Session of 2019

SENATE BILL No. 195

By Committee on Public Health and Welfare

2-15

AN ACT enacting the Kansas safe access act; providing for the safe, legal, humanitarian and therapeutic use of cannabis for medical conditions; providing for the registration and functions of compassion centers; authorizing the issuance of identification cards; establishing the compassion board; providing for administration of the act by the department of health and environment.

WHEREAS, Cannabis has been used as a medicine for at least 5,000 years and can be effective for serious medical conditions for which conventional medications fail to provide relief; and

WHEREAS, Modern medical research has shown that cannabis can slow the progression of such serious diseases as Alzheimer's and Parkinson's, stop HIV and cancer cells from spreading; has both anti-inflammatory and pain-relieving properties; can alleviate the symptoms of epilepsy, post traumatic stress disorder and multiple sclerosis; is useful in the treatment of depression, anxiety and other mental disorders; and can help reverse neurological damage from brain injuries and stroke; and

WHEREAS, The world health organization has acknowledged the therapeutic effects of cannabinoids, the primary active compounds found in cannabis, including as an anti-depressant, appetite stimulant, anticonvulsant and anti-spasmodic, and identified cannabinoids as beneficial in the treatment of asthma, glaucoma, and nausea and vomiting related to illnesses such as cancer and AIDS; and

WHEREAS, The national institutes of health, the institute of medicine and the American college of physicians have issued statements of support for further research and development of cannabis medicine; and

WHEREAS, The American medical association has called for the review of the classification of cannabis as a schedule I controlled substance to allow for clinical research and the development of cannabinoid-based medicines; and

WHEREAS, The national cancer institute has concluded that cannabis has antiemetic effects and is beneficial for appetite stimulation, pain relief and improved sleep among cancer patients; and

WHEREAS, The American herbal pharmacopoeia and the American herbal products association have developed qualitative standards for the use of cannabis as a botanical medicine; and

WHEREAS, The United States supreme court has long noted that states may operate as "laboratories of democracy" in the development of innovative public policies; and

WHEREAS, Twenty-eight states and the District of Columbia have enacted laws that allow for the medical use of cannabis; and

WHEREAS, Seventeen additional states have enacted laws authorizing the medical use of therapeutic compounds extracted from the cannabis plant; and

WHEREAS, More than 17 years of state-level experimentation provides a guide for state, and federal law and policy related to the medical use of cannabis; and

WHEREAS, The American legion, America's oldest veteran organization, has passed a resolution calling on congress to amend its laws to "at a minimum recognize cannabis as a drug with potential medical value"; and

WHEREAS, Accredited educational curricula concerning the medical use of cannabis have been established, which meet continuing medical education requirements for practicing physicians; and

WHEREAS, Congress has prohibited the federal department of justice from using funds to interfere with and prosecute those acting in compliance with their state medical cannabis laws, and the department of justice has issued guidance to U.S. attorneys indicating that enforcement of the controlled substances act is not a priority when individual patients and their medical care providers are in compliance with state law, and that federal prosecutors should defer to state and local enforcement so long as a viable state regulatory scheme is in place; and

WHEREAS, Data from the federal bureau of investigation's uniform crime reports and the compendium of federal justice statistics show that approximately 99 out of every 100 cannabis arrests in the United States are made under state law, rather than under federal law therefore, consequently, changing state law will have the practical effect of protecting from arrest the vast majority of seriously ill patients who have a medical need to use cannabis.

Now, therefore:

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) Sections 1 through 22, and amendments thereto, shall be known as the Kansas safe act access act.

(b) The legislature of the state of Kansas declares that the Kansas safe access act is enacted pursuant to the police power of the state, to protect the health of its citizens that is reserved to the state of Kansas and its people under the 10th amendment to the constitution of the United States.

Sec. 2. Definitions. The following definitions of terms shall apply to all rules promulgated pursuant to the Kansas safe access act, unless the

context requires otherwise:

(a) "Adverse employment action" means refusing to hire or employ a qualified registered patient, barring or discharging a qualified registered patient from employment, requiring a qualified registered patient to retire from employment or discriminating against a qualified registered patient in compensation or in terms, conditions or privileges of employment.

(b) "Cannabinoid potency profile" means the results of a liquid chromatography (HPLC) column with diode array detector (DAD) testing of a specific batch of medical cannabis and medical cannabis products to ensure accurate quantification of cannabinoids for dosing and labeling accuracy.

(c) "Cannabis" or “Medical cannabis" means all parts of all varieties of the plant cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, cake or the sterilized seed of the plant which is incapable of germination, used for medical therapeutics.

(d) "Cannabis compliance agency" or "agency" means agency created under section 21, and amendments thereto. The cannabis compliance agency oversees all components of licensing, compliance and regulation enforcement; is not a resource for the growing process and does not have to give information pertaining to the growing process to patients or caregivers as part of this act. The agency works in consultation with the compassion board and is established as an agency under the Kansas department of health and environment.

(e) "Cannabis infused products" or "cannabis-based products" or "cannabis products" means products containing medical cannabis.

(f) "Certification" or "recommendation" means a document given by medical provider to a patient which states patient has a condition or illness that may be helped by medical cannabis.

(g) "Child-resistant" means special packaging that is designed or constructed to be significantly difficult for children under five years of age to open and not difficult for normal adults to use properly as defined by 16 C.F.R. 1700.20 (1995) and ASTM classification standard D3475-13, http://www.astm.org/Standards/D3475.htm.

(h) "Cannabis resource commission" means the board created under section 13, and amendments thereto. The cannabis resource commission will report to the governor, be responsible for advising on and acting as a resource for policy on behalf of patients, medical providers and the public;

with focus on continuous process improvement to better serve the needs of all; to facilitate research, work with researchers, liaison with other Kansas agencies and organizations, liaison with law enforcement, the Kansas legislature and the cannabis compliance agency.

(i) "Compassion center" means a local, government regulated, physical location, typically inside a retail storefront or office building in which a person can purchase medical cannabis and medical cannabis products for therapeutic use. A patient receives cannabis medication as allowed per the patient's medical provider’s recommendation.

(j) "Compassion center staff" means a principal officer, board member, employee, volunteer or agent of a compassion center who has been issued and possesses a valid identification card.

(k) "Cultivating caregiver" means the individual or entity, such as a nursing home or hospice, designated by a registered qualifying patient with an identification card, or primary caregiver with an identification card, able to cultivate a patient's recommended amount of medical cannabis on their behalf. Cultivating caregivers shall not exceed a limit of 10 patients without purchasing and implementing a seed to sale tracking system and following ecologically sustainable guidelines.

(l) "Cultivation facility" means an entity licensed to cultivate, prepare and package medical cannabis, and sell to compassion centers and medical cannabis product manufacturers but not to consumers.

(m) "Cultivar" means a cannabis plant variety that has been produced in cultivation by selective breeding.

(n) "Department" means the department of health and environment.

(o) "Distillation process material" means food grade alcohol and CO2, a liquid that has a flashpoint below 100 degrees Fahrenheit.

(p) "Ecologically sustainable pesticides" means pesticides approved for organic agriculture. Banned pesticides include but are not limited to: Myclobutanil, imidacloprid, avermectin, bifenazate, etoxazole, and azadirachtin.

(q) "Extract" is defined as the final product, derived by various methods of separating plant material from chemical compounds.

(r) "Harvest batch lot" means a specifically identified quantity of processed medical cannabis that is uniform in cultivar, cultivated using the same ecologically sustainable herbicides, pesticides and fungicides and harvested at the same time.

(s) "Identification card" means a document issued by the department that identifies a person as a registered qualifying patient, registered designated primary caregiver or employee of a registered compassion center.

(t) "Identity statement and standardized graphic symbol," “identity statement” means the name, or logo of the business as it is commonly

known and used in market positioning. A licensee may elect to have its identity statement also serve as its standardized graphic symbol for purposes of complying with this rule. The licensee shall maintain a record of its identity statement and standardized graphic symbol and make such information available to the cannabis compliance agency upon request.

(u) "Licensee" means any person or entity holding a license to operate a compassion center, medical cannabis cultivation facility, medical cannabis testing facility or manufacture medical cannabis products.

(v) "Medical cannabis concentrate" means a medical cannabis concentrated form, manufactured by extraction, decoction or distillation, available for purchase at compassion centers.

(w) "Medical cannabis products manufacturing facility" means any site that manufactures medical cannabis based products.

(x) "Medical cannabis testing facility" means a testing laboratory that is licensed by the cannabis compliance agency to conduct sampling and analysis of medical cannabis and medical cannabis products.

(y) "Medical condition" means either a temporary disability or illness,due to injury or surgery, or a permanent disability or illness which:

(1) Substantially limits the ability of the person to conduct one or more major life activities as defined in the Americans with disabilities act of 1990 (ADA)(public law 101-336); or

(2) if not alleviated, may cause serious harm to the patient's safety, physical, or mental health.

(z) "Medical provider" means a physician, physician's assistant or an advanced practice registered nurse who possesses a license in good standing to practice medicine or osteopathy issued by the Kansas board of healing arts or board of nursing and who has taken responsibility for an aspect of the medical care, treatment, diagnosis, counseling or referral of a patient and who has conducted a medical examination of that patient before recording in the patient's medical record the physician's or advanced practice registered nurse's assessment of whether the patient has a medical condition where the medical use of cannabis is appropriate.

(aa) "Occupational licensee" means an individual trained in various aspects of cannabis compliance, or cannabis product manufacturing compliance.

(bb) "Optional premises" means a site for cultivation or manufacturing other than the primary business site of a licensee.

(cc) "Patient," "qualifying patient" and "registered qualifying patient" means a person who has been diagnosed by a medical provider as having a debilitating medical condition and as such have qualified for coverage under the Kansas safe access act, whether a temporary disability or illness, due to injury or surgery, or a permanent disability or illness which substantially limits the ability of the person to conduct one or more major

life activities, as defined in the Americans with disabilities act of 1990 (ADA)(public law 101-336); or if not alleviated, may cause serious harm to the patient's safety or physical or mental health.

(dd) "Patient owned cooperative" or "cooperative" means an organization that merely facilitates the collaborative efforts of patient and caregiver members, including the allocation of costs and revenues. As such, a cooperative is not a statutory entity, but as a practical matter it might have to organize as some form of business to carry out its activities. The cooperative should not purchase medical cannabis from, or sell to, non-members; instead, it should only provide a means for facilitating or coordinating transactions between members. Not every member of a cooperative must participate in cultivation. Cities cannot use nuisance abatement ordinances to impose a blanket ban on cooperatives, if the cooperative cultivates on-site.

(ee) "Philanthropic equity investors" means enterprise level investors seeking to provide nonprofits with the capital they need to scale impact and intended to subsidize organizations until they reach a point when their activities are fully sustained by commerce of cooperative members.

(ff) "Primary caregiver" means the individual or entity, designated by a registered, qualifying patient who has consistently assumed responsibility for the housing, health or safety of that patient or person, and may include any of the following:

(1) A registered qualifying patient receives medical care or supportive services, or both, from a licensed clinic, a licensed state government institution clinic, a licensed health care facility, a licensed residential care facility for persons with chronic life-threatening illness, a licensed residential care facility for the elderly, a hospice or a licensed home health agency, the owner or operator and any trained staff of a licensed clinic, facility, hospice, or home health agency, group home or halfway house, if designated as a primary caregiver by a registered qualifying patient;

(2) an individual who has been designated as a primary caregiver by one or more registered qualifying patient(s);

(3) a primary caregiver shall be at least 18 years of age, unless the primary caregiver is the parent of a minor child who is a registered qualifying patient, or the primary caregiver is a person otherwise entitled to make medical decisions under state law or it can be proven to the cannabis compliance agency that no other viable option for a caregiver is available.

(gg) "Production batch lots" means a group of medical cannabis-based products created from the same production run.

(hh) "Radio Frequency Identification Tag" (RDIF Tag) means an electronic tag that exchanges data with a RDIF reader through radio waves; used for identification and tracking. An RFID system includes the

tag itself, a read/write device and a host system application for data collection, processing and transmission.

(ii) "Seed to sale tracking system" means a technology platform designed specifically for governments and regulatory agencies that will collect and monitor the critical data needed to track compliance with jurisdictional rules, laws and regulations governing cannabis-related businesses. It is a software tracking system used to track the production, transportation, destruction, and sales of legal cannabis in a system allowing regulatory agencies to view reports in real time. It allows medical cannabis businesses to utilize the commercial system as a business platform which supports them in remaining fully compliant when tracking all aspects of their day-to-day operations.

(jj) "Shipping container" means any container or wrapping used solely for the transport of medical cannabis or medical cannabis-infused product in bulk or in a quantity for other medical cannabis business.

(kk) "Third-party certification agencies" means third-party certification agencies that offer certification for producers of ecologically sustainable grown cannabis products to a private standard that is similar to internationally accepted organic standards.

(ll) "Visiting qualifying patient" means a patient with a debilitating medical condition who is not a resident of Kansas or who has been a resident of Kansas less than 30 days.

(mm) "Written documentation" means accurate reproductions of those portions of a patient's medical records that have been created by the attending medical provider, that contain the information that the patient may submit to the cannabis compliance agency or its designee as part of an application for an identification card.

Sec. 3. The purpose of the Kansas safe access act. The purpose of this act is to: (a) Provide legal protections to persons with medical conditions, that medicate with cannabis to alleviate the symptoms of such medical conditions under the supervision of a medical provider, and prohibits the provisions of law making unlawful the possession, or cultivation of cannabis from applying to a patient's primary caregiver, who possesses or cultivates cannabis for the medical purposes of the patient upon the written recommendation of their medical provider;

(b) allow for the regulated cultivation, processing, manufacture, delivery, distribution and possession of cannabis as permitted by this act;

(c) make illegal the property seizure and forfeiture of qualifying patients who use cannabis as a medical treatment, family members in their homes or for the personal caregivers who may assist those patients, the physicians and healthcare professionals who certify patients as qualifying for medical use or the individuals who provide medical cannabis to qualified patients or otherwise participate in accordance with state law and

regulations in the medical cannabis program;

(d) establish that neither the presence of cannabinoid components or metabolites in a person's bodily fluids, nor conduct related to the medical use of cannabis by a custodial or noncustodial parent, grandparent, pregnant woman, breastfeeding mother, legal guardian, or other person charged with the wellbeing of a child, or infant shall form the sole or primary basis for any action or proceeding by a child welfare agency, family or juvenile court because their child, or ward, is a medical cannabis patient, or a newborn, or child of breastfeeding mother has presence of cannabinoids because the mother is a medical cannabis patient. This subsection shall apply only to conduct in compliance with the Kansas safe access act;

(e) establish patient protection for the purposes of medical care, including organ transplants, a qualifying patient's medical use of cannabis does not constitute the use of an illicit substance, or otherwise disqualify a registered qualifying patient from medical care, nor be used to violate a registered qualifying patient on probation, or parole;

(f) establish protection for patients and caregivers, that unless required by federal law, or required to obtain federal funding, no landlord may refuse to rent a dwelling unit to a person or take action against a tenant solely on the basis of an individual's status of a qualifying patient, or identification card holder under this act;

(g) ensure that patient and caregiver insurance coverage of any type shall not be endangered because of a person's status as a medical cannabis patient;

(h) guarantee that medicine availability shall not be hampered to any patient and that it shall be available to all medical cannabis patients in any environment where other medications are allowed;

(i) establish that a patient or caregiver may assert the medical purpose for using cannabis as a defense, or appeal, to any prosecution, or conviction, of an offense involving cannabis intended for the patient's medical use, and that this defense shall be presumed valid where the evidence shows that:

(1) A medical provider has stated that, in the medical provider's professional opinion, after having completed a full assessment of the patient's medical history and current medical condition, the patient is likely to receive, or would have received therapeutic or palliative benefit from the medical use of cannabis to treat or alleviate the patient's medical condition or symptoms associated with the patient's medical condition;

(2) the patient and the patient's designated primary caregiver, or cultivating caregiver if any, were collectively in possession of a quantity of cannabis that was no more than was reasonably necessary to ensure the uninterrupted availability of cannabis for the purpose of treating or

alleviating the patient's medical condition or symptoms associated with the patient's medical condition;

(3) the registered qualifying patient, cultivating caregiver, or designated primary caregiver was engaged in the acquisition, possession, cultivation, manufacture, use or transportation of cannabis, paraphernalia, or both, relating to the administration of cannabis solely to treat or alleviate the patient's medical condition or symptoms associated with the patient's medical condition;

(4) the person may assert the medical purpose for using cannabis in a motion to dismiss, and the charges shall be dismissed following an evidentiary hearing where the person shows the elements listed in paragraphs (1), (2) and (3); and

(5) if a patient demonstrates the patient's medical purpose for using cannabis pursuant to this section the patient and the patient's designated caregiver, or cultivating caregiver shall not be subject to the following for the registered qualifying patient's use of cannabis for medical purposes:

(A) Disciplinary action by an occupational or professional licensing board or bureau; or

(B) forfeiture of any interest in or right to property;

(j) recognize established federal protection for native American growers, collectives and compassion centers. Kansas shall in no way impede the rights of indigenous peoples;

(k) recognize that worker's compensation should cover medical cannabis as it would all other medications;

(l) guarantee medical cannabis patients shall fully retain all rights, including their second amendment rights; and

(m) establish that medical cannabis patients will be protected from warrantless drug enforcement administration's medical record searches.

(n) This act shall remove cannabis (and all places listed as medical cannabis) and all parts of all varieties of the plant cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, the resin extracted therefrom, fiber, oil, or cake or the sterilized seed of the plant which is incapable of germination, from K.S.A. 65-4105, 65-4101, 65-4107, 65-4109, 65-4111 and 65-4113, and amendments thereto.

(o) The Kansas safe access act shall not prevent the seizure or forfeiture of cannabis exceeding the amounts allowed under such act; and not meeting exceptions listed in section 8, and amendments thereto.

(p) Any cannabis, cannabis paraphernalia, illicit property or interest

in illicit property that is possessed, owned or used in connection with the medical use of cannabis as allowed under the Kansas safe access act, or acts incidental to such use, shall not be seized or forfeited.

(q) A person shall not be subject to arrest, prosecution or penalty in any manner, or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau, simply for being in the presence or vicinity of the medical use of cannabis as allowed under the Kansas safe access act, or for assisting a patient with using or administering cannabis.

(r) A person shall not be subject to arrest, prosecution or penalty in any manner or denied any right or privilege including, but not limited to, civil penalty or disciplinary action by a court or occupational or professional licensing board or bureau, for providing a registered qualifying patient or a registered designated primary caregiver, or cultivating caregiver with cannabis paraphernalia for purposes of a registered patient's medical use of cannabis.

(s) Fraudulent representation to a law enforcement official of any fact or circumstance relating to the medical use of cannabis to avoid arrest or prosecution shall be punishable by a fine of $500, which shall be in addition to any other penalties that may apply for making a false statement or for the use of cannabis other than use undertaken pursuant to the Kansas safe access act.

(t) Any identification cardholder who sells cannabis to a person who is not allowed to possess cannabis for medical purposes under the Kansas safe access act shall have the cardholder's identification card revoked and shall be subject to other penalties for the unauthorized sale of cannabis.

(u) Where a state-funded or locally-funded law enforcement agency encounters an individual who, during the course of the investigation, credibly asserts that such individual is an identification cardholder or an entity whose personnel credibly assert that it is a compassion center, the law enforcement agency shall not provide any information from any cannabis-related investigation of the person to any law enforcement authority that does not recognize the protection of the Kansas safe access act and any prosecution of the individual, individuals or entity for a violation of the Kansas safe access act shall be conducted pursuant to the laws of this state.

(v) The act will establish protection of card holding, nonresident patients from other states with an established medical cannabis program traveling through the state of Kansas.

(w) If the department fails to adopt temporary rules and regulations to implement the Kansas safe access act within 180 business days of the effective date of the Kansas safe access act, a patient, prospective board member,or prospective principal officer of a compassion center may

commence an action in a court of competent jurisdiction to compel the department to perform the actions mandated pursuant to the provisions of the Kansas safe access act.

(x) If the cannabis compliance agency fails to issue a valid identification card in response to a valid application or renewal submitted pursuant to the Kansas safe access act within 30 business days of its submission, the identification card shall be deemed granted and a copy of the identification application, copy of renewal application, receipt from application submittal or receipt from application renewal shall be deemed a valid identification card.

(y) If at any time after the 180 business days following the effective date of the Kansas safe access act, the department is not accepting applications, including if it has not created rules and regulations allowing patients to submit applications, a notarized statement by a patient containing the information required in an application, pursuant to section 5, and amendments thereto, together with a written certification from their medical provider, these together shall be deemed a valid identification card.

(z) The act prohibits the provisions of law making unlawful the possession, therapeutic use, manufacture or cultivation of cannabis from applying to a registered qualifying patient, a registered qualifying patient's primary caregiver or cultivating caregiver, who possesses or cultivates cannabis for the personal medical purposes of the patient upon the written or oral recommendation or approval of a medical provider.

(aa) Patient owned cooperatives are allowed to grow, distribute and/or sell medical cannabis and medical cannabis products on a non-profit basis to their members.

(bb) Duly designated primary caregivers, and cultivating caregivers, who consistently attend to registered qualifying patients' needs, are allowed to charge for their labor and services in providing medical cannabis.

(cc) Nothing in this act shall be construed as interfering with a Kansas citizen’s right to purchase hemp based products under sec. 7606 legitimacy of industrial hemp research, within the 2014 farm act and/or federal guidelines established thereafter.

Sec. 4. Medical providers. The purpose of this rule is to prohibit any medical provider from being punished, or denied any right or privilege, for having recommended cannabis to a qualifying patient for medical therapeutic use. It sets forth general standards and requirements for medical providers and establishes guidelines for diagnosing registered qualifying patients as having a debilitating medical condition and as such have coverage under the Kansas safe access act, whether a temporary disability or illness, due to injury or surgery, or a permanent disability or

illness which substantially limits the ability of the person to conduct one or more major life activities, as defined in the Americans with disabilities act of 1990 (ADA)(public law 101-336); or if not alleviated, may cause serious harm to the patient's safety or physical or mental health.

The cannabis compliance agency intends the guidelines in this section to help maintain the integrity of Kansas medical providers recommending medical cannabis.

(a) A medical provider shall not be subject to arrest, prosecution or penalty in any manner or denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by the state board of healing arts or by any other occupational or professional licensing board or bureau, solely for providing written certifications, or otherwise stating that, in the medical provider's professional opinion, a patient is likely to receive therapeutic benefit from the medical use of cannabis to treat, or alleviate the patient's medical condition(s) or symptoms associated with the medical condition.

(b) Nothing in the Kansas safe access act shall prevent a professional licensing board from sanctioning a medical provider for failing to properly evaluate a patient's medical condition or otherwise violating the standard of care for evaluating medical conditions.

(c) For medical providers to qualify to recommend medical cannabis they must fulfill requirements as outlined by the cannabis compliance agency.

(d) Continuing education units covering medical cannabis are available online and if approved by the board of healing arts or the board of nursing, medical providers will be required to take courses in the endocannabinoid system (ECS), basic cannabis science, cannabis and palliative care and classes on dosage and delivery systems.

(e) Medical providers must reevaluate registered qualifying patients annually and provide the registered qualifying patient with an updated recommendation.

(f) Recommendations shall not be for any specific total weight but an individualized dosage plan.

Sec. 5. Identification cards. The purpose of this rule is to set forth general standards and requirements for the issuance of medical cannabis patient, and caregiver identification cards. The cannabis compliance agency intends this rule to provide unimpeded and legal access to medical cannabis patients and to prevent the diversion of medical cannabis to the black market.

(a) This act would require the department to establish and maintain a program under the cannabis compliance agency, for the issuance of identification cards to registered qualified patients, or primary caregivers, who submit the following in accordance with the cannabis compliance

agency's rules and regulations:

(1) Written certification;

(2) application with $10.00 fee or $10.00 renewal fee;

(3) name, address and date of birth date of the qualifying patient, except that if the applicant is homeless, no address is required;

(4) name, address and telephone number of the qualifying patient's medical provider;

(5) name, address and date of birth of the designated primary caregiver designated, if any, by the qualifying patient;

(6) a statement signed by the registered qualifying patient, pledging not to divert cannabis to anyone who is not allowed to possess cannabis pursuant to the Kansas safe access act; and

(7) a signed statement from the designated primary caregiver, if any, a statement signed by the cultivating caregiver if any, agreeing to be designated as the patient's designated primary caregiver or cultivating caregiver, and pledging not to divert cannabis to anyone who is not allowed to possess cannabis pursuant to the Kansas safe access act.

(b) The cannabis compliance agency shall not issue an identification card to a qualifying patient who is younger than 18 years of age unless:

(1) The qualifying patient's medical provider has explained the potential risks and benefits of the medical use of cannabis to the custodial parent or legal guardian with responsibility for health care decisions for the qualifying patient; and

(2) the custodial parent or legal guardian with responsibility for health care decisions for the qualifying patient consents in writing to:

(A) Allow the qualifying patient's medical use of cannabis;

(B) serve as the qualifying patient's designated primary caregiver; and

(C) control the acquisition of the cannabis, the dosage and the frequency of the medical use of cannabis by the qualifying patient.

(c) An identification card, or its equivalent, that is issued under the laws of another state, district, territory, commonwealth or insular possession of the United States that allows, in the jurisdiction of issuance, a visiting qualifying patient to possess cannabis for medical purposes, shall have the same force and effect as an identification card issued by the cannabis compliance agency.

(1) The cannabis compliance agency may not deny an application or renewal only if the applicant did not provide the information required pursuant to this section, rather, the application must be sent back and the missing information outlined. The application information will not be entered into the system and will be considered as a non-submittal.

(2) The cannabis compliance agency may deny an application if the applicant previously had an identification card revoked for violating the Kansas safe access act or if the cannabis compliance agency determines

that the information provided was falsified.

(3) Applicants will be allowed to appeal first rejections to the compassion board for review. Rejection of an application, or renewal, by the compassion board is considered a final department action, subject to judicial review. All administrative proceedings are subject to the Kansas administrative procedure act and in accordance with the judicial review act.

(d) The cannabis compliance agency shall issue an identification card to the designated caregiver, if any, who is named in a qualifying patient's approved application provided that the designated primary caregiver meets the requirements outlined in in this act.

(1) The cannabis compliance agency shall notify the qualifying patient who has designated someone to serve as the patient's primary caregiver if an identification card will not be issued to the designated primary caregiver.

(2) A designated primary caregiver shall be issued an identification card each time the designated primary caregiver is designated by a qualifying patient; adding the new patient name to card of the designated primary caregiver.

(e) The cannabis compliance agency shall issue temporary identification cards to qualifying patients and to designated primary caregivers at the time of approval, upon payment of a $10.00 fee, and permanent cards within 30 business days of approving an application or renewal.

(f) Each identification card shall expire one year after the date of issuance, unless the medical provider states a different time parameter within the written certification, then the identification card shall expire on that date.

(g) Identification cards shall contain all of the following:

(1) Name, address and date of birth of the qualifying patient;unless homeless, then no address is required;

(2) name, address and date of birth of the designated primary caregiver, if any;

(3) the date of issuance and expiration date of the identification card;

(4) a random 20-digit alphanumeric identification number, containing at least four numbers and at least four letters, that is unique to the cardholder;

(5) if the cardholder is a designated primary caregiver, the random identification number of the registered qualifying patient the designated caregiver is assisting;

(6) a photograph; and

(7) a barcode for scanning.

(h) The following notifications and cannabis compliance agency

responses are required:

(1) A registered qualifying patient shall notify the cannabis compliance agency of any change of name, address or designated primary caregiver or if the registered qualifying patient ceases to have a debilitating medical condition, within 30 business days of such change via the website or customer service phone number;

(2) a registered qualifying patient who fails to notify the cannabis compliance agency of any of these changes may be subject to a civil penalty of no more than $150.00 levied by the department;

(3) any registered designated primary caregiver, cultivating caregiver or compassion center staffer must notify the cannabis compliance agency of any change in name or address within 30 business days of such change. A registered designated primary caregiver, cultivating caregiver or compassion center staffer who fails to notify the cannabis compliance agency of any of these changes may be subject to a civil penalty of no more than $150.00 levied by the cannabis compliance agency;

(4) when a cardholder notifies the cannabis compliance agency of any changes listed in this subsection, the cannabis compliance agency shall issue the cardholder a new identification card within 30 business days of receiving the updated information and a $10.00 fee;

(5) when a registered qualifying patient ceases to be a registered qualifying patient or changes the registered designated primary caregiver, or cultivating caregiver the cannabis compliance agency shall notify the designated primary caregiver, or cultivating caregiver within 30 business days. The registered designated primary caregivers, or cultivating caregiver's protections under the Kansas safe access act as to that qualifying patient shall expire 30 business days after notification by the cannabis compliance agency; and

(6) if a cardholder loses the identification card, the cardholder shall notify the cannabis compliance agency within 10 business days of losing the identification card and submit a $10.00 fee within 30 business days of losing the card. Within 30 business days after such notification, the cannabis compliance agency shall issue a new identification card.

(i) Mere possession of, or application for, an identification card shall not constitute probable cause or reasonable suspicion, nor shall it be used to support the search of the person or property of the person possessing or applying for the identification card. The possession of, or application for, an identification card shall not preclude the existence of probable cause if probable cause exists on other grounds. All patient information shall be confidential, and all federal confidentiality rules and guidelines shall be in force:

(1) Applications and supporting information submitted by qualifying patients designated primary caregivers, and including information

regarding their designated primary caregivers and medical providers, are confidential; and

(2) applications and supporting information submitted by compassion centers, and compassion center personnel operating in compliance with the Kansas safe access act, are confidential.

(j) The application for qualifying patients' identification cards shall include a question asking whether the patient would like the compassion board to notify the patient of any clinical studies regarding cannabis' risk or efficacy that seek human subjects. The compassion board shall inform those patients who answer in the affirmative of any such studies it is notified of that will be conducted in the United States.

(k) Medical providers must re-evaluate registered qualifying patients annually and provide the registered qualifying patient with an updated recommendation. The registered qualifying patient must provide the updated recommendation to the cannabis compliance agency for identification card renewal 30 business days prior to expiration of current identification card.

(1) Failure to register an updated recommendation with the cannabis compliance agency may result in suspended ability to purchase medical cannabis or medical cannabis products.

(m) The cannabis compliance agency may make exceptions, at their discretion.

Sec. 6. Compassion centers. The purpose of this rule is to set forth general standards and requirements for the licensing, and regulation of compassion centers. The cannabis compliance agency intends this rule to provide safe and regulated access to medical cannabis, protect the health of patients, by implementing, and enforcing congruent standard operating procedures for all licensed compassion centers. The following provisions govern the registration of compassion centers:

(a) The cannabis compliance agency shall register a compassion center and issue a registration certificate, with a random 20-digit alphanumeric identification number, within 90 business days of receiving an application for a compassion center if the following conditions are met:

(1) The prospective compassion center provided the following:

(A) An application or renewal fee;

(B) the legal name of the compassion center;

(C) the physical address of the compassion center and the physical address of one additional location, if any, where cannabis will be cultivated, neither of which may be within 1000 feet of a preexisting public or private school;

(D) the name, address and date of birth of each principal officer and board member of the compassion center;

(E) the name, address and date of birth of any person who is an agent

of or employed by the compassion center, if any;

(F) operating regulations that include procedures for the oversight of the compassion center, procedures to ensure accurate record-keeping, patient database security, security of patient paper files and security measures to deter and prevent unauthorized entrance into areas containing cannabis and prevent the theft of cannabis and proof of compliance with any other oversight rules and regulations set forth by the cannabis compliance agency; and

(G) principal officers and board members will be elected to office by patient and caregiver members of the cooperative; and

(2) may be subject to a criminal history check at the time of nomination.

(3) Principal officer and board member candidates cannot be excluded for any offense consisting of conduct for which the Kansas safe access act would likely have prevented a conviction, but the conduct which either occurred prior to the enactment of the Kansas safe access act or was prosecuted by an authority other than the state of Kansas, whether as a patient or caregiver. Candidates who can show by medical records that their past convictions would have been negated by the Kansas safe access act cannot be excluded from consideration.

(b) Not later than 180 business days after the effective date of the Kansas safe access act, the cannabis compliance agency shall adopt any further rules and regulations establishing application and renewal fees for registry identification cards and compassion center registration certificates, including reasonable rules and regulations governing:

(1) The form and content of compassion center registration and renewal applications;

(2) minimum oversight requirements for registered compassion centers;

(3) minimum record keeping requirements for registered compassion centers;

(4) minimum security requirements for registered compassion centers; and

(5) procedures for suspending or terminating the registration of registered compassion centers that violate the provisions of the Kansas safe access act or the rules and regulations promulgated pursuant to this section.

(c) The cannabis compliance agency shall design rules and regulations with the goal of protecting against diversion and theft, without imposing an undue burden on the registered compassion centers or compromising the confidentiality of registered qualifying patients and their registered designated primary caregivers.

(d) Any dispensing records that a registered compassion center is

required to keep shall track transactions according to registered qualifying patient's registered designated primary caregivers' and registered compassion centers' registry identification numbers, rather than their names, to protect their confidentiality.

(e) Fees shall be in accordance with the following parameters:

(1) Compassion center application fees may not exceed $1,000.00;

(2) compassion center renewal fees may not exceed $1,000.00;

(3) the cannabis compliance agency may establish a sliding scale of patient application and renewal fees based upon a qualifying patient's family income;

(4) the department may accept donations from private sources in order to reduce the application and renewal fees; and

(5) a registered compassion center shall not be subject to prosecution; search, except by the cannabis compliance agency pursuant to section 21, and amendments thereto.

(f) Seizure or penalty in any manner or be denied any right or privilege, including, but not limited to, civil penalty or disciplinary action by a court or business licensing board or entity, solely for acting in accordance with the Kansas safe access act and cannabis compliance agency rules and regulations to acquire, possess, cultivate, manufacture, deliver, transfer, transport, supply or dispense cannabis, cannabis based products or related supplies and educational materials to registered qualifying patients, to registered designated primary caregivers on behalf of registered qualifying patients or to other registered compassion centers.

(1) A registered compassion center may not dispense, deliver or otherwise transfer cannabis to a person other than another registered compassion center, an identification card-carrying patient, a cultivating caregiver or an identification card-carrying patient's registered designated primary caregiver.

(2) Compassion centers will utilize the seed to sale tracking system to be implemented by the cannabis compliance agency.

(g) A compassion center shall implement security measures to deter and prevent entry into and theft from restricted access areas containing cannabis or currency.

The cannabis compliance agency shall issue a renewal compassion center registration certificate within 30 business days to any registered compassion center that submits a $1,000.00 renewal fee, provided that its registration is not suspended and has not been revoked.

(h) Registered compassion centers are subject to inspection by the cannabis compliance agency.

(i) A registered compassion center shall be operated on a not-for-profit basis for the mutual benefit of its cooperative members.

(1) The bylaws of a registered compassion center shall contain such

provisions relative to the disposition of revenues and receipts as may be necessary and appropriate to establish and maintain its nonprofit character.

(2) A registered compassion center need not be recognized as tax exempt by the internal revenue service to qualify as a non for profit.

(3) If the entity makes a profit during any period, this excess must be returned to cooperative members via health support services, income based, sliding scale product pricing, free medicine for hospice patients, donated into the broader community or put back into the organization, based on the votes of the cooperative members and board of directors.

(4) Wages of management, officers and employees of a compassion center can be increased by a vote of the compassion center board or a vote of cooperative members.

(j) A licensed compassion center may not sell medical cannabis over the internet but can allow registered qualifying patients to use the internet to arrange delivery of their purchase.

(k) The premises of a compassion center will be the only place where an automatic dispensing machine that contains medical cannabis or medical cannabis products may be located. It must comply with all regulations promulgated by the cannabis compliance agency for its use.

(l) Potency quantifications for medical cannabis and medical cannabis products shall be accessible to compassion center patients are in three ways:

(1) Labels in display cases;

(2) labels on products; and

(3) a book of complete testing results on each current batch number, and or harvest batch lot number available for sale, to be located at a compassion center.

(m) When medical cannabis is received from medical cannabis cultivation facilities, registered qualifying patients or cultivating caregivers for purchase, storage or donation consideration by the collective compassion center and the medical cannabis has not already been tested at a certified testing facility, it must be subjected to an initial contaminants inspection before being sent out to a certified testing facility, or in the case of stored patient overages, be sent to storage:

(1) Certified medical cannabis intake processors shall utilize a minimum 30X microscope for a first screening which analyzes and detects contamination of:

(A) Pathogenic molds;

(B) rot; and

(C) insects.

(2) In the event that the screening results indicate the presence of quantities of any substance determined to be injurious to health, such products shall be immediately quarantined and immediate notification

made to the cannabis compliance agency shall be made and the adulterated product shall be documented and properly destroyed according to guidelines to be established by the cannabis compliance agency.

(3) Certified medical cannabis processors will follow medical cannabis handling procedures to be defined by the cannabis compliance agency.

(n) A compassion center shall establish written policies and procedures addressing inventory controls.

(o) A registered compassion center is prohibited from acquiring, possessing, cultivating, manufacturing, delivering, transferring, transporting, supplying or dispensing cannabis for any purpose except to assist registered qualifying patients with the medical use of cannabis directly or through the qualifying patient's designated primary caregivers or to cultivating caregivers. All principal officers and board members of a registered compassion center must be residents of the state of Kansas.

(p) County and city governments may enact reasonable limits on the number of registered compassion centers that can operate in their jurisdictions and may enact zoning regulations that reasonably limit registered compassion centers to certain areas of their jurisdictions, after public hearings on the subject.

(q) Before cannabis may be dispensed to a designated primary caregiver, a registered qualifying patient or cultivating caregiver, a compassion center staffer must scan the identification card of the registered qualifying patient or the designated primary caregiver and must verify each of the following:

(1) That the identification card presented to the registered compassion center is valid; and

(2) that the person presenting the card is the person identified on the identification card presented to the compassion center staffer.

(r) If a patient wishes the staff of the compassion center to communicate with their medical provider, then release of information forms will need to be signed for both parties.

Sec. 7. Compassion center staffing. The purpose of this rule is to set forth general standards and requirements for the certification, and regulation of compassion center staffing. The cannabis compliance agency intends this rule to provide safe and regulated access to medical cannabis, protect the health of patients, by implementing and enforcing congruent standard operating procedures for all licensed compassion center staff members. The following provisions govern the registration of compassion center staffing:

(a) Compassion center staff identification cards shall contain the following:

(1) The legal name of the registered compassion center with which

the compassion center staffer is affiliated;

(2) a random 20-digit alphanumeric identification number that is unique to the cardholder;

(3) the date of issuance and expiration date of the identification card;

(4) a photograph; and

(5) a barcode for scanning.

(b) A statement shall be signed by staff pledging not to divert cannabis to anyone who is not allowed to possess cannabis pursuant to the Kansas safe access act.

(c) The cannabis compliance agency shall issue temporary identification cards to qualifying compassion center staffers at the time of approval and upon payment of a $25.00 fee, and permanent cards within 30 business days of approving an application or renewal.

(1) Compassion center staffers cannot be excluded from employment due to any offense consisting of conduct for which the Kansas safe access act would likely have prevented a conviction, but the conduct which either occurred prior to the enactment of the Kansas safe access act or was prosecuted by an authority other than the state of Kansas, whether as a patient or caregiver. Compassion center staffers who can provide medical records that show their past convictions would have been negated by the Kansas safe access act cannot be excluded from consideration.

(2) The cannabis compliance agency shall notify the registered compassion center in writing or email of the reason for denying an identification card to any staffer.

(d) The cannabis compliance agency shall not issue an identification card to any principal officer, board member, agent, volunteer or employee of a registered compassion center who is younger than 21 years of age.

(1) The cannabis compliance agency may refuse to issue an identification card to a compassion center staffer who has had a card revoked for violating the Kansas safe access act.

(2) A compassion center registration certificate and the identification card for each compassion center staffer shall expire one year after the date of issuance.

(3) The cannabis compliance agency shall issue a renewal identification card within 30 business days to any compassion center staffer who submits a $25.00 renewal fee.

(4) An identification card of a compassion center staffer shall expire and the person's login information to the seed to sale tracking system shall be deactivated by the agency upon notification by a registered compassion center that such person ceased to work at the registered compassion center.

(A) A registered compassion center shall notify the cannabis compliance agency within 3 business days of a compassion center staffer termination or when a compassion center staffer voluntarily ceases to work

at the registered compassion center.

(B) A registered compassion center shall notify the cannabis compliance agency in writing of the name, address and date of birth of any new compassion center staffer and shall submit a fee in an amount of $25.00 before a new compassion center staffer begins working at the registered compassion center.

(C) The cannabis compliance agency shall issue temporary identification cards to qualifying compassion center staffers at the time of approval, and permanent cards within 30 business days of approving an application or renewal.

(e) No compassion center staffers shall be subject to arrest, prosecution, search, seizure or penalty in any manner or denied any right or privilege including, but not limited to, civil penalty or disciplinary action by a court or occupational or professional licensing board or entity, solely for working for a registered compassion center in accordance with the Kansas safe access act and cannabis compliance agency rules and regulations to acquire, possess, cultivate, manufacture, deliver, transfer, transport, supply or dispense cannabis, cannabis based products, related supplies, and educational materials to registered qualifying patients or registered designated primary caregivers on behalf of registered qualifying patients or to other registered compassion centers.

(f) All employees of a compassion center shall be residents of Kansas upon the date of their identification card application.

Sec. 8. Supply and allowances. The purpose of this rule is to establish guidelines regarding the supply and allowances of cannabis for rural registered qualifying patients who meet the guidelines of the cannabis compliance agency to grow their own medical cannabis. It sets forth general standards and requirements for supply, storing, donations, damages, overages, and emergency supply. The cannabis compliance agency intends this rule to help maintain an interrupted supply of medical cannabis supply for rural registered qualifying patients and prevent any diversion to the black market.

(a) An identification card-carrying patient shall not directly through a designated primary caregiver, or through a compassion center obtain more than their medical provider recommended dosage of cannabis from registered compassion centers in any 30 calendar day period. Exceptions to 30 day supply being:

(1) Medical patients who can prove that hardship, either financial or physical, would be imposed by monthly travel; or

(2) allowance for patient growers to store overages for out of season use or donate to compassion center for an indigent members free medicine program.

(A) Overages will be stored in rented lock boxes within compassion

centers.

(B) Compassion centers will enter submissions into seed to sale tracking system and generate receipts for patients.

(C) Patients will be able to withdraw from lock boxes per their 30 day supply.

(D) Patients do not have to withdraw full 30 day supply at any one visit.

(b) Cannabis overage stock should examine under the 30x microscope upon receipt at the compassion center. Any stock contaminated by mold, mites, or pests must be disposed of per guidelines to be established by the cannabis compliance agency.

Sec. 9. Medical cannabis cultivation facilities. The purpose of this rule is to establish guidelines regarding the cultivation of cannabis for general supply by a cooperative medical cannabis cultivation facility. It sets forth general standards and requirements for cultivation, best practices, security, workforce education, health and safety standards. The cannabis compliance agency intends this rule to help maintain an uninterrupted supply of pharmaceutical grade medical cannabis, establish standard operating procedure and safety standards, promote sustainable agricultural practices, and prevent any diversion to the black market.

(a) To qualify to label any product as "grown by ecologically sustainable standards" medical cannabis cultivation facility must follow guidelines in (b) and (c).

(b) The United States department of agriculture (USDA) does not inspect medical cannabis grows. Instead, cultivating caregivers with more than 10 patients, and any medical cannabis cultivation facility, must work with third-party certification agencies that offer certification for medical cannabis that meets organic standards.

(1) All medical cannabis crops to be sold in compassion centers, or used in manufacturing of cannabis based products must be inspected by a third-party certification inspector.

(2) All agricultural products used must be materials that have been approved for use in organic farming and meet all guidelines in the Kansas safe access act.

(c) Medical cannabis cultivation facilities must develop best practices to reduce the carbon footprint of their facility, as well as reduce facility water and energy use. An inspection and rating program will be developed through the cannabis compliance agency.

(1) Outdoor medical cannabis cultivation and medical cannabis cultivation in greenhouses utilizing current best industry practices to guarantee energy efficiency are allowed.

(2) LED lighting and high intensity discharge bulbs (HID bulbs) are allowed in medical cannabis cultivation facility use

All high intensity discharge bulbs (HID bulbs) must be recycled, with recycling expense paid by the cultivation facility.

(3) Only renewable energy sources such as wind, solar and water are allowed as main power supply, unless local grid is totally supplied by sustainable energy source. No on-site fossil fuel generators may be used, except as backup emergency power, never as a main supply.

(4) Only 5, 4 and 2 hydro-safe resins should be used in aquaponics and hydroponic systems.

(5) Polystyrene beads shall not be used in hydroponic systems.

(6) Water use and restrictions - Methods that are not allowed and may be subject to fines:

(A) Unpermitted grading, road construction and culvert crossings;

(B) illegal stream diversions and streams drying up;

(C) discharge of sediments, pollutants, and human waste or trash;

(D) erosion or soil deposition;

(E) water contamination from pesticides, rodenticides, herbicides, fungicides, fertilizers, and fuels;

(F) capturing rain runoff from buildings, storing and filtering for watering use is mandated;

(G) greywater recycling, and filtering is mandated and must be implemented pursuant to all standards outlined in rules and regulations adopted by the cannabis compliance agency; and

(H) cisterns are recommended.

(d) All collective medical cannabis cultivation facilities should be clearly marked with signs on all sides, denoting the site as a medical cannabis grow in compliance with the Kansas safe access act.

(1) All cultivation facilities will utilize agency selected seed to sale tracking system.

(2) All medical cannabis crops will be lot controlled. If specific medical cannabis cultivars are for a specific patient, or group of patients:

(A) Their member numbers will also be listed in the tracking system; and

(B) harvest batch lot associated.

(e) Clean grow room, trimming room, bagging room standards and cannabis handling procedures to be defined by the cannabis compliance agency will apply to all medical cannabis cultivation facilities.

(f) The site must be secured:

(1) Monitored 24 hours a day, utilizing;

(2) cameras;

(3) security staff;

(4) alarms; and

(5) key card entry doors and gates.

(g) All cooperative medical cannabis cultivation facilities will be

placed in rural areas and may supply compassion centers, cannabis product manufacturers, research programs and cultivating caregivers located in other areas.

(h) Medical cannabis cultivation facilities may sell the stalks and vegetation (leaves) to farmers for use as livestock feed (silage), following all process requirements established by the cannabis compliance agency.

(i) Medical cannabis cultivation facilities must comply with all laws on environmental audits under Kansas law.

(j) Medical cannabis cultivation facilities must obtain and carry medical cannabis crop insurance if available.

(k) The medical cannabis cultivation facility's water supply shall be tested annually for contaminants by a qualified lab approved by the cannabis compliance agency. If a water treatment system is needed, the agency may require more frequent testing.

(l) Soil used to cultivate medical cannabis shall be tested annually and must meet guidelines established by the cannabis compliance agency.

(m) For each batch of water or soil fails to meet the standards of the cannabis compliance agency the cultivation facility shall perform and document both a root cause analysis and any corrective action taken.

(n) The cultivation facility shall maintain the results of all testing for no less than 2 years.

(o) The cannabis compliance agency reserves the right to require any and all types of testing to prevent contaminated medical cannabis. The agency may also issue recalls of contaminated medical cannabis and order the destruction of contaminated medical cannabis.

(p) All greenhouse infrastructure, hardware and all other applicable structures, or systems, must be UL listed.

(q) Medical cannabis cultivation facilities will utilize the seed to sale tracking system to be implemented by the cannabis compliance agency.

Sec. 10. Cultivating caregivers and patient growers. The purpose of this rule is to establish guidelines regarding the cultivation of cannabis by cultivating caregivers and patient growers. It sets forth general standards and requirements for cultivation best practices, security, workforce education, health and safety standards. The cannabis compliance agency intends this rule to help maintain an uninterrupted supply of pharmaceutical grade medical cannabis, establish standard operating procedure and safety standards, promote sustainable agricultural practices and prevent any diversion to the black market.

(a) All patient and caregiver cultivation sites shall be clearly marked with signs on all sides denoting the site as a medical cannabis crop in compliance with the Kansas safe access act.

(b) Patient growers shall be allowed to cultivate only as much as required for the patient's own medical use:

(1) Within the confines of the recommendation of their medical provider; and

(2) taking into consideration the patient's chosen delivery method.

(c) Depending on patients dosing regimens, they may grow several as many cultivars in various levels of growth to keep a continuous supply.

(d) Caregiver cultivation sites must meet environmental standards to be set by the cannabis compliancy agency.

(e) Cultivating caregivers that exceed 10 registered qualifying patients will apply for licensure as a cultivating facility and if approved, will be bound by all the regulations set forth in section 9, and amendments thereto.

(1) If not approved, cultivating caregivers can appeal to the cannabis compliance agency.

(2) The cannabis compliance agency will consider needs of patients served by cultivating caregiver:

(A) If geographic hardship of patients dictates need of this cultivating caregiver;

(B) cultivar exclusivity dictates need of this cultivating caregiver;

(C) if the cultivating caregiver is excluded for qualifying as cultivation facility because they cannot meet all requirements of section 9, and amendments thereto, and to do so would induce an undue financial hardship; or

(D) any other considerations deemed pertinent by the cannabis compliance agency.

(3) If the appeal is denied, cultivating caregivers must conform to patient count limit of less than 10.

(f) Cannabis handling standards established by the cannabis compliance agency will also apply to cultivating caregiver grows.

(g) Cultivating caregivers need to obtain and carry appropriate insurance, and cannabis crop specific insurance, if available.

(h) Cultivating caregivers, cannot be excluded for any offense consisting of conduct for which the Kansas safe access act would likely have prevented a conviction, but the conduct which either occurred prior to the enactment of the Kansas safe access act or was prosecuted by an authority other than the state of Kansas, whether as a patient or caregiver. Candidates who can prove their past convictions would have been negated by the Kansas safe access act by providing to the cannabis compliance agency medical records from the time of the conviction for the patient, or records that the patient was receiving care from a caregiver cannot be excluded from consideration.

(i) To guarantee a constant and uninterrupted supply, plants are allowed in all five stages of growth: Germinating, seedling, vegetative, flowering and curing.

(j) Crop failure or damage will be reported to cannabis compliance agency within 5 business days via email or electronic form on agency website, meeting any documentation requirements established by the cannabis compliance agency.

Affected patients of primary caregiver or cultivating caregiver will be directed to closest compassion center for any emergency medical cannabis replacement needs.

(k) If the medical provider feels it is necessary for the patient to have an amount over their normal allotment, the exception will be granted:

(1) The medical provider will provide updated recommendation documentation to the patient; and

(2) the patient will provide documentation to the cannabis compliance agency by email or upload to agency website.

(l) Cultivating caregivers will utilize the seed to sale tracking system to be implemented by the cannabis compliance agency.

Sec. 11. Employee training. Employee training is mandatory for all cannabis industry positions. Required training information will be available via the cannabis compliance agency, and the agency website.

Positions that require training, or an equivalent resume, are:

(a) Medical cannabis cultivation facility workers;

(b) processors;

(c) cultivating caregivers

(d) manufacturers;

(e) compassion center staff; and

(f) medical care medical provider training is considered separate from cannabis industry positions and is covered under section 4, and amendments thereto.

Sec. 12. Public policy and public safety. The purpose of this rule is to establish guidelines regarding the standards and regulations pertaining to public use of medical cannabis, prevention of impaired driving, establish employer, registered qualifying patient employees and business owner rights and the rights of students who are registered qualifying patients.

(a) The Kansas safe access act shall not permit any person to do any of the following, nor shall it prevent the imposition of any civil, criminal or other penalties for undertaking any task while impaired.

(b) Nothing in the Kansas safe access act shall be construed to require: Any person or establishment in lawful possession of a commercial business property to allow a guest, client, customer or other visitor to smoke cannabis on or in that property. The Kansas safe access act shall not limit a person or entity in lawful possession of a commercial business property, or an agent of such person or entity, from expelling a person who smokes cannabis without permission from such property owner.

(c) The Kansas safe access act does not prevent any employer from

setting their own policies regarding the accommodation of an employee's medical need to use cannabis in any workplace space or disciplining any employee working while impaired, except that, a qualifying patient shall not be considered to be impaired solely because of the presence of metabolites or components of cannabis.

(d) Unless an employer establishes by a preponderance of the evidence that the lawful use of medical cannabis has impaired the employee's ability to perform the employee's job responsibilities, it shall be unlawful to take any adverse employment action against an employee who is an identification card-carrying patient using medical cannabis consistent with the provisions of the Kansas safe access act based on either:

(1) The employee's status as a registry identification cardholder; or

(2) the employee's positive drug test for cannabis components or metabolites.

(e) For the purposes of this section, an employer may consider an employee's ability to perform the employee's job responsibilities to be impaired when the employee manifests specific articulable symptoms of impairment while working that decrease or lessen the employee's performance of the duties or tasks of the employee's job position. If an employer has a drug testing policy and an employee or job applicant tests positive for cannabis, the employer shall offer the employee or job applicant an opportunity to present a legitimate medical explanation for the positive test result and shall provide to the employee or job applicant a written notice of the right to explain. Within 3 working days after receiving notice, the employee or job applicant may submit information to the employer to explain the positive test result. As part of an employee's or job applicant's explanation for the positive test result, the employee or job applicant may present a doctor's recommendation for medical cannabis or their patient identification card, or both.

(f) Nothing in this section shall restrict an employer's ability to prohibit or take adverse employment action for being impaired during work hours, or require an employer to commit any act that would cause the employer to be in violation of federal law or that would result in the loss of a federal contract or federal funding.

(g) Impaired drivers are not protected by the Kansas safe access act while operating, navigating or being in actual physical control of any motor vehicle, school bus, public transport, aircraft or motorboat. The following caveats apply:

(1) The presence of metabolites does not automatically denote impairment. Registered qualifying patients who medicate daily may have a high metabolite level, and yet also have a higher tolerance to psychoactive effects.

(2) Current technologies, even those that can measure metabolite levels, cannot accurately gauge impairment.

(3) Roadside testing for impairment remains the best method to evaluate drivers.

(4) A registered qualifying patient's various disabilities may also impact roadside test results, and an effort should be made by law enforcement to set guidelines that include this consideration.

(h) Educational outreach to prevent driving while impaired will be posted on the cannabis compliance agency website via printable information and instructional videos, and educational materials will be available made available by the agency to compassion centers.

(i) No registered qualifying patient may smoke medical cannabis on the grounds of any preschool, primary, secondary or post-secondary school.

(1) Juvenile registered qualifying patients receiving medication via the school nurse, parent or caregiver can receive medication on school grounds.

(2) Post-secondary registered qualifying patients shall not be impeded from medicating per their medical providers recommendation whether individually or by the facilitation of their primary caregiver, if they have one, on school grounds, if the delivery method is allowed.

(3) Juvenile and post-secondary registered qualifying patients shall not be impeded from participation in any extracurricular activities, or regular school activities, simply because they are a registered qualifying patient.

(j) No patient may smoke cannabis in or on any form of public transportation.

Sec. 13. (a) Cannabis resource commission. This act shall establish the cannabis resource commission. The cannabis resource commission will be responsible for: Guiding policy on behalf of patients, medical providers and the public, with focus on continuous process improvement to better serve the needs of all; and facilitating research, work with researchers, liaison with other Kansas agencies and organizations, liaison with law enforcement, the Kansas legislature and the cannabis compliance agency.

(b) There is established a cannabis resource commission.

(1) The commission shall consist of 5 volunteer members appointed by the governor. The governor, insofar as possible, shall appoint persons from different geographical areas and persons who represent various economic regions, preferably with experience in the healthcare field, social work field, not-for-profit patient care sector, the field of cannabis research, industry, advocacy, or cannabis medicine.

(2) If a vacancy occurs on the commission, the governor shall appoint a person to fill the vacant position for the unexpired term, if any, within a

period of no more than 60 business days.

(3) Members of the commission shall be appointed for renewable three-year terms.

(4) The volunteer members will meet quarterly, whether in person or by teleconference, to:

(A) Review reports pertaining to the administration of the Kansas safe access act from the cannabis compliance agency, including appeals and complaints;

(B) review reports pertaining to the administration of the Kansas safe access act from the department of health and environment;

(C) review reports pertaining to the administration of the Kansas safe access act from Kansas law enforcement; and

(D) review any other reports pertaining to the administration of the Kansas safe access act from any other agency, public or private.

(5) The commission shall advise the governor, the cannabis compliance agency, the Kansas legislature and the secretary of the department of health and environment about the administration of the Kansas safe access act.

(6) The commission will act as a liaison between patients, agencies and research entities.

(7) Members of the commission cannot be excluded for any offense consisting of conduct for which the Kansas safe access act would likely have prevented a conviction, but the conduct either occurred prior to the enactment of the Kansas safe access act or was prosecuted by an authority other than the state of Kansas, whether as a patient or caregiver. Candidates who can prove their past convictions would have been negated by the Kansas safe access act by providing to the cannabis compliance agency medical records from the time of the conviction for the patient, or records that the patient was receiving care from a caregiver, cannot be excluded from consideration.

Sec. 14. Cannabis tax fund and revenue policies. This act shall establish a cannabis tax fund.

(a) The cannabis tax fund is hereby established.

(b) Medical cannabis patients will be taxed at a flat 6% rate at compassion center points of purchase for medical cannabis and medical cannabis products only.

(c) Funds will be deposited into the cannabis tax fund and after meeting costs of the Kansas safe access act. Infrastructure expenses will be spent for medical cannabis research, public health, mental health, substance abuse, K-12 school health, K-12 school substance abuse prevention and K-12 school mental health programs exclusively.

(d) As the cannabis industry is often forced to a cash only business model:

(1) Compassion centers and cooperatives must be allowed to pay taxes by cash, cashier's checks and money orders at their local revenue office;

(2) compassion centers and cooperatives will need to be able to pay these taxes on a daily or weekly basis, so they are not accumulating large amounts of cash and being placed at a higher risk for crime; and

(3) patients, compassion centers and cooperatives will not be assessed any further excise tax or any further sales tax for any medical cannabis or medical cannabis product beyond the established flat tax within this act.

(e) Any county, city, township, or jurisdiction which opts out of participation in the Kansas safe access act will then be excluded from any tax benefit, other than what is derived from state benefit from the Kansas safe access act.

(f) Sales tax can be levied on any product, item or device in a compassion center that is not medical cannabis or a medical cannabis product.

(g) Medical cannabis edible products qualify as medicine and shall not be taxed under the Kansas food sales tax.

(h) Kansas safe access act fee schedule:

(1) Qualifying patient identification card $10.00
(2) Cultivating caregiver identification card $10.00
(3) Primary caregiver identification card $10.00
(4) Compassion center employee identification card $25.00
(5) Medical cannabis cultivation facility employee identification card $25.00
(6) Medical cannabis product manufacturing employee identification card $25.00
(7) Medical cannabis testing facility employee identification card $25.00
(8) Compassion center license, may not exceed $1,000.00
(9) Compassion center license renewal, may not exceed $1,000.00
(10) Compassion center application fee $500.00
(11) Compassion center license renewal fee $50.00

(i) (1) An applicant or licensee may pay the license fee and renewal fee in full or the first half of the license fee plus the entire renewal fee plus the second half of the license fee + 10% due in 1 year.

(2) License renewal shall be required every two years.

(j) Medical cultivation facilities license fees, renewal fees, and application fees shall be in accordance with the following parameters:

(1) 1-25 pounds a month ..... $200.00 license fee
(A) License renewal fees may not exceed $200.00
(B) Application fee $100.00
(2) 26-100 pounds a month ..... $500.00 license fee

(A) License renewal fees may not exceed $500.00
(B) Application fee $250.00
(3) 101-500 pounds a month..... $1,000.00 license fee
(A) License renewal fees may not exceed $1,000.00
(B) Application fee $500.00
(4) 501-1,000 pounds a month ..... $2,000.00 license fee
(A) License renewal fees may not exceed $2,000.00
(B) Application fee $1,000.00
(5) 1,001-5,000 pounds a month ..... $3,500.00 license fee
(A) License renewal fees may not exceed $3,500.00
(B) Application fee $1,250.00
(6) 5,001-10,000 pounds a month ..... $7,000.00 license fee
(A) License renewal fees may not exceed $7,000.00
(B) Application fee $3,500.00
(7) 10,001-15,000 pounds a month ..... $10,000.00 license fee
(A) License renewal fees may not exceed $10,000.00
(B) Application fee $5,000.00

(k) (1) An applicant or licensee may pay the license fee and renewal fee in full or the first half of the license fee plus the entire renewal fee plus the second half of the license fee + 10% due in 1 year.

(2) License renewal shall be required every two years.

(l) (1) Medical cannabis manufacturing license fees, renewal fees, and application fees shall be in accordance with the following parameters:

(A) Medical cannabis product manufacturing license fees may not exceed $2,200.00;

(B) medical cannabis product manufacturing license renewal fees may not exceed $2,200.00;

(C) medical cannabis product manufacturing application fee shall be $1,100.00; and

(D) medical cannabis product manufacturing license renewal fee shall be $50.00

(2) An applicant or licensee may pay the license fee and renewal fee in full or the first half of the license fee plus the entire renewal fee plus the second half of the license fee + 10% due in 1 year.

(3) License renewal shall be required every two years.

(m) (1) Medical cannabis infused product manufacturing license fees, renewal fees, and application fees shall be in accordance with the following parameters:

(A) Medical cannabis infused product manufacturing license fees may not exceed $2,200.00;

(B) medical cannabis infused product manufacturing license renewal fees may not exceed $2,200.00;

(C) medical cannabis infused product manufacturing application fees

shall be $1,100.00; and

(D) medical cannabis infused product manufacturing license renewal fees shall be $50.00.

(2) An applicant or licensee may pay the license fee and renewal fee in full or the first half of the license fee plus the entire renewal fee plus the second half of the license fee + 10% due in 1 year.

(3) License renewal shall be required every two years.

(n) (1) Medical cannabis testing facility license fees, renewal fees, and application fees shall be in accordance with the following parameters:

(A) Medical cannabis testing facility license fees may not exceed $2,200.00;

(B) Medical cannabis testing facility license renewal fees may not exceed $2,200.00;

(C) Medical cannabis testing facility application fee shall be $1,100.00; and

(D) Medical cannabis testing facility license renewal fee shall be $50.00.

(2) An applicant or licensee may pay the license fee and renewal fee in full or the first half of the license fee plus the entire renewal fee plus the second half of the license fee + 10% due in 1 year.

(o) Administrative service fees:

(1) Criminal history investigations $150.00
(2) Modification of license premises $120.00
(3) Duplicate business license $40.00
(4) Duplicate occupational license $10.00
(5) Duplicate vendor registration $40.00
(6) Off premise storage permit $500.00
(7) Subpoena fee $200.00
(8) Change of location applicant fee - same local jurisdiction only $150.00
(9) Change of trade name $50.00
(10) Change of corporation of structure per person $25.00

Sec. 15. Packaging and labeling. This purpose of this rule is to establish guidelines and standards for packaging and labeling for medical cannabis and medical cannabis products to ensure all the necessary and relevant information to be enforced by the cannabis compliance agency is included. While there are slight differences in the labeling requirements for each category of medical cannabis product, all include identical parameters that mandate the type of packaging for medical cannabis products. The Kansas safe access act requires that each package or container of medical cannabis, medical cannabis product and medical cannabis concentrate includes necessary and relevant information for consumers, does not include health and physical benefits claims, is easily

accessible to consumers and is clear, easy to read and noticeable. The cannabis compliance agency will develop a standardized label template and will develop a standardized list of information be included on labels, not limited to, but including, the following:

(a) Every medical cannabis product sold must leave the store in a package or container that is child-resistant.

(b) If the medical cannabis product packaging is not child-resistant, the compassion center must place that container within an exit package that is child resistant.

(c) Each package or container shall be opaque so that the product cannot be seen from outside the packaging, except for colored glass and sublingual syringes.

(d) Identification and consumer warning labels must be affixed to every individual container of medical cannabis, medical cannabis product or medical cannabis edible.

(e) Every compassion center must ensure the following information is affixed to every container holding a medical cannabis product:

(1) The license number of the medical cannabis cultivation facility where the medical cannabis used to produce the product was grown;

(2) the license number of the medical cannabis product's manufacturing facility;

(3) the license number of the compassion center that sold the medical cannabis product to the registered qualified patient;

(4) the identity statement and standardized graphic symbol of the compassion center that sold the product to the registered qualified patient;

(5) the production batch lots number assigned to the medical cannabis concentrate used to produce the product;

(6) the production batch lots number assigned to the medical cannabis product;

(7) the date of sale to the consumer;

(8) the following warning statements:

(A) Body mass, age, metabolism, gender and body chemistry at time of consumption all vary in the effectiveness and effect of the medicine;

(B) the intoxicating effects of this product may be delayed by two or more hours;

(C) do not operate a vehicle or machinery, especially when first beginning the use of this medicine;

(D) the product may cause dizziness or drowsiness, and alcohol may intensify this effect. Avoid mixing the product with alcohol;

(E) keep out of reach of children and animals, in bold print;

(F) please consult a medical provider when taken with other medications;

(G) the product is for medical use only, to be consumed by registered

qualifying patient only;

(9) the universal symbol, indicating that the container holds medical cannabis, which must be no smaller than $^1/_4$ of an inch by $^1/_4$ of an inch to be set forth by the cannabis compliance agency;

(10) a clear set of instructions for proper usage;

(11) packaging design must not have cartoons, or in any way attract interest from children;

(12) packaging must prominently display the following in clear and legible font:

(A) Display or inspection seal;

(B) patient name and patient ID number;

(C) a potency profile expressed in milligrams and the number of tetrahydrocannabinol servings within the container; and

(D) a recommended use by or expiration date for medical cannabis products; and

(13) packages containing only dried flower must record the weight of medical cannabis.

Sec. 16. Medical cannabis edible product labeling. The purpose of this rule is to establish guidelines and standards for packaging and labeling for medical cannabis edible products to ensure all the necessary and relevant information to be enforced by the cannabis compliance agency is included. While there are slight differences in the labeling requirements for each category of medical cannabis edible product, all include identical parameters that mandate the type of packaging for medical cannabis edible products. The Kansas safe access act requires that each package or container of medical cannabis edible products includes necessary and relevant information for consumers, does not include health and physical benefits claims, is easily accessible to consumers and is clear, easy to read and noticeable. The cannabis compliance agency will develop a standardized label template and will develop a standardized list of information be included on label, not limited to, but including the information listed below. Edible medical cannabis products must include the following information, in addition to the information required by the guidelines of section 15, and amendments thereto;

(a) "The intoxicating effects of this product may be delayed three to six hours."

(b) An ingredient list including all ingredients used to manufacture the edible medical cannabis product.

(c) A statement regarding required refrigeration if the medical cannabis product is perishable.

(d) The standardized serving size for this product includes no more than ten milligrams of active tetrahydrocannabinol, and a list of the package total of pharmacologically active ingredients.

(e) If the product uses nuts or another known allergen, a suitable warning.

(f) Bundled single-serving edible medical cannabis products that are individually packaged in child-resistant packaging and labeled can be placed into a larger package, that also needs to be child-resistant and include a list of the package total of pharmacologically active ingredients contained within the bundled package, including tetrahydrocannabinol that does not exceed 100 milligrams.

(g) Single-serving size medical cannabis products must list the package total of pharmacologically active ingredients including, but not limited to, tetrahydrocannabinol and cannabidiol, not to exceed 10 milligrams of tetrahydrocannabinol per single serving.

(h) Statement of expiration date.

(i) A dietary restriction label and nutritional fact panel.

(j) Potency test results for all medical cannabis edible products.

(k) Only generic food names that describe edible medical cannabis products.

(l) A recommended use by or expiration date for medical cannabis products.

(m) Must denote if liquid edible contains more than one standardized serving.

(n) Each product must be packaged in a child-resistant container that maintains its child-resistant effectiveness for multiple openings.

(o) All containers for liquids shall clearly demark each standardized serving of liquid edible in a way that enables a reasonable person to intuitively determine how much of the product constitutes a single serving of active tetrahydrocannabinol. The portion of the container that clearly demarks each standardized serving of liquid edible medical cannabis need not be opaque.

(p) Liquid edible containers that include a dropper or measuring device shall assure the device allows a reasonable person to intuitively measure and serve a single serving of active tetrahydrocannabinol.

Sec. 17. Packaging and labeling of medical cannabis by a medical cannabis cultivation facility or a medical cannabis products manufacturing facility. The purpose of this rule is to ensure that every medical cannabis cultivation facility and medical cannabis products manufacturing facility label each shipping container and container of medical cannabis with all the necessary and relevant information for the receiving medical cannabis establishment. In addition, this rule clarifies basic shipping container requirements. The cannabis compliance agency wants to ensure the regulated community employs proper labeling techniques for all medical cannabis.

(a) Every medical cannabis cultivation facility and medical cannabis

products manufacturing facility must ensure that all medical cannabis is placed within a sealed, tamper-evident shipping container that has no more than one pound of medical cannabis within it prior to transport or transfer of any medical cannabis to another medical cannabis establishment.

(b) Labeling of medical cannabis shipping containers by a medical cannabis cultivation facility or a medical cannabis products manufacturing facility. Every medical cannabis cultivation facility or medical cannabis products manufacturing facility must ensure that a label is affixed to every shipping container holding medical cannabis that includes all the information required by this rule prior to transport or transfer to another medical cannabis establishment.

(c) Every medical cannabis cultivation facility or medical cannabis products manufacturing facility must ensure the following information is affixed to every shipping container holding medical cannabis:

(1) The license number of the medical cannabis cultivation facility where the medical cannabis was grown;

(2) the harvest batch lot number assigned to the medical cannabis;

(3) the net weight, using a standard of measure compatible with the state standardized seed-to-sale tracking system, of the medical cannabis prior to its placement in the shipping container;

(4) a complete list of all ecologically sustainable pesticides, fungicides, and herbicides used during the cultivation of the medical cannabis; and

(5) a required statement for tests performed. Medical cannabis testing facilities must conducted a test on a harvest batch lot, and every medical cannabis cultivation facility and medical cannabis products manufacturing facility must ensure that a label is affixed to a shipping container holding any medical cannabis from that harvest batch lot with the results of that test. The type of information that must be labeled shall be limited to the following:

(A) A cannabinoid potency profile expressed as a range of percentages that extends from the lowest percentage to highest percentage of concentration for each cannabinoid listed in section 19, and amendments thereto, and any others required by the cannabis compliance agency.

(B) Every test conducted on that cultivar of medical cannabis cultivated by the same medical cannabis cultivation facility within the last three months.

(C) A statement that the product was tested for contaminants, provided that tests for contaminants were conducted according to section 19, and amendments thereto, and any other requirements made by the cannabis compliance agency.

(d) Labeling of medical cannabis containers by a medical cannabis

cultivation facility or a medical cannabis products manufacturing facility. If a medical cannabis cultivation facility or a medical cannabis products manufacturing facility packages medical cannabis within a container that is then placed within a shipping container, each container must be affixed with a label containing all the information required by section 19, and amendments thereto, and any other requirements made by the cannabis compliance agency.

Sec. 18. Packaging and labeling of medical cannabis concentrates by a medical cannabis cultivation facility or a medical cannabis products manufacturing facility. The purpose of this rule is to ensure that every medical cannabis cultivation facility and medical cannabis products manufacturing facility labels each shipping container and container of medical cannabis concentrates with all the necessary and relevant information for the receiving medical cannabis establishment. In addition, this rule clarifies basic shipping container requirements. The cannabis compliance agency wants to ensure the regulated community employs proper labeling techniques for all medical cannabis concentrates.

(a) Every medical cannabis cultivation facility and medical cannabis products manufacturing facility must ensure that all medical cannabis concentrates are placed within a sealed, tamper-evident shipping container that has no more than one pound of medical cannabis concentrate within it prior to transport or transfer to another medical cannabis facility or compassion center.

(b) Every medical cannabis cultivation facility or medical cannabis products manufacturing facility must ensure that a label is affixed to every shipping container holding a medical cannabis concentrate that includes all the information required by section 19, and amendments thereto, and any other requirements made by the cannabis compliance agency, prior to transport.

(c) Every medical cannabis cultivation facility or medical cannabis products manufacturing facility must ensure the following information is affixed to every shipping container holding a medical cannabis concentrate:

(1) The license number of the medical cannabis cultivation facility where the medical cannabis used to produce the medical cannabis concentrate was grown;

(2) the license number of the medical cannabis products manufacturing facility that produced the medical cannabis concentrate;

(3) the production batch lot number assigned to the medical cannabis concentrate contained within the shipping container;

(4) the net weight, using a standard of measure compatible with the seed-to-sale tracking system, of the medical cannabis concentrate prior to its placement in the shipping container;

(5) a complete list of all ecologically sustainable pesticides, fungicides, and herbicides used during the cultivation of the medical cannabis used to produce the medical cannabis concentrate contained; and

(6) a complete list of solvents and chemicals used to create the medical cannabis concentrate.

(d) Required statement when contaminant tests are performed. Every medical cannabis cultivation facility or medical cannabis products manufacturing facility must ensure that a label is affixed to a shipping container in which a medical cannabis concentrate is placed that contains a statement asserting that the medical cannabis concentrate within was tested per section 19, and amendments thereto, any other requirements made by the cannabis compliance agency; and the following:

(1) A medical cannabis testing facility tested every harvest batch lot used to produce the medical cannabis concentrate for:

(A) Molds, mildew and filth;

(B) microbials; and

(C) herbicides, pesticides and fungicides, and any harmful chemicals; and

(2) a medical cannabis testing facility tested the production batch lots of the medical cannabis concentrate for residual solvents, poisons or toxins.

(e) Required statement when potency testing is performed. If a medical cannabis testing facility tested the production batch lots of the medical cannabis concentrate within a shipping container for potency, then every medical cannabis cultivation facility or medical cannabis products manufacturing facility must ensure that a label is affixed to the shipping container with a cannabinoid potency profile expressed as a percentage.

(f) Labeling of medical cannabis concentrate containers by a medical cannabis cultivation facility or a medical cannabis products manufacturing facility. If a medical cannabis cultivation facility or a medical cannabis products manufacturing facility packages a medical cannabis concentrate within a container that is then placed within a shipping container, each container must be affixed with a label containing all the information required by section 19, and amendments thereto, and any other requirements made by the cannabis compliance agency.

Sec. 19. Testing and lab requirements. The purpose of this rule is to establish guidelines of independent testing and certification testing facility program for medical cannabis and medical cannabis products. The cannabis compliance agency will require licensees to test medical cannabis to ensure, at a minimum, that products sold for human consumption do not contain contaminants, and to ensure correct labeling.

(a) No independent testing facility may handle, test or analyze cannabis or cannabis products unless the independent testing facility:

(1) Has been registered by the cannabis compliance agency;

(2) is independent from all other persons and entities involved in the medical cannabis industry;

(3) ensures that no board member, officer, manager, owner, partner, principal stakeholder or member of a registered organization shall have an interest or voting rights in the testing facility performing medical cannabis testing;

(4) Has established standard operating procedures that provide for adequate chain of custody controls for samples transferred to the independent testing facility for testing and that comply to all guidelines established by the cannabis compliance agency; and

(5) is registered with a third party accrediting bodies and associations approved by the cannabis compliance agency.

(b) The cannabis compliance agency will set guidelines for testing and oversight of lab performance.

(1) All testing facilities must pass rigorous and regular proficiency testing programs to be carried out by a third party chosen by the cannabis compliance agency.

(2) Testing facilities must be managed by a full-time on-site chemist with at least four years of experience specific to analytical chromatography.

(3) The testing facility shall notify the cannabis compliance agency within one business day after the testing facility obtains notice of any kind that its accreditation has been denied, suspended or revoked.

(c) A medical cannabis cultivation facility shall:

(1) Collect a random, homogenous sample for testing by segregating harvest batch lots of individual cultivars of flowers, then selecting a random sample from various locations from within each harvest batch lot, in an amount required by the cannabis compliance agency, and no less than 2.5 grams; and

(2) designate an individual responsible for collecting each sample who shall:

(A) Prepare a signed statement showing that each sample has been randomly selected for testing;

(B) provide the signed statement to the medical cannabis testing facility; and

(C) maintain a copy as a business record; and

(3) transport the sample to the medical cannabis testing facility's licensed premises in compliance with section 19, and amendments thereto, and any other requirements made by the cannabis compliance agency.

(d) A medical cannabis cultivation facility shall segregate the entire harvest batch lot from which the testing sample was selected until the medical cannabis testing facility reports the results from its tests.

(1) During this period of segregation, the medical cannabis cultivation facility that provided the sample shall maintain the harvest batch lot in a secure, cool and dry location to prevent the medical cannabis from becoming contaminated or losing its efficacy.

(2) The facility that provided the sample may not sell or transport any medical cannabis from the segregated batch lot until the medical cannabis testing facility has completed its testing and provided those results, in writing, to the medical cannabis cultivation facility that provided the sample and the cannabis compliance agency.

(3) The medical cannabis cultivation facility shall maintain the testing results as part of its business books and records.

(e) A licensed testing facility shall issue a certificate of analysis for each harvest batch lot, with supporting data, to report both of the following:

(1) The chemical profile, including, but not limited to, all of the following:

(A) Tetrahydrocannabinol (THC);

(B) tetrahydrocannabinolic Acid (THCA);

(C) cannabidiol (CBD);

(D) cannabidiolic acid (CBDA);

(E) terpenes;

(F) cannabigerol (CBG);

(G) cannabinol (CBN); and

(H) any other compounds required by the cannabis compliance agency; and

(2) that the presence of contaminants does not exceed the levels set by the cannabis compliance agency. For purposes of this paragraph, contaminants include, but are not limited to, all of the following:

(A) Residual solvent or processing chemicals;

(B) foreign material, including, but not limited to, hair, insects or similar or related adulterants;

(C) microbiological impurity, including total aerobic microbial count, total yeast mold count, P. aeruginosa, aspergillus spp., s. aureus, aflatoxin B1, B2, G1 or G2 or ochratoxin A;

(D) whether the batch is within specification for odor and appearance;

(E) residual levels of volatile organic compounds shall be below the lesser of either the specifications set by the cannabis compliance agency;

(F) methods, including:

(i) High-performance liquid chromatography in tandem with triple-quadrupole mass spectrometry (HPLC-MS/MS) to identify and quantify trace pesticide, fungicide and PGR residues;

(ii) real-time polymerase chain-reaction (qPCR) technology;

(iii) gas chromatography with flame ionized detection (FID) to test

for terpenes; and

(iv) utilizing a combination of gas chromatograph with flame ionized detection (FID), head-space analysis and mass spectrometry for residual solvent testing.

(f) The cannabis compliance agency requires that a test batch be submitted to a specific medical cannabis testing facility for testing to verify compliance, perform investigations, compile data or address a public health and safety concern via test batch samples.

(1) Standard minimum weight of medical cannabis and medical cannabis concentrate that must be included in a test batch for every type of test that it conducts must be 2.5 grams.

(2) The cannabis compliance agency must establish a standard number of finished product it requires to be included in each test batch of medical cannabis infused-product for every type of test required by this act, or by further guidelines set by the cannabis compliance agency.

(3) A medical cannabis testing facility may not accept a test batch that is smaller than the standard minimum amount.

(4) A medical cannabis testing facility may not accept a test batch or sample that was not taken in accordance with these rules or any additional cannabis compliance agency sampling procedures or was not collected by qualified personnel.

(g) If medical cannabis, medical cannabis concentrate or medical cannabis infused-product failed a contaminant test, then the medical cannabis testing facility must immediately notify the medical cannabis cultivation facility or medical cannabis product manufacturer that submitted the sample for testing and report the failure in accordance with all cannabis compliance agency procedures.

(h) If medical cannabis, medical cannabis concentrate or medical cannabis infused-product is found to have a contaminant in levels exceeding those established as permissible under this rule, then it shall be considered to have failed contaminant testing. Notwithstanding the permissible levels established in this rule, the cannabis compliance agency reserves the right to determine that a test batch presents a risk to the public health or safety and therefore shall be considered to have failed a contaminant test.

(i) For purposes of the microbiological test, a CO2 and solvent-based extracts sample shall be deemed to have passed if it satisfies the recommended microbial and fungal limits for cannabis products in colony forming units per gram (CFU/g):

(1) Total viable aerobic bacteria 104;

(2) total yeast and mold 103;

(3) total coliforms bile-tolerant gram-negative bacteria 102; and

(4) E. coli (pathogenic strains) and Salmonella spp. not detected in 1

g.

(j) Unprocessed materials include minimally processed crude cannabis preparations such as inflorescences, accumulated resin glands (kief) and compressed resin glands (hashish). Processed materials include various solid or liquid-infused edible preparations, oils, topical preparations and water-processed resin glands (bubble hash).

(k) Mycotoxin test: For purposes of the mycotoxin test, a cannabis sample shall be deemed to have passed if it meets the following standards for tests and specifications:

(1) Aflatoxin B1, <20 µg/kg of substance;

(2) aflatoxin B2, <20 µg/kg of substance;

(3) aflatoxin G2, <20 µg/kg of substance; and

(4) ochratoxin A, <20 µg/kg of substance.

(5) Testing facilities should contact the cannabis compliance agency when shiga toxin producing escherichia coli (STEC) and salmonella are detected beyond the acceptable limits.

(l) These named solvents and pesticides are not permitted for use under this act, but must be tested for as contaminants. Testing must be for specific pesticides listed in (h) (5) (i)(8)(9)(10)(11)(12)(13), any and all solvents, permitted and not permitted, under section 20, and amendments thereto:

(1) Butanes;

(2) heptanes;

(3) benzene**;

(4) toluene**;

(5) hexane**;

(6) total xylenes (m,p, o-xylenes)**;

(7) any solvent not listed above;

(8) azadirachtin;

(9) myclobutinil;

(10) imidacloprid;

(11) avermectin;

(12) bifenazate;

(13) etoxazole;

(14) chlorpyrifos (EPA registration number: 829-292);

(15) disulfoton (EPA registration number: 264-734);

(16) imidacloprid (EPA registration number: 264-755);

(17) azatrol hydro botanical insecticide (EPA registration number: 2217-836);

(18) Gordon's professional turf & ornamental products azatrol EC insecticide (EPA registration number: 2217-836); and

(19) azadirachtin. (EPA registration number: 2217-836) (some trade names for products containing azadirachtin include align, azatin and

turplex).

(m) Metals substance maximum limits:

(1) Arsenic, max limit: <10 PPM;

(2) cadmium, max limit: <4.1 PPM;

(3) lead, max limit: <10 PPM; and

(4) mercury, max limit: <2.0 PPM.

(n) A medical cannabis testing facility must notify the cannabis compliance agency if a test batch lot is found to contain levels of a known contaminant not listed within this section.

(o) Potency testing cannabinoids potency profiles. A medical cannabis testing facility will test and report results for all cannabinoids required by the cannabis compliance agency.

(1) For potency tests on medical cannabis and medical cannabis concentrate, results must be reported by listing a single percentage concentration for each cannabinoid that represents an average of all samples within the test batch lot.

(2) For potency tests conducted on medical cannabis infused-product, results must be reported by listing the total number of milligrams contained within a single medical cannabis-infused product unit for sale for each cannabinoid and affirming the tetrahydrocannabinol content is homogeneous.

(3) All potency tests conducted on medical cannabis must occur on dried and cured medical cannabis that is ready for sale.

(4) If the tetrahydrocannabinol content of a medical cannabis infused-product is determined through testing not to be homogeneous, then it shall be considered to have failed potency testing.

(5) A medical cannabis infused-product shall be considered not to be homogeneous if 10% of the infused portion of the medical cannabis infused-product contains more than 20% of the total tetrahydrocannabinol contained within the entire medical cannabis infused-product.

(6) Potency levels of edibles must meet standards set forth in section 16, and amendments thereto.

(7) A potency variance for cannabis infused products and edibles of no more than plus or minus 5% is allowed.

(8) The cannabis compliance agency shall determine procedures to address purposeful misrepresentation of medical cannabis or medical cannabis products potency profiles.

(p) If the sample failed testing, the entire batch lot from which the sample was taken shall, if applicable, be recalled as provided for by standards set forth by the cannabis compliance agency, and disposed of in accordance with guidelines set forth by the agency.

(1) If the sample failed any test other than pesticides and metals, the batch lot may be used to make a CO2 or solvent-based extract. After

processing, the CO2 or solvent-based extract must still pass all required tests.

(2) The testing facility shall file with the cannabis compliance agency an electronic copy of each testing facility test result for any test batch that does not pass the microbiological, mycotoxin, metals or pesticide chemical residue test, at the same time that it transmits those results to the cultivation center.

(3) In addition, the testing facility shall maintain the test results for at least five years and make them available at the cannabis compliance agency's request.

(q) The cannabis compliance agency will develop and implement a written quality assurance program that assesses the chemical and microbiological composition of medical cannabis. Assessment includes a profile of the active ingredients, including shelf life, and the presence of inactive ingredients and contaminants. A medical cannabis manufacturer must use these testing results to determine appropriate storage conditions and expiration dates.

(1) The cannabis compliance agency will develop procedures that require:

(A) Sample collection;

(B) sample collection documentation;

(C) all sampling and testing plans to be described in written procedures that include the sampling method and the number of units per batch to be tested;

(D) that random samples from each batch are:

(i) Taken in an amount necessary to conduct the applicable test;

(ii) labeled with the harvest batch lot number;

(iii) submitted for testing; and

(iv) retain the results from the random samples for at least five years;

(E) rejecting a medical cannabis batch that fails to meet established standards, specifications and any other relevant quality-control criteria set by the cannabis compliance agency;

(F) following the cannabis compliance agency guidelines for responding to results indicating contamination, and determining the source of contamination; and

(G) retaining documentation of test results, assessment and destruction of medical cannabis for at least five years.

(2) The quality assurance program must include procedures for performing stability testing of each product type produced to determine product shelf life that addresses:

(A) Sample size and test intervals based on statistical criteria for each attribute examined to ensure valid stability estimates;

(B) storage conditions for samples retained for testing; and

(C) reliable and specific test methods.

(3) Stability studies must include:

(A) Medical cannabis testing at appropriate intervals;

(B) medical cannabis testing in the same container-closure system in which the product is marketed; and

(C) testing medical cannabis for reconstitution at the time of dispensing, as directed in the labeling, and after the samples are reconstituted.

(4) If shelf-life studies have not been completed before the implementation of this act, a medical cannabis manufacturer may assign a tentative expiration date, based on any available stability information. The manufacturer must concurrently conduct stability studies to determine the actual product expiration date.

(5) After the manufacturer verifies the tentative expiration date, or determines the appropriate expiration date, the medical cannabis manufacturer must include that expiration date on each batch of medical cannabis products and provide supporting documentation to the cannabis compliance agency.

(6) Stability testing must be repeated if the manufacturing process or the product's chemical composition is changed.

(r) A medical cannabis manufacturer must retain a uniquely labeled reserve sample that represents each batch of medical cannabis and store it under conditions consistent with product labeling. The reserve sample must be stored in the same immediate container-closure system in which the medical cannabis is marketed. The reserve sample must consist of at least twice the quantity necessary to perform all the required tests. A medical cannabis manufacturer must retain the reserve for at least one year following the batch's expiration date.

(s) If the cannabis compliance agency deems that public health may be at risk, the cannabis compliance agency may require the manufacturer to retest any sample of plant material or medical cannabis product.

(t) A cultivation facility shall not be required to sample and test cannabis if the batch was previously sampled, the sample was tested by another cultivation facility and determined to have passed the testing requirements of the cannabis compliance agency, and the facility can provide such documentation to the cannabis compliance agency.

(u) If a sample does not pass testing, the producer shall determine whether the sample would meet guidelines for remediation established by the cannabis compliance agency and test another sample from the batch at issue, or identify processes that will render the dried medical cannabis or medical cannabis product safe and retest in accordance with the requirements of this section.

(v) If the batch cannot be remediated to where it meets the testing

requirements of this section, the cultivation facility shall notify the cannabis compliance agency within 24 hours, and confirm the destruction and disposal of the dried cannabis or concentrated cannabis-derived product per the guidelines to be established by the agency.

(w) A medical cannabis testing facility must submit its quality control manual to the cannabis compliance agency for review and approval.

(1) The manual may be mailed to the cannabis compliance agency or may be sent electronically.

(2) The cannabis compliance agency will create a list of laboratories that have submitted a quality control manual by the deadline assigned by the cannabis compliance agency and post the list on cannabis compliance agency's website.

(3) A compassion center may only accept test results from a testing facility listed with the cannabis compliance agency.

(4) A manual must be signed by an directing official of the testing facility with an attestation that the results are accurate and that testing was done using valid testing methodologies and a quality system as required in this section.

(5) If the cannabis compliance agency determines that a testing facility is not using valid testing methodologies, does not have a quality system or is not producing test result reports in accordance with this section, the cannabis compliance agency may remove the name of the testing facility from the list on the cannabis compliance agency's website.

(x) The cannabis compliance agency may do audit testing of a medical cannabis cultivation facility or medical cannabis product manufacturer to access whether they are operating within the guidelines of this act.

(1) The medical cannabis testing facility shall establish and follow cannabis compliance agency procedures for verifying the experience and education of testing facility employees.

(2) The medical cannabis testing facility shall submit the required information for employee identification cards within 15 working days after the date the testing facility employee was hired.

(3) Upon termination of the employment of the medical cannabis testing facility employee with the testing facility, the facility shall:

(A) Obtain any keys or other entry devices from the terminated testing facility employee;

(B) ensure the terminated facility employee can no longer gain access to the facility premises; and

(C) within one business day of the termination of facility employee, notify the cannabis compliance agency of the termination.

(y) Testing and laboratory personnel cannot be excluded for any offense consisting of conduct for which the Kansas safe access act would

likely have prevented a conviction, but the conduct either occurred prior to the enactment of the Kansas safe access act or was prosecuted by an authority other than the state of Kansas, whether as a patient or caregiver. Candidates who can prove their past convictions would have been negated by the Kansas safe access act by providing to the cannabis compliance agency medical records from the time of the conviction for the patient, or records that the patient was receiving care from a caregiver, cannot be excluded from consideration.

Sec. 20. Methods of medical extract manufacturing. The purpose of this rule is to establish guidelines regarding the manufacturing of medical cannabis products, to ensure, at a minimum, that products sold for human consumption do not contain contaminants that are injurious to health and to ensure public safety using best practices.

(a) Methods of oil, tincture and extract production banned under the Kansas safe access act are:

(1) Butane;

(2) alcohol cook methods over open flame; and

(3) propane.

(b) Solvents banned under the Kansas safe access act for all products sold or purchased by compassion centers include all petroleum-based products.

(c) Extract methods allowed under the Kansas safe access act are:

(1) Tabletop infusing machines;

(2) slow cooker methods;

(3) rosin heat press methods and machines;

(4) ice water methods;

(5) food grade glycerin methods;

(6) grain alcohol methods;

(7) supercritical closed loop carbon dioxide extraction machines, including tabletop machines;

(8) dry ice method; and

(9) all other non-explosive, non-toxic solvents, and new technologies or methods that may develop, that adhere to Kansas safe access act guidelines and any further guidelines established by the cannabis compliance agency.

Sec. 21. This act shall establish the cannabis compliance agency, a division under the department of health and environment. The cannabis compliance agency oversees all components of licensing, compliance and regulation enforcement and is not a resource for the growing process and does not have to give information pertaining to the growing process to patients or caregivers as part of this act. The agency works in consultation with the compassion board and is established as an agency under the department of health and environment.

(a) The cannabis compliance agency will work in consultation with the compassion board, and report directly to the department of health and environment.

(b) The purpose of the cannabis compliance agency will be to enforce compliance to all sections of the Kansas safe access act and to issue all pertaining licenses.

All license applicants shall be residents of Kansas for one year, or a returning former Kansan who has re-established residency by the date of their license application.

(c) The cannabis compliance agency shall submit to the legislature an annual report that does not disclose any identifying information about identification cardholders, compassion centers or medical providers, but does contain, at a minimum, all of the following information:

(1) The number of applications and renewals filed for identification cards;

(2) the number of qualifying patients and designated primary caregivers approved in each county;

(3) the nature of the medical conditions of the qualifying patients;

(4) the number of identification cards revoked;

(5) the number of medical providers providing written certifications for qualifying patients;

(6) the number of registered compassion centers; and

(7) the number of compassion center staffers.

(d) It shall be a class B misdemeanor for any person, including an employee or official of the cannabis compliance agency or another state agency or local government, to breach the confidentiality of information obtained pursuant to section 7, and amendments thereto.

(e) Notwithstanding the provisions of this section, this section shall not prevent the following notifications:

(1) The cannabis compliance agency employees may notify law enforcement about falsified or fraudulent information submitted to the cannabis compliance agency, so long as the employee who suspects that falsified or fraudulent information has been submitted confers with such employee's supervisor and both agree that circumstances exist that warrant reporting;

(2) the cannabis compliance agency may notify state or local law enforcement about apparent criminal violations of the Kansas safe access act, if the employee who suspects the offense confers with such employee's supervisor and both agree that circumstances exist that warrant reporting; or

(3) compassion center staffers may notify the cannabis compliance agency of a suspected violation or attempted violation of the Kansas safe access act or the rules and regulations adopted pursuant thereto, if the

employee who suspects the offense confers with such employee's supervisor and both agree that circumstances exist that warrant reporting.

(f) (1) The cannabis compliance agency shall maintain a website:

(A) To house information for the public on the act; and

(B) to facilitate implementation of the act.

(2) Information to be included, either by text or link, may include, but shall not be limited to:

(A) Medical provider search;

(B) cultivating caregiver search;

(C) compassion center or cooperative search;

(D) customer service phone number and email;

(E) information and contacts for the appeals process;

(F) electronic application forms;

(G) electronic crop damage report form;

(H) a portal to upload documents and pictures; and

(I) all electronic forms for medical cannabis cultivation facilities, cannabis product manufacturers, compassion centers, cultivating caregivers, medical cannabis testing facilities, cannabis transport and security companies, and any other forms as required by the cannabis compliance agency.

(g) The agency shall establish regulation of the storage of, warehouses for and transportation of medical cannabis and medical cannabis products.

(h) The agency shall develop a universal symbol indicating the package contains medical cannabis.

(i) The agency shall establish rules for the safe and lawful transport of medical cannabis and medical cannabis products between the licensed business and testing labs.

(j) The cannabis compliance agency may refuse or deny a license renewal, reinstatement or initial license issuance for good cause. For purposes of this subsection, good cause means:

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

(2) The licensee or applicant has failed to comply with any special terms or conditions that were placed on its license pursuant to an order of the cannabis compliance agency.

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

(4) The licensee or applicant has provided a false application or committed a fraudulent act to a member of law enforcement, prosecutor,

officer or employee of the cannabis compliance agency, or member of local or state government.

(k) If the cannabis compliance agency denies a state license pursuant to this subsection, the applicant shall be entitled to a hearing and judicial review. The cannabis compliance agency shall provide written notice of the grounds for denial to the applicant and to the local jurisdiction at least 30 calendar days prior to the hearing.

(l) The cannabis compliance agency shall require a complete disclosure of all persons having a direct or indirect financial interest, and the extent of such interest, in each license issued under this act.

(m) For the purpose of regulating the cultivation, manufacture, distribution, sale and testing of medical cannabis and medical cannabis products, the cannabis compliance agency in its discretion, upon receipt of an application in the prescribed form, may issue and grant to the applicant a license from any of the following classes, subject to the provisions and restrictions provided by this act:

(1) Compassion center license;

(2) medical cannabis cultivation facility license;

(3) medical cannabis products manufacturing license;

(4) medical cannabis testing facility license; and

(5) occupational licenses and registrations for owners, managers, operators, employees, contractors and other support staff employed by, working in or having access to restricted areas of the licensed premises, as determined by the cannabis compliance agency.

(n) A licensee may operate a compassion center, a medical cannabis cultivation facility and a medical cannabis products manufacturing facility at the same location.

(o) The cannabis compliance agency will establish a seed-to-sale tracking system to be utilized by compassion centers, medical cannabis product manufacturers, medical cannabis testing facilities and cultivating caregivers with over 10 patients.

Sec. 22. Any provision or section of this act being held invalid as to any person or circumstances shall not affect the application of any other provision or section of this act that can be given full effect without the invalid provision or section or application, and to this end, the provisions of this act are severable.

Sec. 23. This act shall take effect and be in force from and after its publication in the statute book.