EXHIBIT I

DEPARTMENT OF HEALTH

SUBJECT: Rules Governing Medical Marijuana Registration, Testing, and Labeling in Arkansas, 20 CAR pt. 202

DESCRIPTION: The Arkansas Department of Health is seeking promulgation of proposed amendments to the Rules Governing Medical Marijuana Registration, Testing, and Labeling in Arkansas.

The proposed rule updates definitions, makes changes to comply with Acts 342 and 1112 of 2021, Act 757 of 2023, and Act 491 of 2025; and includes testing requirements for processors.

These Rules govern the application for and renewal of registry identification cards for qualifying patients and designated caregivers. These Rules also establish labeling and testing standards for marijuana distributed under the Medical Marijuana Amendment and how medical conditions may be added to the list of qualifying conditions.

After the public comment period, in response to comments received, the agency withdrew a proposed definition of "added substance".

PUBLIC COMMENT: No public hearing was held on this rule. The public comment period expired on August 5, 2026. The agency indicated that it received no comments during the public comment period.

After the public comment period closed, the agency provided additional time for interested parties to submit comments. The agency provided a summary of the comments received during this time. Due to its length, the summary is attached separately.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: With respect to the total estimated cost by fiscal year to any private individual, private entity, or private business subject to the amended rule, the agency indicated that there is an "[u]nknown, but possible cost to industry to implement [the] changes."

LEGAL AUTHORIZATION: "The Department of Health shall administer and enforce the provisions of [the Arkansas Medical Marijuana Amendment of 2016] concerning qualifying patients, qualifying medical conditions, and designated caregivers, including without limitation the issuance of a registry identification card to a qualifying patient and designated caregiver." Ark. Const. amend. 98, § 4(a)(1). The Department shall adopt rules necessary to perform its duties under the Amendment and carry out the Amendment's purposes. Ark. Const. amend. 98, § 4(a)(2).

This rule implements Act 491 of 2025. The Act, sponsored by Senator Clint Penzo, required certain testing of processed marijuana products sold as medical marijuana. The testing implemented by the Act "shall comply with the rules of the Department of Health[.]" Act 491, § 1, *codified at* Ark. Code Ann. § 20-56-309(c).

Sarah Huckabee Sanders
GOVERNOR

Renee Mallory, RN, BSN
SECRETARY OF HEALTH

Jennifer Dillaha, MD
DIRECTOR

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PUBLIC COMMENT REPORT
Proposed Rules Governing Medical Marijuana Registration, Testing, and Labeling in Arkansas, 20 CAR Pt. 202

PUBLIC COMMENTS:

Public comment period expired August 5, 2026.

Eli Bauer, Arkansas Cannabis Industry Association
Received September 23, 2026

Full comments are attached.

AGENCY RESPONSE:
The Department of Health is obligated under Arkansas Constitution, Amendment 98, §4(b)(2) and (3) to adopt rules for labeling and testing standards:

> *(b) Not later than one hundred eighty (180) days after the effective date of this amendment, the department shall adopt rules governing:*
>
> > *(2) Labeling and testing standards for marijuana distributed to qualifying patients, including a warning label on all marijuana for medical use that is processed or sold for smoking that communicates the health and safety risks associated with smoking and a list of places and conditions in which smoking marijuana for medical use is illegal in the State of Arkansas; and*
> >
> > *(3) Any other matters necessary for the department's fair, impartial, stringent, and comprehensive administration of this amendment.*

The restrictions added to 20 CAR §202-104(d)(7)(B) are drafted in accordance with that authority, to further ensure consistency between the labeling under the restrictions of Amendment 98, Arkansas law, or rules promulgated by the Department of Health, Department of Finance and Administration, or Medical Marijuana Commission. The Department proposes the amendment to give greater clarity than the previous limited prohibition of not being attractive to minors and imparts an impartial and stringent restriction on the labeling. The Department also notes that the proposed restrictions are not new to the industry and are incorporated directly from Ark. Code §20-56-305. To avoid confusion, the Department will amend the language from "Use,

in the labeling or design of the marijuana product or its packaging…" to "Use, in the labeling of the marijuana product…."

With respect to additional labeling requirements proposed in these Rules, while the Department is aware that the "real estate" of a marijuana products label is limited and there are costs associated, there is a compelling interest in: (a) changing the marijuana symbol to the universal symbol; (b) adding the poison control number for immediate access in the event of an emergency; (c) notification of any major food allergens.

The Department has reviewed the Association's, and others, concerns for the requirement to list all "added substances". The Department believes with the advancement and sophistication of ever-growing list of processed marijuana products, it is important to public health and safety for patients to know what ingredients are being used in the manufacturing of the products. However, considering the Association's concerns, the Department will withdraw the broader "added substances" requirement and work with members of the industry to develop a more direct and comprehensive measure to properly inform the public.

Finally, regarding the effective date, the Department is not opposed to a delayed effective date for the new labeling requirements and recommends a 180-day delay in the requirement to incorporate labels that comply with the new labeling requirements and any products produced and labeled prior that 180-day mark to be sold or relabeled within 365 days of their production date. This 365-day mark is consistent with the one-year shelf life, pursuant to Appendix A of the Rules which states that test results do not expire for one year.

Mary Claire McLaurin, Good Day Farm
Received September 23, 2026

Full comments are attached.

AGENCY RESPONSE:
20 CAR §202-102(3) and 20 CAR §202-104(c)(13):Good Day Farm also raised concerns for "added substances" labeling requirements, and Department agreed to withdraw that proposed amendments for review of language to ensure clarity in future amendments.

20 CAR §202-102: Good Day Farm had multiple suggestions for definitions; however, the Department did not make all recommended changes. The definition for usable marijuana is directly from Amendment 98. The definition of variance was based on previous discussions and suggestions from the industry as optional, without affecting the limits outlined in Amendment 98.

20 CAR §202-104: With respect to the required warning statements, the Department is not proposing new warning statements be added. The existing warnings required were promulgated as part of the initial rules in 2017. With respect to the concerns for the costs of changing labels, the Department has addressed a delayed effective date above. Regarding Good Day Farm's request to incorporate additional universal symbols or black and white symbols, the Department states the International Intoxicating Cannabinoid Product Symbol is governed by the Advancing

Standards Transforming Markets (ASTM International) and defers to the ASTM regarding required colors or available use of monochromatic versions.

Robert DeBin, Natural State Medicinals
Received September 23, 2026

Full comments are attached.

Natural State Medicinals submitted similar comments regarding "added substance" label requirements, and the Department withdraws that proposed requirement as discussed above. NSM also expressed support on changes to definitions for processed marijuana products, the optional inclusion of variances, and the revised process for handling products that do not meet labeling requirements. NSM also noted some issues with common labeling errors involving the Unique Identification Number, which the Department will review and consult with related agencies to determine the best solution for future promulgation. NSM similarly objected to the inclusion of the Poison Control Number on the label, and the Department has responded above. NSM additionally expressed concerns with the additional labeling requirements, to which the Department has also responded above.

AGENCY RESPONSE:
Proceed to adoption with revisions.

WRIGHT LINDSEY JENNINGS
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Eli C. Bauer
ATTORNEY

Direct: 501.978.9914 | ebauer@wlj.com

September 23, 2026

VIA Email: adh.medicalmarijuana@arkansas.gov
Confirmed by U.S. Mail
Arkansas Department of Health
Attention: Craig Smith
4815 West Markham, Slot 50
Little Rock Arkansas, 72205

RE: Public Comment on the proposed revisions to the Rules Governing Medical Marijuana Registration, Testing, and Labeling in Arkansas

To the Members of the Board:

I write on behalf of the Arkansas Cannabis Industry Association (the "Association"), the state's only cannabis industry association representing Arkansas cultivators, retail establishments, processors, and other affiliated businesses, submitting the following comments on the proposed rule changes to the Rules Governing Medical Marijuana Registration, Testing, and Labeling in Arkansas. From the outset, we appreciate that several of the Association's concerns outlined in the 2024 draft of these same rules proposed by the Department have been addressed in the current version. However, there remain several key issues with the proposed rules which we respectfully ask the Department to address prior to approving the rules.

I. Changes to the Rules on Labeling

Many of the changes relating to labeling introduce unnecessary ambiguity in the meaning and effect of the rules and should be clarified for the benefit of the industry and patients. Specifically:

a. 20 CAR § 202-104(d)(7)(B) – General Label Requirement-Prohibitions and Exceptions

Amendment 98 specifically authorized the Department to enact rules regarding "labeling and testing standards." *See* Arkansas Const. Amend. 98, § 4(b)(2). Separately, Amendment 98 authorized the *Medical Marijuana Commission* (the

"Commission") to enact rules concerning restrictions on "advertising, marketing, packaging, and promotion" of licensed facilities. *See* Arkansas Const. Amend. 98, § 8(d)(8). Section 8 further specifically grants the Commission with authority over "product design". *See* Arkansas Const. Amend. 98, § 8(d)(8)(C).

20 CAR § 202-104(d)(7)(B) explicitly adds material limitations on the advertising, marketing, label design, packaging design, and product design of medical marijuana products. As previously highlighted in the Association's comments to the 2024 rules proposed by the Department, any attempt by the Department to regulate advertising, packaging, or product design is unconstitutional as being in excess of ADH's authority.

As such, 20 CAR § 202-104(d)(7)(B) should be stricken in its entirety.

b. Generally, 20 CAR § 202-104(c)(12) – (14) – Processed Marijuana Products Labeling Requirements

The Association respectfully requests that the Department review all labeling requirements to determine whether any requirements can be removed or reduced in an effort to more efficiently protect patients or, at minimum, that the Department (i) implement a grace period relating to the proposed changes for existing products already in the market; and/or (ii) consult with the Arkansas Alcohol Beverage Control Division and the Medical Marijuana Commission prior to enforcement.

The packaging and labels on products in the state are often small and including all currently labels, plus three new statements, will require significant reconfiguration of labels and will be incredibly costly to the industry. As a result of existing warning and font requirements set out in the Department's rules, labels are already unnecessarily cluttered and are unlikely to protect consumers, as intended. If the Department's goal is to protect consumers through warnings, the Department should consider limiting the label requirements to only those that directly address the most important concerns and the industry would welcome the opportunity to be involved in that process.

From a formatting perspective, the proposed rules included two subsections (12) under 20 CAR § 202-104(c) and 20 CAR §202-104(d)(2)(C)(ii) should be updated to accurately reflect the intended section.

c. 20 CAR § 202-104(c)(12) – Arkansas Poison Control

For the reasons set out above relating to the effectiveness of cluttered labels combined with the lack of supporting evidence that medical marijuana poisoning is a legitimate concern or problem since the inception of the industry, we respectfully request that this requirement be deleted.

d. 20 CAR § 202-104(c)(13) – Added Substances

The proposed requirement for labels to include a list of "any added substances" goes further than necessary to protect patients and will force licensees to permanently disclose proprietary ingredient information to competitors, which would otherwise be protected by the Arkansas Trade Secrets Act, Ark. Code Ann. § 4-75-601 et seq. The Department's primary concern of patient safety can be fully served without this level of public disclosure.

This proposed requirement is also inconsistent with the Department's internal treatment of proprietary information. Under the Food Freedom Act and standard FDA labeling rules (21 C.F.R. § 101.22), DOH allows food producers to list proprietary components generically by category, i.e., "spices" or "natural flavors," provided allergens are separately disclosed. It's inconsistent to demand stricter disclosure here than in a far less regulated market.

We ask the Department to revise this section to allow proprietary additions or blends to be listed generically, provided all major allergens are separately disclosed."

e. Effective Date

Regardless of the final language of the proposed rule, the Association requests that ADH delay enforcement of changes to labeling for 365 days after the effective date of the rule. Due to the backstock of packaging and labeling products that the cultivators, processors and dispensaries have on hand, as well as the lead time needed to redesign these items and get them manufactured, 365 days is a reasonable time period to update all of these items before these changes are enforced. We further request that the rules specify that dispensaries may continue to stock and sell products with the old labels so long as they were shipped prior to the 365-day effective date and the testing results have not expired.

In addition to the comments set forth herein, we adopt and incorporate by reference the comments submitted on behalf of Good Day Farm and Natural State Medicinals.

We appreciate your consideration of these public comments.

Sincerely,

WRIGHT, LINDSEY & JENNINGS LLP



Eli C. Bauer

GOOD DAY FARM

ATTN: MR. S. CRAIG SMITH
RE: Rules Governing Medical Marijuana Registration, Testing, and Labeling in Arkansas

Dear Mr. Smith – please find below comments submitted on behalf of Good Day Farm regarding the proposed revisions to the Rules Governing Medical Marijuana Registration, Testing, and Labeling.

We appreciate your consideration.

Sincerely,

Mary Claire McLaurin
Senior Vice President of Compliance

COMMENTS

20 CAR § 202-102(3) and **20 CAR § 202-104(c)(13**) – re: the definition of "added substance" and the requirement to include "added substances used added to or infused in the processed marijuana product" on labels – the definition of "added substance" does not clarify whether a listing of secondary ingredients are required on the label. GDF currently includes an ingredient listing on processed marijuana products but does not always include the secondary ingredients comprising primary ingredients, such as "lime flavoring," "gel color," or "botanical terpenes." If secondary ingredients are required to be listed on the label, this would significantly increase the amount of space required to print compliant labels. One suggestion for simplification and uniformity would be to adopt the FDA requirements for food labeling.

- Additionally, this definition refers to substances added to "usable marijuana, cannabinoid concentrate product," but those words are not repeated at any other point in the rules. Is it possible that this phrase was intended to say "usable marijuana *or processed marijuana product*"?

20 CAR § 202-102(24) – re: the definition of "processed marijuana product" –

- In (A) - should the words "definition of" be inserted before the word "usable"?

- In (B) – should the words “shall include” be deleted? The definition otherwise reads “processed marijuana product means shall include without limitation…”
- In (C) – should the words “products that” be inserted at the beginning of the subsection?

20 CAR § 202-102(40) – re: the definition of “usable marijuana” – this definition currently includes the stalks and roots of the marijuana plant. These parts of the plant possess negligible (if any) potency but are required to be rendered unusable and tracked as marijuana waste in the state seed-to-sale tracking system. If stalks and roots were excluded from the definition of usable marijuana, it would reduce costs for operators without compromising public health or safety.

20 CAR § 202-102(41) – re: the definition of “variance” – upon review, our team had differing interpretations of this language, with at least one (1) person assuming the 10mg reference modified the word “range” itself, meaning that the allowable variance range is up to 10mg, not that the portion is capped at 10mg.

20 CAR § 202-104(a)(3)(C) – re: minor typographical errors – we greatly appreciate the allowance of a remedy for label errors, but it may be somewhat limited in use or cause confusion with retail partners as to what exactly is included in the inventory tracking system. It may be simpler to list the information that cannot be corrected with a new label. For informational purposes, these are the items on our labels currently tracked:

- UIN
- Product Name
- Inventory Type
- Quantity
- Strain
- Servings Per Pack
- Net Weight
- Potency Information for THC, THCA, CBD, and CBDA
- QA Lab and License #

These are the items on our labels NOT included in the tracking system:

- Total Terpenes/any terpene COA information
- Activation Time
- QA Test date
- Serving Size (There is a field titled Serving Size, however in BioTrack it only refers to the servings per unit, not the actual serving size of the product)
- Total THC per serving
- Total CBD per serving
- Any minor cannabinoid COA information (Only THC and CBD are tracked)
- Extraction Date
- Ingredients

20 CAR § 202-104(b) & (c) – re: warnings required on labels – these sections need clarification. The warnings included in subsections (b)(11)-(13) and second (c)(12) are identical to or near paraphrases of the warnings required to be listed on advertising and marketing for medical marijuana by A.C.A. § 20-56-305(b)(2). One notable difference is that the statute only requires "one (1)" of the warnings, whereas ADH labeling rules require all of the warnings to be listed. The items produced by licensees in this state are often quite small – sometimes no larger than a golf ball. Operators already struggle to include the required information on product packaging, while also meeting font and size requirements. The proposed rules add three (3) additional label requirements (discussed further, below). The rule should be revised to require only one (1) of the warnings on any given package.

- Re: proposed additions (c)(12)-(14) – these new requirements will necessitate reconfiguration and editing to the packaging and labeling for all existing products in the Arkansas market. Per Section II of Appendix A to these rules, test results do not expire for one (1) year, meaning that all products produced and packaged in the State prior to the passage of the proposed rules will have a shelf-life of one (1) year. There is no grace period for compliance set forth in the rules, and accordingly, all licensees will be required to relabel and repackage millions of units of existing product. This process will be incredibly burdensome and costly to the industry, as well as posing the potential risk that inventory discrepancies will occur during the mass relabel project. We respectfully request that the ADH consult with the Alcoholic Beverage Control Division (ABC), Medical Marijuana Commission (MMC), and industry participants prior to implementation and enforcement of any additional label or packaging requirements. An 18-24 month implementation timeline would allow operators to sell through existing items and packaging inventory, modify designs to comply with new standards, and acquire new compliant packaging and labeling materials.
- NOTE: Section (c) as published with the Arkansas Secretary of State contains two (2) subsections denoted as (12).

20 CAR §202-104(c)(4) – re product identity – it may be helpful to add definitions of "concentrate," "extract," and "other processed marijuana product" to avoid inconsistencies in nomenclature.

20 CAR § 202-104(d)(6) – re: the replacement of the Arkansas universal symbol with the International Intoxicating Cannabis Product Symbol – this change will necessitate reconfiguration and editing to the packaging for all existing products in the Arkansas market in the same manner as discussed above. However, because the universal symbol is usually preprinted on packaging ordered from third-party vendors, this provision will impose an additional, significant financial impact on operators. All existing packaging with the Arkansas universal symbol will be rendered non-compliant, resulting in necessary destruction, financial losses, and unnecessary environmental waste. Per Section II of Appendix A to these rules, test results do not expire for one (1) year, meaning that all products produced and packaged in the State prior to the passage of the proposed rules will have a shelf-life of one (1) year. There is no grace period for compliance set forth in the rules, and accordingly, all licensees will be required to repackage millions of units of existing product. Replacement of the symbol will require re-design of all existing packaging. The

new packaging designs must then be ordered and shipped from third-party vendors, many of whom are overseas. The estimated lead time on many such orders is between 12-14 weeks, which extends well past the proposed effective date of October 1, 2026. This process will be incredibly burdensome and costly to the industry, as well as posing the potential risk that inventory discrepancies will occur during the mass repackaging project. We respectfully request that the ADH consult with the Alcoholic Beverage Control Division (ABC), Medical Marijuana Commission (MMC), and industry participants prior to implementation and enforcement of any additional packaging requirements. An 18-24 month implementation timeline would allow operators to sell through existing items and packaging inventory, modify designs to comply with new standards, and acquire new compliant packaging and labeling materials.

- Please also consider utilizing one of the other universal symbols that can be printed in black and white or black/white and color of packaging, or at least allowing licensees to print the symbol in black and white or black/white and color of packaging. The yellow color is not compatible with most of our existing hardware and equipment and will be difficult to print in house. The symbol will have to be printed on all packaging formats or we will have to print an additional label for each package. This will increase costs, labor, and likelihood of error.

20 CAR § 202-104(d)(7)(B)(5) – this provision contains a clerical error. The words “any content” are duplicated after the word “Contains”.

NATURAL STATE MEDICINALS

S. Craig Smith, Esq.
Arkansas Department of Health
4815 West Markham, Slot 50
Little Rock, AR 72205
Via Email: stephan.smith@arkansas.gov | adh.medicalmarijuana@arkansas.gov

RE: Public Comment on the Proposed Rules Governing Medical Marijuana Registration, Testing, and Labeling in Arkansas

Dear Mr. Smith,

We write to provide comments regarding the proposed rule changes. Although we do not address every redline, we have endeavored to provide comments that are both thorough and concise. We appreciate your time and consideration of the issues raised herein and would be pleased to discuss any of these matters further or answer any questions the Department may have.

20 CAR § 202-102. Definitions.

(3) "Added substance"

Requiring the inclusion of "added substances" on the label will likely result in costs to licensees exceeding $100,000. As discussed in the Labeling section below, the surface area on our packages and labels makes compliance with the proposed rules exceedingly difficult. Moreover, the definition of "added substances" is overly broad, vague, and unnecessary. Does any component or ingredient include terpenes? Will we have to include components or ingredients that are part of proprietary formulas? Is including this redundant considering the fact that allergen information will also be required?

For these reasons, we believe the proposed "added substances" requirement should be removed or substantially narrowed and clarified. As drafted, the requirement would impose significant and potentially unnecessary costs on licensees while providing little additional benefit to patients, particularly given the separate requirement to disclose allergens. At a minimum, the Department should clearly define what constitutes an "added substance," specify whether naturally occurring or proprietary components such as

terpenes and formulation ingredients must be disclosed, and explain how the requirement is intended to interact with the separate allergen-labeling requirements. Given the potential costs associated with implementing this requirement, the Department should also account for those costs in its Financial Impact Statement.

(19) "Marijuana products" and (24) "Processed marijuana product"

Grouping usable marijuana together with all other forms makes sense and provides the industry and regulators with a direct, universal reference. We are also in favor of combining edibles, concentrations, etc., as processed marijuana products. While we are a bit confused by section (C) of definition (24), we understand that the language was taken verbatim from Act 491 of 2025. We appreciate the ADH's changes here.

(41) "Variance"

We support allowing licensees the option to include a variance. Homogenization of marijuana products is required by the ABC rules and is the goal of any reliable operator; but there are instances where it is safer to err on the side of caution and let patients know that a variance should be taken into consideration. The ability to identify an appropriate variance does not undermine the requirement for homogenization or the importance of consistent and reliable manufacturing practices. Rather, it provides an additional safeguard by allowing licensees to communicate to patients when a degree of variability should be taken into account. We believe this approach appropriately balances regulatory consistency with patient safety and transparency.

20 CAR § 202-104. Labeling

Subsections (a)(3)(C)-(C)(i)

We welcome the clarification regarding when dispensaries must return marijuana products that do not meet labeling requirements. Granting a dispensary the discretion to quarantine products with minor typographical errors is a step in the right direction. However, that clause is unlikely to be useful in practice because of the subclause excluding "any information entered into the inventory tracking system" as defined in the ABC medical marijuana rules from the definition of minor typographical errors.

One of the most common labeling errors is the transposition or misplacement of a digit within a Unique Identification Number (UIN). As you know, UINs are randomly generated by BioTrack and are not generated in any predictable sequence. If a mistyped UIN is excluded from the definition of a typographical error, there will be very few circumstances in which this provision could actually be used.

Furthermore, it is unclear what is meant by "any information entered into the inventory tracking system." As noted above, UINs are randomly generated by BioTrack and are not entered into the system by licensees. More broadly, the amount and type of information entered into the inventory tracking system varies. We recommend clarifying this language so that inadvertent typographical errors involving information contained in the inventory tracking system may still qualify as minor typographical errors when the error does not affect the identity, quantity, potency, or safety of the product.

Subsection (b)(9)

Removing the requirement that any associated test batch number be included on the label is a prudent change. These labels contain a great deal of information, a large portion of which is conveyed by numbers. The test batch ID number is really only important to the lab personnel receiving and processing the samples. Moreover, this term is not defined in the rules and has meant different things to different labs. One lab can use the QA Sample UIN while another uses the Parent UIN as the batch number. Removing this unnecessary, at times confusing, number is the right move.

Subsection (c)(12)

We strongly support educating patients and ensuring that they feel safe using our products; however, requiring the inclusion of Arkansas Poison Control and its telephone number does not further those objectives. Its inclusion on the label may instead suggest an inherent danger associated with the product that does not accurately reflect the risks presented by marijuana. Requiring a Poison Control number is no more necessary than requiring every product to state, "In case of emergency, dial 911."

If the concern underlying this requirement is overconsumption, it should be recognized that THC overconsumption is not generally fatal, unlike overdoses involving

opioids and certain other prescription drugs. Overconsumption can produce adverse effects, including anxiety, paranoia, and an increased heart rate, which may be unpleasant or frightening. However, these effects are generally managed through observation, reassurance, and allowing the effects to subside. It is worth noting that negative symptoms can be accompanied by marijuana's pleasant effects such as increased appetite and hyperesthesia, which can be engaged to redirect attention from the negative responses.

Requiring Poison Control information on every product does not necessarily provide a meaningful additional safeguard. And if the concern is accidental consumption by children, it is also important to note that child-resistant containers are already required for every product containing THC dispensed to patients. See ABC MM Rules 15.1(b)(i)(2). Accordingly, we question the additional safety benefit provided by requiring the Poison Control information.

Subsection (c)(13)

Our paramount concern is the amount of space necessary to include this information given the container size of certain products. The information currently required is extensive and already presents significant logistical challenges when included on product labels. Requiring licensees to include "added substances" used would make compliance nearly impossible for many products.

There is a subsection that addresses the issue of container size. It provides that licensees must include the information required on a principal display panel, the business or trade name, the license number, Unique Identification Number (UIN), concentration of THC and CBD, and the four required warning statements on the container that contains usable marijuana. However, all other required label information may be included on an outer container or package or on a leaflet.

The packaging we use is selected with great care and expense and is not designed to be placed inside an additional outer container or package. Consequently, we would have to either print additional labels that dispensaries would be required to place on the outside of a child-resistant container or bag, or print leaflets that must accompany each unit of product. Printing hundreds of thousands of these additional labels or leaflets each year would cost our business well over one hundred thousand dollars ($100,000) in labor and equipment alone. This would be the least costly option.

Another option would be to purchase new packaging, which would likely be prohibitively expensive. However, there is no way that newly ordered packaging will arrive by October. In addition to significantly increased prices, fulfillment times for our consumable goods have ranged from six to fifteen months.

We also believe the language in this subsection is vague, unclear, and unnecessary. It is unclear what the Department expects licensees to provide. As previously stated, the labor and equipment necessary to generate and print the additional labels or leaflets would likely exceed $100,000 alone. When these costs are considered together with the potentially substantial expense of testing the nutritional content of finished products, it is clear that, if the Department intends to require this level of nutritional specificity, the resulting costs will exceed the statutory threshold requiring a Financial Impact Statement. Accordingly, given the substantial expense, logistical burden, and ambiguity of the proposed requirement, we respectfully request that this subsection be removed or substantially revised.

Our packaging is not intended to be placed inside an additional outer container or package. As a result, we would again be required either to print additional labels that dispensaries would have to place on the outside of a child-resistant container or bag or to produce leaflets that must accompany each unit of product. We would also have to reprint labels or leaflets for the thousands of UINs currently residing in our vault. This requirement would apply to every unit of product. Printing hundreds of thousands of additional labels or leaflets each year would cost our business well over one hundred thousand dollars ($100,000) in labor and equipment alone. Again, this would represent the least costly compliance option.

The requirement that licensees disclose "[a]ny added substances added to or infused in the processed marijuana product" is likewise overly broad and vague. It also does not appear to meaningfully increase patient safety or education and could require the disclosure of proprietary information concerning how we formulate and manufacture our products.

We understand that ADH wants patients to be informed about what they are consuming. However, requiring disclosure of all "added substances," in addition to the food-allergen requirement, appears redundant. NSM already identifies food allergens

present in its products and does not object to that requirement. We believe that disclosure adequately addresses patients' legitimate concerns regarding food allergens.

The proposed definition of “added substances”—any component or ingredient added during or after processing that is present in the finished product—is sufficiently broad that it could encompass information that provides little meaningful information to patients while potentially requiring disclosure of proprietary manufacturing information. Moreover, these products are not designed to be consumed in quantities or in a manner that would cause incidental “added substances” to meaningfully affect a patient's diet or otherwise influence how a patient selects or consumes a cannabinoid product.

Subsection (c)(14)

The inclusion of allergens obviates the need for including added substances on the labels. The requirement to identify “added substances” is unnecessary to the extent that the proposed rules already require disclosure of food allergens. The primary patient-safety concern associated with ingredients or other substances added to a product is whether they may cause an adverse reaction or otherwise affect a patient's ability to safely consume the product.

The proposed allergen requirement directly addresses that concern by requiring disclosure of substances known to pose a risk to individuals with food allergies. Requiring licensees to separately identify every “added substance” would therefore provide little additional information to patients while imposing significant labeling and compliance burdens. Moreover, the broad definition of “added substances” could require disclosure of ingredients or components that have no meaningful impact on patient safety and could potentially encompass proprietary formulations. We believe the allergen disclosure requirement adequately serves the legitimate patient-information purpose of this provision without the need for a separate, broader “added substances” requirement.

For these reasons, NSM respectfully requests that the Department remove the requirement to include Poison Control and to disclose “added substances.” At a minimum, the Department should narrow and clarify the provision to avoid duplicating the allergen disclosure requirement and to ensure that licensees are not required to disclose immaterial or proprietary information that provides no meaningful benefit to patients.

Financial Impact Statement

Because these proposed amendments, as drafted, are likely to impose costs of at least one hundred thousand dollars ($100,000) annually on businesses operating cultivation facilities or dispensaries, a Financial Impact Statement should have been included. Ark. Code Ann. § 25-15-204(e)(4)(A).

Given the substantial costs associated with the proposed amendments—including additional packaging, labeling, printing, labor, equipment—we respectfully submit that the Department should provide the required Financial Impact Statement and evaluate less burdensome alternatives before adopting these provisions.

Implementation/Effective Date

NSM seeks further clarification with respect to when these rule changes, if adopted and approved, would become effective. As discussed, the changes that are proposed here, while only a few lines on paper, would affect the packaging and labels for well over one hundred thousand units within NSM alone. Industry-wide, that number is in the millions. Were these to go into effect without a grace period or sunset date, enforcement of these rules would halt the entire program.

Accordingly, NSM respectfully requests clear guidance on the effective date of any adopted amendments and a reasonable implementation or grace period. Licensees should be afforded sufficient time to exhaust existing inventory, revise packaging and labels, procure compliant materials, and implement necessary changes. Immediate enforcement would cause significant disruption and costs and effectively halt production and sales while licensees undertake changes that may take months to complete.

Conclusion

We understand and recognize the aim behind these rule changes: to increase safety and transparency for patients. NSM wants this, too. But that which is necessary and practical should be implemented over that which is broad, burdensome, and redundant. We would be happy to meet with you, and we welcome any employee of the Department of Health to visit our facility when convenient.

Sincerely,

Robert DeBin
CEO and Chairman

Kyle Mayton
SVP Compliance & In-House Counsel

QUESTIONNAIRE FOR FILING PROPOSED RULES WITH THE ARKANSAS LEGISLATIVE COUNCIL

DEPARTMENT Arkansas Department of Health
BOARD/COMMISSION Public Health Programs, Division for Health Protection
BOARD/COMMISSION DIRECTOR Connie Melton, Director
CONTACT PERSON S. Craig Smith, Attorney
ADDRESS 4815 West Markham Street, Slot 31, Little Rock, AR 72205
PHONE NO. (501) 534-6293 **EMAIL** Stephan.Smith@arkansas.gov
NAME OF PRESENTER(S) AT SUBCOMMITTEE MEETING
S. Craig Smith; Chuck Thompson
PRESENTER EMAIL(S) Stephan.Smith@arkansas.gov; Charles.Thompson@arkansas.gov

INSTRUCTIONS

In order to file a proposed rule for legislative review and approval, please submit this Legislative Questionnaire and Financial Impact Statement, and attach (1) a summary of the rule, describing what the rule does, the rule changes being proposed, and the reason for those changes; (2) both a markup and clean copy of the rule; and (3) all documents required by the Questionnaire.

If the rule is being filed for permanent promulgation, please email these items to the attention of Rebecca Miller-Rice, miller-ricer@blr.arkansas.gov, for submission to the Administrative Rules Subcommittee.

If the rule is being filed for emergency promulgation, please email these items to the attention of Director Marty Garrity, garritym@blr.arkansas.gov, for submission to the Executive Subcommittee.

Please answer each question completely using layman terms.

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1. What is the official title of this rule?
Rules Governing Medical Marijuana Registration, Testing, and Labeling in Arkansas

2. What is the subject of the proposed rule? The proposed amendments update definitions, testing requiremer

3. Is this rule being filed under the emergency provisions of the Arkansas Administrative Procedure Act? Yes ☐ No ☑

If yes, please attach the statement required by Ark. Code Ann. § 25-15-204(c)(1).

If yes, will this emergency rule be promulgated under the permanent provisions of the Arkansas Administrative Procedure Act? Yes ☐ No ☐

4. Is this rule being filed for permanent promulgation? Yes ☑ No ☐

If yes, was this rule previously reviewed and approved under the emergency provisions of the Arkansas Administrative Procedure Act? Yes ☐ No ☑

If yes, what was the effective date of the emergency rule? _____

On what date does the emergency rule expire?_____

5. Is this rule required to comply with a *federal* statute, rule, or regulation? Yes ☐ No ☑

If yes, please provide the federal statute, rule, and/or regulation citation.

6. Is this rule required to comply with a *state* statute or rule? Yes ☑ No ☐

If yes, please provide the state statute and/or rule citation.

Amendment 98 of Arkansas Constitution of 1874

7. Are two (2) rules being repealed in accord with Executive Order 23-02? Yes ☐ No ☑

If yes, please list the rules being repealed.
If no, please explain.

The proposed amendments update definitions, testing requirements for processors and processed marijuana products, and make changes to comply with Acts 342 and 1112 of 2021; Act 757 of 2023; and Act 491 of 2025.

8. Is this a new rule? Yes ☐ No ☑

Does this repeal an existing rule? Yes ☐ No ☑
If yes, the proposed repeal should be designated by strikethrough. If it is being replaced with a new rule, please attach both the proposed rule to be repealed and the replacement rule.

Is this an amendment to an existing rule? Yes ☑ No ☐
If yes, all changes should be indicated by strikethrough and underline. In addition, please be sure to label the markup copy clearly as the markup.

9. What is the state law that grants the agency its rulemaking authority for the proposed rule, outside of the Arkansas Administrative Procedure Act? Please provide the specific Arkansas Code citation(s), including subsection(s).

Amendment 98 of Arkansas Constitution of 1874

10. Is the proposed rule the result of any recent legislation by the Arkansas General Assembly?
Yes ☑ No ☐

If yes, please provide the year of the act(s) and act number(s).

Acts 342 and 1112 of 2021; Act 757 of 2023; Act 491 of 2025

11. What is the reason for this proposed rule? Why is it necessary?

The proposed amendments update definitions, testing requirements for processors and processed marijuana products, and make changes to comply with Acts 342 and 1112 of 2021; Act 757 of 2023; and Act 491 of 2025.

12. Please provide the web address by which the proposed rule can be accessed by the public as provided in Ark. Code Ann. § 25-19-108(b)(1).

https://www.healthy.arkansas.gov/proposed-amendment-to-existing-rules

13. Will a public hearing be held on this proposed rule? Yes ☐ No ☑

If yes, please complete the following:

Date: 08/05/2026

Time: 9:00 am

Place: Auditorium of the Health Department Building located at 4815 W. Markham, Little Rock, AR, 72205

Please be sure to advise Bureau Staff if this information changes for any reason.

14. On what date does the public comment period expire for the permanent promulgation of the rule? Please provide the specific date. 08/05/2026

15. What is the proposed effective date for this rule? 10/1/2026

16. Please attach (1) a copy of the notice required under Ark. Code Ann. § 25-15-204(a)(1) and (2) proof of the publication of that notice.

17. Please attach proof of filing the rule with the Secretary of State, as required by Ark. Code Ann. § 25-15-204(e)(1)(A).

18. Please give the names of persons, groups, or organizations that you anticipate will comment on these rules. Please also provide their position (for or against), if known.

Members of the industry and public.

19. Is the rule expected to be controversial? Yes ☑ No ☐

If yes, please explain.

The proposed amendments update definitions, testing requirements for processors and processed marijuana products, and make changes to comply with Acts 342 and 1112 of 2021; Act 757 of 2023; and Act 491 of 2025. Prior proposed amendments have received substantive comments requiring revisiting proposed changes.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY.

DEPARTMENT Arkansas Department of Health
BOARD/COMMISSION Public Health Programs, Division for Health Protection
PERSON COMPLETING THIS STATEMENT S. Craig Smith, Attorney
TELEPHONE NO. (501) 534-6293 **EMAIL** Stephan.Smith@arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the Financial Impact Statement and email it with the questionnaire, summary, markup and clean copy of the rule, and other documents. Please attach additional pages, if necessary.

TITLE OF THIS RULE Rules Governing Medical Marijuana Registration, Testing, and Labeling in Arkansas

1. Does this proposed, amended, or repealed rule have a financial impact?
   Yes ☐ No ☑

2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?
   Yes ☑ No ☐

3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes ☑ No ☐

   If no, please explain:

   (a) how the additional benefits of the more costly rule justify its additional cost;

   (b) the reason for adoption of the more costly rule;

   (c) whether the reason for adoption of the more costly rule is based on the interests of public health, safety, or welfare, and if so, how; and

   (d) whether the reason for adoption of the more costly rule is within the scope of the agency's statutory authority, and if so, how.

4. If the purpose of this rule is to implement a *federal* rule or regulation, please state the following:

   (a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

General Revenue_____
Federal Funds_____
Cash Funds_____
Special Revenue_____
Other (Identify)_____

Total $0.00

Next Fiscal Year

General Revenue_____
Federal Funds_____
Cash Funds_____
Special Revenue_____
Other (Identify)_____

Total $0.00

(b) What is the additional cost of the state rule?

Current Fiscal Year

General Revenue_____
Federal Funds_____
Cash Funds_____
Special Revenue_____
Other (Identify)_____

Total $0.00

Next Fiscal Year

General Revenue_____
Federal Funds_____
Cash Funds_____
Special Revenue_____
Other (Identify)_____

Total $0.00

5. What is the total estimated cost by fiscal year to any private individual, private entity, or private business subject to the proposed, amended, or repealed rule? Please identify those subject to the rule, and explain how they are affected.

Current Fiscal Year
$ 1,234.00

Next Fiscal Year
$ 1,234.00

Unknown, but possible cost to industry to implement changes.

6. What is the total estimated cost by fiscal year to a state, county, or municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year
$ 0.00

Next Fiscal Year
$ 0.00

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars ($100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes ☐ No ☑

If yes, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

(1) a statement of the rule's basis and purpose;

(2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;

(3) a description of the factual evidence that:
(a) justifies the agency's need for the proposed rule; and
(b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;

(4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;

(5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;

(6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and

(7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
(a) the rule is achieving the statutory objectives;
(b) the benefits of the rule continue to justify its costs; and
(c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

PROPOSED REVISIONS TO RULES GOVERNING MEDICAL MARIJUANA REGISTRATION, LABELING, AND TESTING IN ARKANSAS

PURPOSE

The Arkansas Department of Health (Department) is seeking promulgation of proposed amendments to the Rules Governing Medical Marijuana Registration, Testing, and Labeling in Arkansas.

KEY POINTS

The proposed rule:

- o Updates definitions.
- o Makes Changes to comply with Acts 342 and 1112 of 2021; Act 757 of 2023; and Act 491 of 2025.
- o Include testing requirements for processors.

DISCUSSION

These Rules govern the application for and renewal of registry identification cards for qualifying patients and designated caregivers. These Rules also establish labeling and testing standards for marijuana distributed under the Medical Marijuana Amendment, and how medical conditions may be added to the list of qualifying conditions.

The following changes are proposed:

20 CAR §202-102 Definitions
Page 2 added "Added substance" definition created to clarify labeling language.
Page 5 added "Marijuana product" definition to apply to all products sold at dispensaries.
Page 5 revised "Process lot" definition to match ABC's definition.
Page 5 added "Processed marijuana product" definition in accordance with Act 491 of 2025.
Page 6 added "Processor" definition to match ABC's definition.
Page 7 revised "Registry identification card" to allow electronic forms of the card and to clarify to patient or caregiver card.
Page 8 added "Variance" definition for labeling purposes.
Page 6 revised Written Certification to include telehealth in accordance with Act 1112 of 2021 and Arkansas Medical Board rules.
20 CAR §202-103 Registry identification cards
Page 10 replaced DEA # requirement with AR Med licensee # for required content on Written Certification.

Page 13 clarified renewal and revocation process, including mandatory revocation for unlawful transfers.
Page 14 – clarified restrictions on sharing of protected information to law enforcement.

20 CAR §202-104 Labeling
Page 15-16 revised rules for labeling requirements, discretionary inclusion of variance information for THC concentration, added Poison Control number.
Page 16-17 clarified labeling requirements to apply to Concentrates, Extracts, Edibles, and Cannabinoid Products, and revised requirements regarding any added substances used to make cannabinoid products and allergy warnings for edible products and added Poison Control number.
Page 19 added requirement to utilize ASTM D8441 standard symbol for cannabis products.
Page 20 added restrictions to labeling consistent with other states and recent legislation.

20 CAR §202-106 Testing Requirements for Marijuana Products
Page 17-18 clarified testing requirements to apply to processed marijuana products as earlier defined.

NOTICE OF PUBLIC COMMENT PERIOD

The Arkansas Department of Health (ADH) is accepting public comments on the Rules Governing Medical Marijuana Registration, Testing, and Labeling in Arkansas promulgated under the Authority of Amendment 98 of the Constitution of the State of Arkansas of 1874 from July 5, 2026 to August 5, 2026. The proposed changes update the rule to current licensing law and other programmatic changes. The proposed rule revision with a summary of changes can be viewed online at https://www.healthy.arkansas.gov/proposed-amendment-to-existing-rules or you may request a copy from our office at 501-682-4982 or toll free at 833-214-8619.

The Arkansas Department of Health, Medical Marijuana Section will hold a public hearing on August 5, 2026 at 9:00 a.m. to 10:00 a.m. in the auditorium of the Health Department Building located at 4815 W. Markham, Little Rock, AR, 72205, to allow interested persons to comment on proposed Rules.

Comments on the proposed changes can also be mailed to Arkansas Department of Health, Comments/Slot 50 4815 West Markham, Little Rock Arkansas, 72205, or emailed to adh.medicalmarijuana@arkansas.gov.

Proposed Rulemaking

Rules Governing Medical Marijuana Registration, Testing, and Labeling in Arkansas~~Title~~

Promulgated by:
Department of Health

Title 20. Public Health and Welfare

Chapter I. Generally, Department of Health

Subchapter H. Drugs

Part 202. Rules Governing Medical Marijuana Registration, Testing, and Labeling in Arkansas

Subpart 1. Generally

20 CAR § 202-101. Scope and purpose.

(a) This part governs the application for and renewal of registry identification cards for qualifying patients and designated caregivers.

(b) This part also establishes:

(1) Labeling and testing standards for marijuana distributed under the Arkansas Medical Marijuana Amendment of 2016, Ark. Const. amend. 98; and

(2) How medical conditions may be added to the list of qualifying conditions.

20 CAR § 202-102. Definitions.

As used in this part:

(1) "Acquire" or "acquisition" means coming to possess marijuana by means of any legal source herein authorized, not from an unauthorized source, and in accordance with the Arkansas Medical Marijuana Amendment of 2016, Ark. Const. amend. 98, and any rules promulgated under the Arkansas Medical Marijuana Amendment of 2016, Ark.

Const. amend. 98;

(2) "Activation time" means the amount of time it is likely to take for an individual to begin to feel the effects of ingesting or inhaling a marijuana item;

(3) "Added substance" means any component or ingredient added to usable marijuana, cannabinoid concentrate product during or after processing that is present in the processed marijuana product, including, but not limited to, flavors and any substances used to change the viscosity or consistency of the processed marijuana product;

(~~3~~4) "Amendment" means the Arkansas Medical Marijuana Amendment of 2016, Ark. Const. amend. 98;

(~~4~~5) "Approved laboratory" means a laboratory that:

(A) Is accredited by the National Institute on Drug Abuse, the National Environmental Laboratory Accreditation Conference (NELAC), the International Organization for Standardization, or similar accrediting entity as determined by the Department of Health; and

(B) Has been approved by the Department of Health specifically for the testing of usable marijuana;

(~~5~~6) "Assist" or "assisting" means helping a qualifying patient make medical use of marijuana by enabling the medical use by any means authorized under the Arkansas Medical Marijuana Amendment of 2016, Ark. Const. amend. 98;

(~~6~~7) "Batch" means:

(A) With regard to usable marijuana, a homogenous, identified quantity of usable marijuana, no greater than ten pounds (10 lbs.), that is harvested during a specified time period from a specified cultivation area; and

(B) With regard to oils, vapors, and waxes derived from usable marijuana, an identified quantity that is:

(i) Uniform;

(ii) Intended to meet specifications for:

(a) Identity;

(b) Strength; and

(c) Composition; and

(iii) Manufactured, packaged, and labeled during a specified time period, according to a single manufacturing, packaging, and labeling protocol;

(~~7~~8) "Cardholder" means a qualifying patient or a designated caregiver;

(~~8~~9) "CBD" means cannabidiol, Chemical Abstracts Service Number 13956-29-1;

(~~9~~10) "CBDA" means cannabidiolic acid, Chemical Abstracts Service Number 1244-58-2;

(~~10~~11) "Commission" means the Medical Marijuana Commission;

(~~11~~12) "Cultivation facility" means an entity that:

(A) Has been licensed by the Medical Marijuana Commission; and

(B) Cultivates, prepares, manufactures, processes, packages, sells to, and delivers usable marijuana to a dispensary;

(~~12~~13)(A) "Designated caregiver" means a person who is at least twenty-one (21) years of age, has not been convicted of an excluded felony offense, has agreed to assist a physically disabled qualifying patient with the medical use of marijuana, and who has registered with the Department of Health pursuant to the requirements of the Arkansas Medical Marijuana Amendment of 2016, Ark. Const. amend. 98, and this part.

(B) "Designated caregiver" includes, without limitation, a parent:

(i) Of a qualifying patient who is under the age of eighteen (18); and

(ii) Required to register as a designated caregiver under the Arkansas Medical Marijuana Amendment of 2016, Ark. Const. amend. 98;

(~~13~~14) "Dispensary" means an entity that has been licensed by the Medical Marijuana Commission pursuant to the requirements of the Arkansas Medical Marijuana Amendment of 2016, Ark. Const. amend. 98;

(~~14~~15) "Division" means the Alcoholic Beverage Control Division;

(~~15~~16) "Excluded felony offense" means:

(A)(i) A felony offense as determined by the jurisdiction where the felony offense occurred.

(ii) The Department of Health shall determine whether an offense is a

felony offense based upon a review of the relevant court records concerning the conviction for the offense.

(iii) An offense that has been sealed by a court or for which a pardon has been granted is not considered an excluded felony offense; or

(B) A violation of a state or federal controlled-substance law that was classified as a felony in the jurisdiction where the person was convicted, but not including:

(i) An offense for which the sentence, including any term of probation, incarceration, or supervised release, was completed ten (10) or more years earlier; or

(ii) An offense that has been sealed by a court or for which a pardon has been granted;

(~~16~~17) "Harvest lot" means a specifically identified quantity of marijuana that is:

(A) Uniform in strain;

(B) Cultivated utilizing the same growing practices;

(C) Harvested at the same time at the same location; and

(D) Cured under uniform conditions;

(~~17~~18) "Lot" means:

(A) An identified portion of a batch that is:

(i) Uniform; and

(ii) Intended to meet specifications for:

(a) Identity;

(b) Strength; and

(c) Composition; or

(B) In the case of a vapor, oil, or wax derived from usable marijuana, an identified quantity produced in a specified period of time in a manner that is:

(i) Uniform; and

(ii) Intended to meet specifications for:

(a) Identity;

(b) Strength; and

(c) Composition;

(19) "Marijuana products" means products sold to a qualifying patient or designated caregiver by a dispensary or given by a qualifying patient or designated caregiver to another qualifying patient or designated caregiver, including, but not limited to, usable marijuana and processed marijuana products;

(~~18~~20) "Medical use" means the acquisition, possession, use, delivery, transfer, or transportation of marijuana or paraphernalia relating to the administration of marijuana to treat or alleviate a qualifying patient's qualifying medical condition or symptoms associated with the qualifying patient's qualifying medical condition;

(~~19~~21) "Physician" means a doctor of medicine or a doctor of osteopathic medicine who holds a valid, unrestricted, and existing license to practice in the State of Arkansas and has been issued a current and active registration from the Drug Enforcement Administration to prescribe controlled substances;

(~~20~~22) "Principal display panel" means the part of a label on a package or container that is most likely to be displayed, presented, shown, or seen under customary conditions of display for sale or transfer;

(~~21~~23) "Process lot" means: ~~any amount of cannabinoid concentrate or extract of the same type and processed at the same time using the same extraction methods, standard operating procedures, and from the same batch of harvested marijuana;~~

(A) Any amount of cannabinoid concentrate, extract, or vapor item of the same type and processed using the same extraction methods, standard operating procedures, and batches from the same or a different harvest lot; or

(B) Any amount of a processed marijuana product of the same type and processed using the same ingredients, standard operating procedures, and batches from the same or different harvest lot or process lot of cannabinoid concentrate or extract;

(24) "Processed marijuana product" means:

(A) a marijuana product intended for human consumption that has been altered from the usable marijuana under the Arkansas Medical Marijuana Amendment of

2016, Arkansas Constitution, Amendment 98, by extraction, concentration, encapsulation, chemical manipulation, or other process;

(B) shall include without limitation edibles, oils, concentrations, tinctures, topicals, inhalables, and other forms of marijuana that have been infused or processed; and

(C) are separate and distinct from marijuana paraphernalia that requires the combustion of marijuana to be properly utilized, including without limitation pipes, water pipes, bongs, chillums, rolling papers, and roach clips;

(25) "Processor" means an entity licensed by the Medical Marijuana Commission as a processor that may acquire, possess, manufacture, process, prepare, deliver, transport, and supply marijuana to a dispensary or cultivation facility;

(~~22~~26) "Proper identification" means a motor vehicle operator's license or other official state-issued identification of the purchaser that:

(A) Contains a photograph of the purchaser; and

(B) Includes the residential or mailing address of the purchaser, other than a post office box number;

(~~23~~27) "Qualifying medical condition" means one (1) or more of the following:

(A) Cancer, glaucoma, positive status for human immunodeficiency virus/acquired immunodeficiency syndrome, Hepatitis C, amyotrophic lateral sclerosis, Tourette syndrome, Crohn's disease, ulcerative colitis, post-traumatic stress disorder, severe arthritis, fibromyalgia, Alzheimer's disease, or the treatment of these conditions;

(B) A chronic or debilitating disease or medical condition or its treatment that produces one (1) or more of the following:

(i) Cachexia or wasting syndrome;

(ii) Peripheral neuropathy;

(iii) Intractable pain, which is pain that has not responded to ordinary medications, treatment, or surgical measures for more than six (6) months;

(iv) Severe nausea;

(v) Seizures, including without limitation those characteristic of epilepsy; or

(vi) Severe and persistent muscle spasms, including without limitation those characteristic of multiple sclerosis; and

(C) Any other medical condition or its treatment approved by the Department of Health pursuant to this part and the Arkansas Medical Marijuana Amendment of 2016, Ark. Const. amend. 98;

(~~24~~28) "Qualifying patient" means a person who has been diagnosed by a physician as having a qualifying medical condition and who has registered with the Department of Health in accordance with this part and the Arkansas Medical Marijuana Amendment of 2016, Ark. Const. amend. 98;

(~~25~~29) (A) "Registry identification card" means a document issued by the Department of Health that identifies a person as a qualifying patient or a designated caregiver;

(B) A qualifying patient or designated caregiver registry identification card may be in physical or electronic form;

(C) Registry identification cards include cards issued to visiting patients and visiting caregivers;

(~~26~~30) "Relative percentage difference" or "RPD" means the comparison of two (2) quantities while taking into account the size of what is being compared as calculated under Appendix A, § 1(A);

(~~27~~31) "Relative standard deviation" or "RSD" means the standard deviation expressed as a percentage of the mean recovery as calculated under Appendix A, § 1(A);

(~~28~~32) "Sealed" means expunge, remove, sequester, and treat as confidential the record or records of a felony offense;

(~~29~~33) "Segregate" means to separate and withhold from use or sale batches, lots, or usable marijuana in order to first determine its suitability for use through testing by an approved laboratory;

(~~30~~34) "Testing" means the process and procedures provided by an approved laboratory for testing of usable marijuana, consistent with the provisions of this part;

(~~31~~35) "Tetrahydrocannabinol (THC)" is a cannabinoid that is the primary

psychoactive ingredient in usable marijuana;

(~~32~~36) "THCA" means tetrahydrocannabinolic acid, Chemical Abstracts Service Number 23978-85-0;

(~~33~~37) "TNI" means The NELAC (National Environmental Laboratory Accreditation Conference) Institute, a voluntary organization of state and federal environmental officials and interest groups purposed primarily to establish consensus standards for accrediting environmental laboratories;

(~~34~~38) "TNI EL Standards" means the adopted 2009 TNI Environmental Lab Standards (© 2009 The NELAC Institute standards adopted by NELAC), which describe the elements of laboratory accreditation:

(A) Developed and established by the consensus principles of TNI; and

(B) That meet the approval requirements of TNI procedures and policies;

(~~35~~39) "Universal symbol" means the image, established by the Department of Health and made available to licensees and registrants, indicating the container contains marijuana;

(~~36~~40)(A) "Usable marijuana" means:

(i) The stalks, seeds, roots, dried leaves, flowers, oils, vapors, waxes, and other portions of the marijuana plant; and

(ii) Any mixture or preparation thereof.

(B) "Usable marijuana" does not include the weight of any ingredients other than marijuana that are combined with marijuana and prepared for consumption as food or drink;

(41) "Variance" means:

(A) the range of active tetrahydrocannabinol per portion of usable marijuana up to ten milligrams (10 mg) per portion; or

(B) the range of the entirety of the food or drink that has been combined with usable marijuana or processed marijuana product up to ten milligrams (10 mg) of active tetrahydrocannabinol, if the portions cannot be physically determined;

(~~37~~42) "Visiting qualifying patient" means a patient with a qualifying medical condition who:

(A) Is not a resident of Arkansas or who has been a resident of Arkansas for less than thirty (30) days; and

(B) Is in actual possession of a registry identification card or its equivalent that:

(i) Is issued under the laws of another state, district, territory, commonwealth, or insular possession of the United States; and

(ii) Pertains to a qualifying medical condition under the Arkansas Medical Marijuana Amendment of 2016, Ark. Const. amend. 98; and

(~~38~~43)(A) "Written certification" means a document signed by a physician stating that in the physician's professional opinion, after having completed an assessment of the qualifying patient's medical history and current medical condition made in the course of a physician-patient relationship, the qualifying patient has a qualifying medical condition.

(B) A written certification shall specify the qualifying patient's qualifying medical condition, which also shall be noted in the physician's records.

(C) ~~A physician shall not issue a written certificate to a patient based on an assessment performed through telemedicine.~~Physicians must comply with the Arkansas State Medical Board Rules, 17 CAR Pt. 140, with regard to the issuance of written certifications for medical marijuana.

(D) A written certification is not a medical prescription.

20 CAR § 202-103. Registry identification cards.

(a) **Qualifying patients.** The Department of Health shall issue registry identification cards to qualifying patients who submit the following:

(1) An application for a qualifying patient registry identification card that must include the following:

(A) The qualifying patient’s name and date of birth;

(B) The qualifying patient’s address, unless the qualifying patient is homeless;

(C) The name, address, phone number, and ~~Drug Enforcement~~

~~Administration registration number~~the medical license number issued by the Arkansas State Medical Board of the physician providing the written certification;

(D) The name, address, and phone number of the qualifying patient's designated caregiver, if applicable;

(E) A signed statement by the qualifying patient that he or she will not divert marijuana to anyone who is not allowed to possess it under the Arkansas Medical Marijuana Amendment of 2016, Ark. Const. amend. 98; and

(F) A copy of a driver's license or identification card issued by the State of Arkansas;

(2)(A) The fifty-dollar application fee.

(B) The department may designate how the fee is submitted.

(C) The department may require a convenience fee if payment is submitted by credit card; and

(3) Written certification provided by the physician within thirty (30) days prior to the submittal of the application documenting that:

(A) The physician has established a physician-patient relationship with the qualifying patient as defined by the Arkansas State Medical Board;

(B) The physician has completed a full assessment of the qualifying patient's medical history and current medical condition;

(C) The date that the full assessment was completed; and

(D) Documentation that the qualifying patient has a qualifying medical condition.

(b) **Designated caregivers.**

(1) The department shall issue a registry identification card for a designated caregiver who submits the following:

(A) An application for a designated caregiver registry identification card that must include the following:

(i) The name and date of birth of the designated caregiver;

(ii) The address of the designated caregiver;

(iii) The name and address of the qualifying patient the applicant will

be assisting;

(iv) A signed statement by the designated caregiver that he or she will not divert marijuana to anyone who is not allowed to possess it under the amendment; and

(v) A copy of the applicant's driver's license or identification card issued by the State of Arkansas;

(B)(i) The fifty-dollar application fee.

(ii) The department may designate how the fee is submitted.

(iii) The department may require a convenience fee if payment is submitted by credit card; and

(C) The following documentation from the qualifying patient's physician:

(i) The qualifying patient's qualifying medical condition; and

(ii) A statement that the qualifying patient is disabled or under the age of eighteen (18).

(2)(A) The applicant shall:

(i) Complete a criminal history check form as required by the department; and

(ii) Request the Identification Bureau of the Division of Arkansas State Police to conduct a state or national criminal history check, or both, on the applicant.

(B) The applicant shall pay all appropriate fees for the state or national criminal history check, or both, as set forth by the department.

(C) The applicant shall attach the criminal history check form to the application.

(D) The department shall conduct a state or national criminal history check, or both, on the applicant and determine whether the applicant is disqualified from registration based on the report of the applicant's criminal history and forward its determination to the applicant.

(c) The department shall not issue a registry identification card to a qualifying patient under eighteen (18) years of age unless the following conditions are met:

(1) The qualifying patient's physician has documented that he or she has explained the potential risks and benefits of the medical use of marijuana to both the qualifying patient and his or her parent, guardian, or legal custodian;

(2) The parent, guardian, or legal custodian consents in writing to the following:

(A) To allow the qualifying patient's medical use of marijuana;

(B) To assist the qualifying patient in the medical use of marijuana; and

(C) To control the acquisition of the marijuana, the dosage, and the frequency of the medical use of marijuana by the qualifying patient; and

(3) The parent, guardian, or legal custodian registers as a designated caregiver for the qualifying patient.

(d) **Visiting patients.**

(1) A visiting qualifying patient may obtain marijuana from a dispensary upon producing evidence of his or her registry identification card or its equivalent that is issued under the laws of another state, district, territory, commonwealth, or insular possession of the United States.

(2) The dispensary shall retain a copy of the registry identification card or its equivalent and his or her proper identification in a manner prescribed by the department.

(3) The dispensary shall require the visiting patient to certify, in a form required by the department, that they have been diagnosed by a physician to have one (1) or more qualifying medical conditions.

(e) **Renewal.**

(1) A registry identification card expires one (1) year after the date of issuance.

(2)(A) A registry identification card may expire on a date earlier than one (1) year after the date of issuance if the physician states in the written certification that he or she believes the qualifying patient would benefit from the medical use of marijuana only until a specified earlier date.

(B) The specified earlier date will be the expiration date.

(3)(A) ~~At least thirty (30) days before the expiration of the registry identification card,~~No earlier than sixty (60) days before the expiration of a qualified patient or designated caregiver registry identification card and no later than fourteen (14) days before the expiration date of their current card, a qualifying patient or designated caregiver ~~shall~~ may reapply for a registry identification card.

(B) The application for renewal shall require the same information as the initial application.

(f) **Department review of applications and renewals.**

(1) The department shall review the information contained in an application or renewal for a qualifying patient or designated caregiver registry identification card within fourteen (14) days of receiving all the information required for the application, including the written certification from the physician.

(2) The department shall deny an application or renewal if:

(A) The applicant had a previous registry identification card revoked in this state or any other jurisdiction where medical marijuana use is allowed;

(B) The written certification was not made in the context of a physician-patient relationship;

(C) The written certification was fraudulently obtained; or

(D) The application or written certification was falsified in any way.

(3) (A) ~~The~~ Pursuant to Arkansas Medical Marijuana Amendment of 2016, Ark. Const. amend. 98, §5, the department ~~may~~ shall revoke the qualifying patient or designated caregiver registry identification card of any cardholder who:

(~~A~~i) Transfers marijuana to a person who is not a qualifying patient, visiting patient, or designated caregiver with a valid registry identification card; or

(~~B~~ii) Knowingly violates any provision of the amendment or this part.

(B) The applicant or cardholder shall have the right to an administrative hearing before the State Board of Health, or a three-person subcommittee thereof, to be conducted in accordance with the Arkansas Administrative Procedure Act, Ark. Code §25-28-104, et seq.

(i) The evidentiary standard shall be clear and convincing evidence.

(ii) A certified copy of a criminal conviction, guilty plea, or plea of nolo contendere to an offense arising out of the same facts and circumstances for which the revocation action is taken shall be sufficient to satisfy the evidentiary standard required to revoke the qualifying patient or designated caregiver registry identification card.

(4) The denial of an application, denial of an application renewal, or revocation of a registry identification card is considered a final agency action by the department, subject to judicial review by the Pulaski County Circuit Court.

(g) **Confidentiality.**

(1)(A) The department shall maintain a list of all the persons to whom qualifying patient and designated caregiver registry identification cards have been issued.

(B) This list shall be confidential, and release of information on this list is exempt under the Freedom of Information Act of 1976, Arkansas Code § 25-19-101 et seq.

(C) Information from this list may be shared with the Alcoholic Beverage Control Division and the Medical Marijuana Commission, but only as necessary.

(2) All documentation submitted by qualifying patients or designated caregivers, including but not limited to applications and written certifications, shall remain confidential.

(3) The department shall verify to law enforcement personnel whether a registry identification card is valid without disclosing more information than is reasonably necessary to verify the authenticity of the registry identification card.

(4) The department shall not disclose the identity of a person who has been issued a qualifying patient or designated caregiver registry identification card to the Division of the Arkansas State Police for the purpose of facilitating a criminal history record check or any other background check related to the issuance of a license to carry a concealed handgun under Ark. Code §5-73-301, et seq.

20 CAR § 202-104. Labeling.

(a)(1) The purpose of this section is to set the minimum standards for the labeling of ~~usable marijuana~~marijuana products that ~~is~~ are sold to a qualifying patient or designated caregiver by a dispensary or given by a qualifying patient or designated to another qualifying patient or designated caregiver.

(2) ~~Usable marijuana~~All marijuana products received or transferred by a dispensary, qualifying patient, or designated caregiver must meet the labeling requirements in this part.

(3) A dispensary must:

(A) Return ~~usable marijuana~~marijuana products that ~~does~~ do not meet the labeling requirements in this part to the individual who transferred ~~it~~ them to the dispensary and document to whom the item was returned, what was returned, and the date of the return; or

(B) Dispose of any ~~usable marijuana~~marijuana products that ~~does~~ do not meet labeling requirements and that cannot be returned in a manner specified by the Department of Health or the Alcoholic Beverage Control Division.

(C) Marijuana products with minor typographical errors may be quarantined at the dispensary until a corrected label is affixed to the marijuana products.

(i) Minor typographical errors shall not include any information entered into the inventory tracking system, as defined by the Rules Governing the Oversight of Medical Marijuana Cultivation Facilities, Processors, and Dispensaries by the Alcoholic Beverage Control Division, 20 CAR §810-102.

(b) **Usable marijuana labeling requirements.** Prior to usable marijuana being sold or transferred to a qualifying patient or designated caregiver, the container holding the usable marijuana must have a label that has the following information:

(1) Producer's business or trade name and cultivation facility or dispensary number;

(2) Business or trade name of cultivation facility or dispensary, or cultivation facility or dispensary that packaged or distributed the product, if different from the producer;

(3) A unique identification number;

(4) Date of harvest;

(5) Name of strain;

(6) Net weight in United States customary and metric units;

(7) Concentration of THC and CBD, and may include variance, if known;

(8) Activation time expressed in words or through a pictogram;

(9) Name of the lab that performed any test~~, any associated test batch number,~~ and any test analysis date;

(10) Universal symbol;

(~~11~~11) A warning that states, "For use by qualified patients only. Keep out of reach of children.";

(~~12~~12) A warning that states, "Marijuana use during pregnancy or breastfeeding poses potential harms."; and

(~~13~~13) A warning that states, "This product is not approved by the FDA to treat, cure, or prevent any disease".

(c) ~~**Cannabinoid concentrates and extracts**~~**Processed marijuana products labeling requirements.** Prior to a ~~cannabinoid concentrate or extract~~processed marijuana product being sold or transferred to a qualifying patient or designated caregiver, the container holding the ~~concentrate or extract~~processed marijuana product must have a label that has the following information:

(1) Cultivation facility's, processor's, or dispensary's business or trade name and cultivation facility, processor, or dispensary number;

(2) Business or trade name of cultivation facility, processor, or dispensary that packaged or distributed the product, if different from the cultivation facility, processor, or dispensary;

(3) A unique identification number;

(4) Product identity (concentrate, ~~or~~ extract, edible, or other processed marijuana product);

(5) Date the ~~concentrate or extract~~processed marijuana product was made;

(6) Net weight or volume in United States customary and metric units;

(7) If applicable, serving size and number of servings per container or amount suggested for use by the qualifying patient at any one time;

(8) Concentration or amount by weight or volume of THC and CBD in each amount suggested for use and in the container;

(9) Activation time, expressed in words or through a pictogram;

(10) Name of the lab that performed any test~~, any associated test batch number,~~ and any test analysis date;

(11) Universal symbol;

(12) "Arkansas Poison Control" and the Arkansas Poison Control phone number;

(13) Any added substances added to or infused in the processed marijuana product; and

(14) All major food allergens, as defined under 21 USC §321(qq), in accordance with the Food Allergen Labeling and Consumer Protection Act of 2004, as enacted on November 1, 2025.

(12) A statement that reads:

(A) "This product is not approved by the FDA to treat, cure, or prevent any disease";

(B) "For use by qualifying patients only. Keep out of reach of children.";

(C) "DO NOT EAT" in bold, capital letters if the processed marijuana product, including but not limited concentrations and extracts, is not intended for human ingestion; and

(D) "Marijuana use during pregnancy or breastfeeding poses potential harms."~~.~~

(d) **General label requirement — Prohibitions and exceptions.**

(1) **Principal display panel.**

(A) Every container that contains ~~usable marijuana~~a marijuana product for sale or transfer to a qualifying patient or designated caregiver must have a principal display panel.

(B) If a container is placed within packaging for purposes of displaying the marijuana ~~item~~ product for sale or transfer to a qualifying patient or designated caregiver, the packaging must have a principal display panel.

(C) The principal display panel must contain the product identity, net weight, and universal symbol, if applicable.

(2) A label required by this part must:

(A) Be placed on the container and on any packaging that is used to display the marijuana item for sale or transfer to a qualified patient or designated caregiver;

(B) Comply with the National Institute of Standards and Technology (NIST) Handbook 130 (2017), Uniform Packaging and Labeling Regulation, incorporated by reference;

(C)(i) Be in no smaller than eight-point Times New Roman, Helvetica, or Arial font.

(ii) Statements required by subdivisions (c)(12)(B) and (D) of this section must be in at least eighteen-point font;

(D) Be in English, though it ~~can~~ may also be in other languages; and

(E) Be unobstructed and conspicuous.

(3) ~~Usable marijuana~~Marijuana products may have one (1) or more labels affixed to the container or packaging.

(4) ~~Usable marijuana~~Marijuana products that ~~is~~ are in a container that because of ~~its~~ their size ~~does~~ do not have sufficient space for a label that contains all the information required for compliance with this part:

(A) May have a label on the container that contains ~~usable marijuana~~marijuana product and on any packaging that is used to display ~~usable marijuana~~ marijuana product for sale or transfer to a qualifying patient or designated caregiver that includes at least the following:

(i) Information required on a principal display panel, if applicable for the type of ~~usable marijuana~~marijuana product;

(ii) Cultivation facility or dispensary business or trade name and

cultivation facility or dispensary number;

(iii) For cultivation facility or dispensaries, a package-unique identification number;

(iv) Concentration of THC and CBD; and

(v) Required warnings; and

(B) Must include all other required label information not listed in subdivision (d)(4)(A) of this section on:

(i) An outer container or package; or

(ii) On a leaflet that accompanies the ~~usable marijuana~~marijuana product.

(5) ~~Usable marijuana~~Marijuana products in a container that is placed in packaging that is used to display the ~~usable marijuana~~marijuana product for sale or transfer to a qualifying patient or designated caregiver must comply with the labeling requirements in this part, even if the container qualifies for the exception under subdivision (d)(4) of this section.

(6) The universal symbol:

(A) Must be at least forty-eight hundredths of an inch wide by thirty-five hundredths of an inch high (~~0.48~~0.50" x 0.35");

(B) May only be used by a cultivation facility, processor, or dispensary; and

(C) ~~May be downloaded at: https://healthy.arkansas.gov/programs-services/data-statistics-registries/medical-marijuana/.~~Shall utilize the ASTM D8441, the International Intoxicating Cannabis Product Symbol, as adopted by American Society for Testing and Materials:



(7) A label ~~may~~ shall not:

(A) Contain any untruthful or misleading statements including, but not

limited to, a health claim that is not supported by the totality of publicly available scientific evidence (including evidence from well-designed studies conducted in a manner that is consistent with generally recognized scientific procedures and principles), and for which there is significant scientific agreement among experts qualified by scientific training and experience to evaluate such claims; or

(B) ~~Be attractive to minors.~~Shall not use, in the labeling or design of the marijuana product or its packaging, any trade dress, trademarks, branding, or other related imagery that:

(1) Encourages the transportation of medical marijuana across state lines;

(2) Displays the consumption of marijuana;

(3) Encourages or promotes marijuana for use as an intoxicant; or

(4) Encourages excessive or rapid use or consumption of medical marijuana;

(5) Contains any content any content that can reasonably be considered to target children, including without limitation:

(*a*) a cartoon character;

(*b*) a toy; or

(*c*) any other similar item or image typically marketed to children; or

(6) Contain or use:

(*a*) a cross of any color;

(*b*) a caduceus; or

(*c*) any other symbol that is commonly associated with the practice of medicine or the practice of pharmacy.

(8) ~~Usable marijuana~~Marijuana products that falls within more than one (1) category must comply with the labeling requirements that apply to both categories, with the exception of the "DO NOT EAT" warning if the product is intended for human consumption.

(9) The THC and CBD amount required to be on a label must be the value

calculated by the laboratory that did the testing.

~~(10) If usable marijuana has more than one (1) test batch number, laboratory, or test analysis date associated with the usable marijuana that is being sold or transferred, each test batch number, laboratory, and test analysis date must be included on a label.~~

(~~11~~10) If usable marijuana is placed in a package that is being reused, the old label or labels must be removed and it must have a new label or labels.

(~~12~~11) Exit packaging must contain a label that reads, "Keep out of the reach of children.".

20 CAR § 202-105. Testing standards for usable marijuana.

(a)(1) This part is applicable to cultivation facilities, processor, and dispensaries.

(2) A cultivation facility, processor, or dispensary may not:

(A) Transfer usable marijuana that is not sampled and tested in accordance with this part; or

(B) Accept the transfer of usable marijuana that is not sampled and tested in accordance with this part.

(b) **Ordering tests.** A cultivation facility, processor, or dispensary must provide a laboratory, prior to a laboratory taking samples, with the following:

(1) A written request of analysis for each test the laboratory is being requested to conduct; and

(2) Notification of whether the batch is being resampled because of a failed test and the failed test results.

(c) **Testing requirements for usable marijuana.**

(1) A cultivation facility, processor, or dispensary must test every batch of usable marijuana intended for use by a qualified patient prior to selling or transferring the usable marijuana for the following:

(A) Pesticides in accordance with 20 CAR § 202-112;

(B) Water activity and moisture content in accordance with 20 CAR § 202-114;

(C) THC and CBD concentration in accordance with 20 CAR § 202-115; and

(D) Heavy metals in accordance with 20 CAR § 202-116.

(2) A cultivation facility, processor, or dispensary must test every batch of usable marijuana intended for use by a cultivation facility, processor, or dispensary for water activity and moisture content in accordance with 20 CAR § 202-114, unless the cultivation facility, processor, or dispensary uses a method of processing that results in effective sterilization.

(3) A cultivation facility or dispensary must test a harvest lot of marijuana or usable marijuana for microbiological contaminants:

(A) In accordance with 20 CAR § 202-111; or

(B) Upon written request by the Department of Health or the Alcoholic Beverage Control Division.

(4) In lieu of ordering and arranging for the sampling and testing required in this section, a cultivation facility may transport batches of usable marijuana to a dispensary and the dispensary may order and arrange for the sampling and testing of the batches in accordance with this part.

20 CAR § 202-106. Testing requirements for ~~concentrates and extracts~~processed marijuana products.

(a) A cultivation facility, processor, or dispensary must test every process lot of ~~cannabinoid concentrate or extract~~processed marijuana product for use by a qualified patient prior to selling or transferring the ~~cannabinoid concentrate or extract~~processed marijuana product for the following:

(1) Pesticides in accordance with 20 CAR § 202-112;

(2) Solvents in accordance with 20 CAR § 202-113;

(3) THC and CBD concentration in accordance with 20 CAR § 202-115; and

(4) Heavy metals in accordance with 20 CAR § 202-116.

(b) For processed marijuana product, ~~A~~ a cultivation facility, processor, or dispensary is exempt from testing for solvents under this section if the cultivation

facility, processor, or dispensary:

(1) Did not use any solvent listed in Appendix B, Table 2; and

(2) Only used a mechanical extraction process to separate cannabinoids from the marijuana; or

(3) Used only water, animal fat, or vegetable oil as a solvent to separate the cannabinoids from the marijuana.

(c) A cultivation facility, processor, or dispensary must test ~~a~~ each process lot of a ~~cannabinoid concentrate or extract~~processed marijuana product for microbiological contaminants in accordance with 20 CAR § 202-111, or upon written request by the Department of Health or the Medical Marijuana Commission.

20 CAR § 202-107. Batch requirements.

(a) **Usable marijuana.**

(1) A cultivation facility, processor, or dispensary must separate each harvest lot into no larger than ten-pound batches.

(2) Notwithstanding subdivision (a)(1) of this section, a cultivation facility, processor, or dispensary may combine batches for purposes of having a batch sampled if each:

(A) Batch is intended for use by a cultivation facility, processor, or dispensary to make a cannabinoid concentrate or extract; and

(B) Harvest lot was:

(i) Cultivated utilizing the same growing practices and grown in close proximity on the licensed or registered premises;

(ii) Harvested at the same time; and

(iii) If cured prior to sampling, cured under uniform conditions.

(3) A cultivation facility or dispensary may not combine harvest lots into a batch for purposes of sampling and testing for THC or CBD.

(4) If harvest lots are combined in accordance with subdivision (a)(2) of this section, the batch must be labeled so that it identifies the different harvest lots that were combined.

(b) ~~**Cannabinoid concentrates and extracts**~~**Processed marijuana products.** A process lot is considered a batch.

(c) A cultivation facility, processor, or dispensary must assign each batch a unique batch number and that unique batch number must be:

(1) Documented and maintained in the cultivation facility, processor, or dispensary records for at least two (2) years and available to the Department of Health upon request;

(2) Provided to the individual responsible for taking samples; and

(3) Included on the batch label as required in 20 CAR § 202-110.

(d) A cultivation facility, processor, or dispensary may not reuse a unique batch number.

20 CAR § 202-108. Sampling and sample size.

(a) **Usable marijuana.**

(1) Usable marijuana may only be sampled after it is cured, unless the usable marijuana is intended for sale or transfer to a cultivation facility, processor, or dispensary to make a ~~cannabinoid concentrate or extract~~processed marijuana product.

(2) Samples taken must in total represent a minimum of five-tenths of one percent (0.5%) of the batch, consistent with the laboratory's accredited sampling policies and procedures, described in Appendix A, §1(A).

(b) ~~**Cannabinoid concentrates, extracts, and products**~~**Processed marijuana product.** Enough samples from a batch must be taken to ensure that the required attributes in the batch to be tested are homogenous and consistent with the laboratory's accredited sampling policies and procedures described in Appendix A, §1(A).

20 CAR § 202-109. Sampling personnel requirements – Sampling recordkeeping.

(a) Only individuals employed by a laboratory sampling under this part may take samples.

(b) Sampling may be conducted at a cultivation facility's, processor's, or dispensary's premises or the cultivation facility, processor, or dispensary may transport the batch to a laboratory for sampling under this part.

(c) Laboratory personnel that perform sampling must:

(1) Follow the laboratory's accredited sampling policies and procedures; and

(2) Follow chain of custody procedures consistent with TNI EL Standard V1M2 5.7 and 5.8.

(d) A laboratory must:

(1) Maintain the documentation required in this part for at least two (2) years; and

(2) Provide that information to the Department of Health upon request.

20 CAR § 202-110. Cultivation facility or dispensary requirements for labeling and recordkeeping.

(a) Following samples being taken from a harvest or process lot batch, a cultivation facility, processor, or dispensary must:

(1) Label the batch with the following information:

(A) The cultivation facility's, processor's, or dispensary's registration number;

(B) The harvest or process lot unique identification number;

(C) The name and accreditation number of the laboratory that took samples and the name and accreditation number of the laboratory responsible for the testing, if different;

(D) The test batch or sample unique identification numbers supplied by the laboratory personnel;

(E) The date the samples were taken; and

(F) In bold, capital letters, no smaller than twelve-point font, "PRODUCT NOT TESTED.";

(2) Store and secure the batch in a manner that prevents the product from being tampered with or transferred prior to test results being reported; and

(3) Be able to easily locate a batch stored and secured and provide that location to the Department of Health or a laboratory upon request.

(b) If the samples pass testing, the product may be sold or transferred.

(c) If the samples do not pass testing, the cultivation facility or dispensary must comply with 20 CAR § 202-117.

20 CAR § 202-111. Standards for testing microbiological contaminants.

(a) ~~Usable marijuana~~Marijuana products required to be tested for microbiological contaminants must be sampled using appropriate aseptic techniques and tested by a laboratory for total coliform count.

(b) If a laboratory detects the presence of any coliforms, the sample must be assessed for Escherichia coli (E. coli).

(c) A batch fails microbiological contaminant testing if the laboratory detects the presence of E. coli at more than one hundred colony forming units per gram (100 CFU/g) in a sample:

(1) During an initial test where no reanalysis is requested; or

(2) Upon reanalysis as described in 20 CAR § 202-117(a).

20 CAR § 202-112. Standards for testing pesticides.

(a) ~~Usable marijuana~~Marijuana products required to be tested for pesticides must be tested by a laboratory for the analytes listed in Appendix B, Table 1.

(b) A batch fails pesticide testing if a laboratory detects the presence of a pesticide above the action levels listed in Appendix B, Table 1 in a sample:

(1) During an initial test where no reanalysis is requested; or

(2) Upon reanalysis as described in 20 CAR § 202-117(a).

20 CAR § 202-113. Standards for testing solvents.

(a) ~~Usable marijuana~~Marijuana products required to be tested for solvents must be tested by a laboratory for the analytes listed in Appendix B, Table 2.

(b) A batch fails solvent testing if a laboratory, during an initial test where no

reanalysis is requested or upon reanalysis as described in 20 CAR § 202-117(a):

(1) Detects the presence of a solvent above the action level listed in Appendix B, Table 2; or

(2) Calculates an RPD of more than twenty percent (20%) between the field primary result of the sample and the field duplicate result.

20 CAR § 202-114. Standards for testing water activity and moisture content.

(a) ~~Usable marijuana~~Marijuana products must be tested by a laboratory for:

(1) Water activity; and

(2) Moisture content.

(b) If a sample has a water activity rate of more than sixty-five hundredths (0.65 Aw) the sample fails.

(c) If a sample has a moisture content of more than fifteen percent (15%), the result must be reported to the cultivation facility or dispensary, but the sample does not fail.

20 CAR § 202-115. Standards for THC and CBD testing.

(a) A laboratory must test for the following when testing ~~usable marijuana~~marijuana products for potency:

(1) THC;

(2) THCA;

(3) CBD; and

(4) CBDA.

(b) A process lot of a ~~cannabinoid concentrate or extract~~processed marijuana product fails potency testing if, based on an initial test where no reanalysis is requested or upon reanalysis as described in 20 CAR § 202-117(a), the amount of THC, as calculated pursuant to Appendix A, §1, between samples taken from the batch exceeds thirty percent (30%) RSD.

20 CAR § 202-116. Standards for testing for heavy metals.

(a) ~~Usable marijuana~~Marijuana products must be tested by a laboratory for the metals listed in Appendix B, Table 3.

(b) A batch fails metals testing if a laboratory, during an initial test where no reanalysis is requested or upon reanalysis as described in 20 CAR § 202-117(a), detects the presence of metals above the action level listed in Appendix B, Table 3.

20 CAR § 202-117. Failed test samples.

(a)(1) If a sample fails any initial test, the laboratory that did the testing may reanalyze the sample.

(2) If the sample passes, another laboratory must resample the batch and confirm that result in order for the batch to pass testing.

(b) If a sample fails a test or a reanalysis under subsection (a) of this section, the batch:

(1) May be remediated or sterilized in accordance with this section; or

(2) If it is not or cannot be remediated or sterilized under this section, it must be destroyed in a manner specified by the Medical Marijuana Commission.

(c) If a cultivation facility, processor, or dispensary is permitted under this section to sell or transfer a batch that has failed a test, the cultivation facility, processor, or dispensary must notify the cultivation facility, processor, or dispensary to whom the batch is sold or transferred of the failed test.

(d) **Failed microbiological contaminant testing.**

(1) If a sample from a batch of ~~usable marijuana~~a marijuana product fails microbiological contaminant testing, the batch may be used to make a ~~cannabinoid concentrate or extract~~processed marijuana product if the processing method effectively sterilizes the batch, such as a method using a hydrocarbon-based solvent or a CO_2 closed-loop system.

(2) If a sample from a batch of a ~~cannabinoid concentrate or extract~~processed marijuana product fails microbiological contaminant testing, the batch may be further processed if the processing method effectively sterilizes the batch, such as a method

using a hydrocarbon-based solvent or a CO_2 closed-loop system.

(3) A batch that is sterilized in accordance with subdivision (d)(1) or (d)(2) of this section must be sampled and tested in accordance with this part and must be tested, if not otherwise required for that product, for microbiological contaminants, solvents, and pesticides.

(4) A batch that fails microbiological contaminant testing after undergoing a sterilization process in accordance with subdivision (d)(1) or (d)(2) of this section must be destroyed in a manner specified by the commission.

(e) **Failed solvent testing.**

(1) If a sample from a batch fails solvent testing, the batch may be remediated using procedures that would reduce the concentration of solvents to less than the action level.

(2) A batch that is remediated in accordance with subdivision (e)(1) of this section must be:

(A) Sampled and tested in accordance with this part; and

(B) Tested, if not otherwise required for that product under this part, for solvents and pesticides.

(3) A batch that fails solvent testing that is not remediated or that if remediated fails testing must be destroyed in a manner specified by the commission.

(f) **Failed water activity testing.**

(1) If a sample from a batch of usable marijuana fails for water activity, the batch from which the sample was taken may:

(A) Be used to make a ~~cannabinoid concentrate or extract~~processed marijuana product; or

(B) Continue to dry or cure.

(2) A batch that undergoes additional drying or curing as described in subdivision (f)(1) of this section must be sampled and tested in accordance with this part.

(g) **Failed pesticide testing.**

(1) If a sample from a batch fails pesticide testing, the batch may not be

remediated and must be destroyed in a manner approved by the commission.

(2) The Department of Health must report to the Department of Agriculture all test results that show that a sample failed a pesticide test.

(h) **Failed potency testing.**

(1) ~~Usable marijuana~~Marijuana products that fails potency testing under 20 CAR § 202-115(b) may be repackaged in a manner that enables the item to meet the standard in 20 CAR § 202-115(b).

(2) ~~Usable marijuana~~Marijuana products that ~~is~~ are repackaged in accordance with this section must be sampled and tested in accordance with this part.

(i) If a sample fails a test after undergoing remediation or sterilization as permitted under this section, the batch must be destroyed in a manner approved by the commission.

(j) A cultivation facility, processor, or dispensary must inform a laboratory prior to samples being taken that the batch has failed a test and is being retested after undergoing remediation or sterilization.

(k) A cultivation facility or dispensary must, as applicable:

(1) Have detailed procedures for sterilization processes to remove microbiological contaminants and for reducing the concentration of solvents; and

(2) Document all sampling, testing, sterilization, remediation, and destruction that are a result of failing a test under this part.

20 CAR § 202-118. Tentative identification of compounds.

(a) Tentatively identified compounds (TICs) are compounds detected in a sample using gas chromatography mass spectrometry that are not among the target analytes for the residual solvent analysis.

(b) The Department of Health may initiate an investigation of a cultivation facility, processor, or dispensary upon receipt of a TICs report from a laboratory and may require a cultivation facility, processor, or dispensary to submit samples for additional testing, including testing for analytes that are not required by this part, at the cultivation facility's, processor's, or dispensary's expense.

20 CAR § 202-119. Audit and random testing.

(a) The Department of Health may require:

(1) A cultivation facility, processor, or dispensary to submit samples identified by the department to a laboratory of the cultivation facility's, processor's, or dispensary's choosing to be tested in order to determine whether a cultivation facility, processor, or dispensary is in compliance with this part; and

(2) Additional testing that is not required by this part.

(b) A laboratory doing audit testing must comply with this part, to the extent it is applicable, and if conducting testing not required by this part, may only use department-approved methods.

(c) The department must establish a process for the random testing of ~~usable marijuana~~marijuana products for microbiological contaminants that ensures each cultivation facility, processor, or dispensary tests every product for microbiological contaminants at least once a year.

20 CAR § 202-120. Temporary cultivation facility, processor, or dispensary pesticide testing requirements.

(a) Notwithstanding this part, if the Department of Health finds there is insufficient laboratory capacity for the testing of pesticides, the department may permit randomly chosen samples from batches of ~~usable marijuana~~marijuana products to be tested for pesticides by a licensed laboratory rather than requiring every batch of usable marijuana from a harvest lot to be tested for pesticides.

(b) The department must ensure that samples from at least one (1) batch of every harvest lot are tested for pesticides.

(c) If any one of the randomly chosen samples from a batch of a producer cultivation facility's, processor's, or dispensary's harvest lot fails a pesticide test, every batch from the harvest lot must be tested for pesticides.

(d) If the randomly chosen samples from batches of ~~usable marijuana~~marijuana products that are tested for pesticides all pass, the entire harvest lot:

(1) Is considered to have passed pesticide testing; and

(2) May be transferred or sold.

20 CAR § 202-121. Petitions to add medical conditions or treatments.

(a) The Department of Health will only accept petitions that are sent via United States mail:

Arkansas Department of Health
Medical Marijuana Program
4815 West Markham, Slot 50
Little Rock, AR 72205

(b) Each petition is limited to a single medical condition or disease.

(c) Each petition must include:

(1) The specific name and brief description of the proposed debilitating medical condition or disease, including any applicable ICD-10 diagnostic code or codes;

(2) The extent to which the debilitating medical condition or disease itself, and/or the treatments, cause severe suffering and impair a person's daily life;

(3) A description of the conventional medical therapies, other than those that cause suffering, available to alleviate the suffering caused by the proposed debilitating medical condition or disease;

(4) A description of the proposed benefits from the medical use of cannabis specific to the proposed debilitating medical condition or disease;

(5)(A) Evidence generally accepted by the medical community and other experts that the use of medical cannabis alleviates suffering caused by the debilitating medical disease and/or treatment.

(B) This includes but is not limited to:

(i) Full-text peer-reviewed published journals; or

(ii) Other completed medical studies; and

(6) Letters of support for the use of medical cannabis from physicians and/or

other licensed healthcare providers knowledgeable about the condition or disease including, if applicable, a letter from the physician with whom the petitioner has a bona fide physician-patient relationship along with any medical, testimonial, or scientific documentation.

(d)(1) If the petition meets all requirements, it will be referred for a public hearing.

(2) Petitioners will be notified in advance of the date, time, and location of the public hearing, and will be allowed to offer verbal or written comments, as will other members of the public.

(3) Notice of the public hearing shall conform.

(e) If a medical condition, medical treatment, or disease in a petition has been previously considered and rejected or is determined to be substantially similar to a previously rejected condition, treatment, or disease, the department may deny the petition without first referring for a public hearing unless new scientific research that supports the request is offered in the petition.

(f)(1) After reviewing the petitions, supporting evidence, and public comments, the program will issue a recommendation to the director as to which of the conditions, diseases, or treatments should be added as qualifying conditions.

(2) In considering a petition, the department shall recommend to add medical conditions or treatments to the list of qualifying medical conditions if patients suffering from the medical conditions or undergoing the treatments in question would derive therapeutic benefit from the use of marijuana, taking into account the positive and negative health effects of such use.

(g)(1) The director shall, after hearing, approve or deny a petition within one hundred twenty (120) days of submission of the petition.

(2) The director will make the final determination.

(3) If the decision is to add the condition, treatment, or disease, the department will proceed to propose rules to expand the list.

Appendix A. Sampling Policies and Procedures

Link:

https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/390/20CARpt.202AppendixA.pdf

Appendix B. Standards for Testing

Link:

https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/391/20CARpt.202AppendixB.pdf