant to NRS 453A.200; and
  - (4) Verifies that the address of the patient or his or her designated primary caregiver to which the delivery will be made is within the unincorporated areas of Clark County, or within a jurisdiction within Clark County that allows such deliveries subject to that jurisdiction's laws, regulations and rules.
- (b) Upon delivery:
- (1) Delivers only to the address of the patient or the patient's designated primary caregiver that matches the address in the electronic verification system or on the registry identification card; and
  - (2) Secures a signature from the patient or designated primary caregiver and may only leave the items with the patient or designated primary caregiver;
- (c) Complies with all other delivery and transportation regulations in NAC 453A (LCB File No. R004-14A).

If the patient or designated primary caregiver is not present at the address when delivery is attempted, the medical marijuana, edible marijuana products, marijuana-infused products and paraphernalia must be returned to the medical marijuana dispensary.

No deliveries of marijuana, paraphernalia, edible marijuana products or marijuana-infused products may be made to a person other than a Nevada resident who holds a valid registry identification card.

(Ord. No. 4244, § 1, 10-21-2014)

#### 8.60.150 - Transportation service for patients and designated primary caregivers.

A medical marijuana dispensary may provide transportation to and from the dispensary to a patient or designated primary caregiver who holds either a valid registry identification card or a nonresident card as defined in NRS 453A.364 that is not expired that matches the name on the cardholder's government-issued photo identification and the photo on the government-issued identification clearly matches the appearance of the patient or designated primary caregiver provided that there is no charge for this service and that the medical marijuana dispensary complies with all applicable rules and regulations of the Nevada Transportation Authority.

(Ord. No. 4244, § 1, 10-21-2014)

#### 8.60.160 - Duties of licensee.

It is the affirmative duty of each holder of a medical marijuana establishment license to strictly comply with all of the applicable provisions of this Code and state statutes and regulations regulating medical marijuana establishments and, without limiting the generality of the foregoing, each holder of a medical marijuana establishment license must:

- (a) Maintain and conduct all activities upon the premises in a decent and respectful manner and shall not knowingly permit, within or upon the licensed premises, any use or consumption of any medical marijuana, edible marijuana products or marijuana-infused products, or permit any conditions that could cause disorder, disturbances, nuisances or other activities which endanger the health or safety of the patrons or disrupt the peace or order of the neighborhood;
- (b) Be responsible for the acts of his or her employees, agents and volunteers when they are performing their duties for the medical marijuana establishment;
- (c) Maintain adequate security to ensure compliance with the requirements of this chapter, NRS 453A and NAC 453A;
- (d) Operate and maintain the medical marijuana establishment in a professional, orderly and dignified manner that is consistent with the traditional style of pharmacies and medical offices;
- (e) Not promote or advertise the medical marijuana establishment in a manner that is inconsistent with the traditional style of advertising for pharmacies and medical offices;
- (f) Seek and obtain all necessary division approvals for signs and advertising;
- (g) Comply with and adhere to all public safety requirements and conditions from any inspection agency, including, but not limited to, the fire department, department of air quality, building department and health district; and
- (h) Remain qualified to hold a license pursuant to this chapter of the Code and state law.

For the purposes of this section, "premises" means all portions of the building in which the licensee is located and over which it has control and that area or parking lot over which the licensee has ownership or contractual parking privileges.

(Ord. No. 4244, § 1, 10-21-2014)

#### 8.60.170 - Disposal of waste.

- (a) Medical marijuana, edible marijuana products and marijuana-infused products must be stored, secured and managed in accordance with all applicable state and county statutes, regulations, ordinances or other requirements.
- (b) Conservation of water is strongly encouraged and liquid waste from medical marijuana establishments shall be disposed of in accordance with all applicable federal, state and county laws, regulations, rules or other requirements.
- (c) Disposal of chemical, dangerous or hazardous waste must be conducted in a manner consistent with federal, state and county laws, regulations, rules and other requirements. This disposal may include, but is not limited to, the disposal of all pesticide or other chemicals used in the cultivation process, certain solvents or other chemicals used in the production of medical marijuana concentrate or any marijuana soaked in flammable solvent for purposes of producing a medical marijuana concentrate.

- (d) Solid waste generated from the cultivation of marijuana or the production of edible marijuana products or of marijuana-infused products, including products that have exceeded the expiration date for sale, or from the testing of marijuana or marijuana products must be disposed of in such a manner as to make the waste unusable and unrecognizable and the disposal of marijuana waste must be documented in the inventory control system pursuant to the provisions in NAC 453A.

(Ord. No. 4244, § 1, 10-21-2014)

#### 8.60.180 - Record keeping.

The medical marijuana establishment must maintain adequate and accurate books and records that provide a true accounting of all financial transactions, expenditures and control of inventory and prepare annual financial statements using generally accepted accounting principles. The director and any other officer designated by the director shall have the power and authority to enter any medical marijuana establishment at any time and have access to the books and records of such business for the purpose of ascertaining proper payment of license fees and compliance with all of the applicable provisions of the Clark County Code, NRS 453A and NAC 453A. An audit of the financial statements and operations of the business may be conducted by the department and the information received from the licensee under the provisions of this section shall be deemed confidential and available only to those county officials concerned in such matters.

(Ord. No. 4244, § 1, 10-21-2014)

#### 8.60.190 - Signs and advertising.

A medical marijuana establishment must comply with the requirements provided in Title 30 of the County Code, Chapter 453A of NRS and Chapter 453A of NAC regarding signs and advertising, and, in addition, shall not:

- (a) Use any advertising material that is misleading, deceptive, false, or that, as evidenced either by the content of the advertising material or by the medium or the manner in which the advertising is disseminated, is designed to appeal to minors;
- (b) Advertise or use any advertising material that has not been approved by the division pursuant to NAC 453A (LCB File No. R004-14A, Section 51);
- (c) Advertise in a manner that is inconsistent with the medicinal use of medical marijuana;
- (d) Use any advertising material that promotes medical marijuana for recreational or any other use other than for medicinal purposes;
- (e) Place or maintain, or cause to be placed or maintained, an advertisement for marijuana, medical marijuana, edible marijuana products or marijuana-infused products in any form or through any medium whatsoever:

- (1) Within one thousand feet of the perimeter of a community facility or a public or private school that provides formal education traditionally associated with preschool or kindergarten through grade 12;
- (2) On or in a public transit vehicle or public transit shelter; or
- (3) On or in a publicly owned or operated property.

The restrictions set forth in subsection (e) of this section shall not apply to:

- (A) Any sign as defined in CCC Title 30 which is located on the same lot as the medical marijuana establishment, that exists for the purpose of identifying the location of the medical marijuana establishment, and otherwise complies with the state regulatory authority, the conditions of approval of the license, conditions of the approved special use permit and other applicable county laws and regulations; or
- (B) Advertising which is purely incidental to sponsorship of a charitable event by a medical marijuana establishment or recognition by a charitable event or organization of donations made by a medical marijuana establishment.

(Ord. No. 4244, § 1, 10-21-2014)

#### 8.60.200 - State registration or provisional certificate.

If the medical marijuana establishment registration certificate or provisional certificate that is issued by the division to the medical marijuana establishment is suspended, revoked, non-renewed or relinquished, then the county business license will simultaneously and automatically be suspended, revoked, non-renewed or relinquished and the license must immediately be returned to the department.

(Ord. No. 4244, § 1, 10-21-2014)

#### 8.60.210 - Change in ownership or location.

NAC 453A (LCB File No. R004-14A) requires that a medical marijuana establishment must surrender its medical marijuana establishment registration certificate and reapply for a medical marijuana establishment registration certificate during the next request for applications issued by the division:

- (a) Before all or substantially all of the assets of the medical marijuana establishment or before ten percent or more of the stock of the medical marijuana establishment are transferred; or
- (b) Before any change in location of the medical marijuana establishment occurs. Prior to reapplying for a medical marijuana establishment registration certificate, the medical marijuana establishment must submit information and documents pursuant to Section 8.60.020 of this chapter and comply with Title 30 regarding land use applications for a special use permit.

Any change in ownership of a medical marijuana establishment that does not involve a transfer of all or substantially all of the assets of the medical marijuana establishment or involves a transfer of less than ten percent of the stock of a medical marijuana establishment must be reported to the department on forms approved by the director before any such change occurs.

(Ord. No. 4244, § 1, 10-21-2014)

#### 8.60.220 - Change in other information.

Changes in information previously provided to the department of business license by a medical marijuana establishment must be submitted to the department on forms approved by the director prior to the changes being made, including, but not limited to, any changes in the establishment's:

- (a) Fictitious firm name;
- (b) Telephone number, mailing address or electronic mail address;
- (c) Business plan or operating plan;
- (d) Security plan;
- (e) Transportation plan;
- (f) Advertising plan; and
- (g) Any other changes essential to the operations of the medical marijuana establishment.

(Ord. No. 4244, § 1, 10-21-2014)

#### 8.60.230 - Annual renewal of medical marijuana establishment business license.

A medical marijuana establishment license must be renewed each year following the renewal of its registration certificate with the division. In addition to the information required to be submitted to the division for the renewal of a medical marijuana establishment registration certificate pursuant to NAC 453 (LCB File No. R004-14A, Section 36), the medical marijuana establishment must also submit to the department of business license an updated business plan, evidence that the division has renewed its registration certificate and a report on any benefit to or involvement in the local community, as defined in Section 8.60.240 of this Code, that has occurred in the prior year. The information and documents required to be submitted to the department must be submitted no later than December 1 of each year. A medical marijuana establishment business license will expire each year on December 31 and any renewal of the license will commence on January 1 of the subsequent year.

(Ord. No. 4244, § 1, 10-21-2014)

#### 8.60.240 - Local community benefit and involvement.

Providing benefit to and involvement in the local community by medical marijuana establishments is very desirable. One of the main goals of a medical marijuana establishment must be to provide patients that have a valid registry identification card access to medical marijuana for the purpose of treating their medical conditions. Benefit to the local community could include discounts to low-income patients and contributions to worthy causes. At the time of renewal for each medical marijuana establishment, a report is required to be submitted to the department pursuant to Section 8.60.230 of this Code.

(Ord. No. 4244, § 1, 10-21-2014)

8.60.250 - Denial of an application; suspension or revocation of a license.

(a) The department will deny an application or an application to renew a medical marijuana establishment business license if:

- (1) The application or the medical marijuana establishment is not in compliance with any provision of this chapter, Chapter 453A of NRS or Chapter 453A of NAC.
- (2) An owner, officer or board member of the medical marijuana establishment:
  - (A) Is an employee or contractor of the department;
  - (B) Has an ownership or financial investment interest in an independent testing laboratory and also is an owner, officer or board member of a medical marijuana dispensary, cultivation facility or a facility for the production of edible marijuana products or marijuana-infused products; or
  - (C) Provides false or misleading information to the department.

(b) The department will revoke a medical marijuana establishment business license if the department receives formal notice from the division that the medical marijuana establishment has had its medical marijuana establishment registration certificate terminated.

(c) The department may deny an application or an application to renew a medical marijuana establishment business license or may suspend or revoke any medical marijuana establishment business license issued under the provisions of this chapter upon the following grounds:

- (1) Violation by the applicant or the medical marijuana establishment of any of the provisions of this chapter, NRS 453A or NAC 453A.
- (2) An owner, officer or board member of the establishment has been convicted of an excluded felony offense;
- (3) The failure or refusal of an applicant or medical marijuana establishment to comply with any of the provisions of this chapter, NRS 453A or NAC 453A.
- (4) The failure or refusal of a medical marijuana establishment to carry out their policies and procedures or to be in compliance with the statements and representations provided to the department in the application of the medical marijuana establishment.

- (5) Operating a medical marijuana establishment without a medical marijuana establishment business license.
  - (6) The failure or refusal to return an adequate plan of correction to the department within ten business days after receipt of a statement of deficiencies.
  - (7) The failure or refusal to correct any deficiency specified by the department within the period specified in a plan of correction.
  - (8) The failure or refusal to cooperate fully with an investigation, inspection or audit by the department.
  - (9) The failure to comply with the provisions of this chapter regarding the payment of business license fees.
  - (10) The failure to comply with any condition placed upon the medical marijuana establishment business license when the license was issued or any condition or requirement made by a public safety inspecting agency.
- (d) If the department denies an application for or an application to renew a medical marijuana establishment business license or suspends or revokes a medical marijuana establishment business license, the department must provide notice to the applicant or medical marijuana establishment that includes the specific reasons for the denial, suspension or revocation.
  - (e) Before denying an application for or an application to renew a medical marijuana establishment business license or suspending or revoking a medical marijuana establishment business license as a result of the actions of an owner, officer or board member of the medical marijuana establishment pursuant to subsection (a)(1) or subsection (a)(2) of this section, the department may provide the medical marijuana establishment with an opportunity to correct the situation.
  - (f) Any such denial, suspension or revocation shall become effective ten working days after the notification to the applicant or medical marijuana establishment has been given to the applicant or licensee. The notice shall be deemed delivered when physically hand-delivered to the applicant or an owner, officer or board member of the medical marijuana establishment, if hand-delivered, or on the date that the notification was deposited with the U.S. Postal Service and mailed by certified mail, return receipt requested, to the address listed on the business license.

(Ord. No. 4244, § 1, 10-21-2014)

#### 8.60.260 - Emergency temporary suspension.

- (a) The director may issue an emergency temporary suspension order on any business licensed under the provisions of this chapter of the Code, for cause, or upon documented Code violations, or upon specific acts which endanger the public welfare, where such emergency temporary suspension is deemed necessary for the immediate preservation of the public peace, health, health, safety, order, or welfare.
- (b) The emergency temporary suspension order shall be delivered to the licensee and must set forth in writing the grounds upon which it is issued, including a statement of facts

constituting the alleged emergency necessitating such temporary suspension. The order shall also set forth the date, time, and place for the licensee to appear before the hearing officer to show cause in the matter. The date set for the hearing shall not exceed five working days after issuance of the emergency temporary suspension order.

- (c) The emergency temporary suspension order is effective upon issuance and the licensee shall immediately cease operations upon delivery of the order to the business.
- (d) Hearings for emergency temporary suspensions shall be conducted pursuant to Section 8.60.270 of this Code.

(Ord. No. 4244, § 1, 10-21-2014)

#### 8.60.270 - Appeal of denial, suspension, revocation or nonrenewal.

An applicant or medical marijuana establishment that has received a notice from the department that his or her application for or application to renew a medical marijuana establishment business license or his or her medical marijuana establishment business license will be or has been denied, suspended or revoked may appeal such decision by filing a written objection with the Department within thirty calendar days of the notification.

If the written objection is not submitted within thirty calendar days of the notification, (1) the denial, suspension, revocation or nonrenewal of a license shall become final, and (2) the director of business license shall have the authority to take possession of the license, if any had been issued.

The written appeal shall include, at a minimum: (1) a copy of the department's notice of action or decision; and (2) a written statement detailing the applicant or licensee's arguments against each alleged act of noncompliance contained in the notice of denial, suspension, revocation, nonrenewal, or notice to appear to show cause.

Except for an emergency temporary suspension, once a written objection has been received by the department the appeal shall automatically stay such suspension or revocation pending the outcome of the appeal. A date will be set for the appeal to be heard by a hearing officer. If requested by the appellant or hearing officer, the department may grant a postponement to a later regularly scheduled hearing if such request is made in writing and for good cause. At least ten working days prior to the hearing date the applicant or licensee will be notified of the date, time and place of the hearing at which time the applicant or licensee may present his or her case regarding the denial, suspension, revocation or nonrenewal and may present documents and/or witnesses to support his or her position. The hearing officer shall hear the testimony of all witnesses and review all documents and exhibits submitted in the hearing proceeding by the parties. The hearing officer may affirm, reverse, or modify the action of the director. Following the hearing, the hearing officer will make a decision based on the facts presented and prepare a decision that will be sent to the applicant or licensee within five working days after the close of the hearing.

If the director of business license, or other person aggrieved is dissatisfied with the hearing officer's decision, he or she may file for a petition for judicial review with the district court.

(Ord. No. 4244, § 1, 10-21-2014)

8.60.280 - Hearing requirements.

- (a) At the hearing, all witnesses shall be sworn before the hearing officer.
- (b) The applicant or licensee shall be required to attend the hearing and may be called as a witness. An applicant or licensee that does not testify on his or her own behalf, may be called and examined, as if under cross-examination, by the department or the department's counsel. Failure of the applicant or licensee to attend the hearing, without good cause, shall result in affirmation of the director's decision.
- (c) The applicant or licensee shall bring to the hearing all licenses, permits, or certificates issued to the applicant or licensee.
- (d) The parties to the hearing may, at their own expense, be represented by an attorney.
- (e) The hearing officer shall not be required to transcribe testimony at a hearing. It shall be the sole responsibility of the party desiring a transcript of the proceeding to provide a certified court reporter. Said transcript shall become a part of the hearing record and be available for all parties and the hearing officer to review.
- (f) The burden of proof is upon the appellant to convince the hearing officer that errors were made in denying, revoking, suspending, issuing an order for emergency temporary suspension, or refusing to renew a license.
- (g) Every party to a hearing shall be able to:
  - (1) Call and examine witnesses;
  - (2) Introduce exhibits relevant to the issues of the case;
  - (3) Cross-examine opposing witnesses on matters relevant to the issues of the case, even though the matter was not covered in a direct examination;
  - (4) Impeach any witness regardless of which party first called him or her to testify; and
  - (5) Offer rebuttal evidence.

(Ord. No. 4244, § 1, 10-21-2014)

8.60.290 - Hearing evidence.

- (a) The hearing officer shall not be bound by technical rules relating to evidence and witnesses and shall control the evidence, reserving to themselves the power to exclude testimony or exhibits they do not consider relevant.
- (b) Hearing evidence may include:
  - (1) Business records; certified copies of official police reports; and investigation reports from the department or other agencies, if the hearing officer deem them relevant to the pleadings. Such records will be admitted in evidence if authenticated by affidavit or

certified by testimony of the person preparing the document or having official custody thereof; and

- (2) Any other evidence deemed relevant by the hearing officer. Such evidence may be admitted and shall be sufficient to support a finding if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in a civil action.

(Ord. No. 4244, § 1, 10-21-2014)