

“Medical Marijuana Regulation and Safety Act”
Hon. Steven K. Lubell (Ret.)
Initial Summary, September 11, 2015

The California Legislature, with input from the Office of the Governor, has reached an historic agreement on a comprehensive regulatory framework for the cultivation and distribution of medical cannabis and medical cannabis products in the State of California.

The result is a statewide medical marijuana regulation based upon the combined passage of three bills: Senate Bill 643 (Author: McGuire), Assembly Bill 266 (Author: Bonta), and Assembly Bill 243 (Author: Wood).

This summary is intended as an initial overview of the regulatory framework of the three bills, and is subject to change upon further review and analysis of this historic legislation. When discussed herein Senate Bill 643 (Author: McGuire), Assembly Bill 266 (Author: Bonta), and Assembly Bill 243 (Author: Wood), are referred to collectively as the “Medical Marijuana Regulation and Safety Act”.

Under the “Medical Marijuana Regulation and Safety Act” (“MMRSA”) the Bureau of Marijuana Regulation will be established within the California State Department of Consumer Affairs. The state agencies with the licensing authority and responsible for granting and renewing state licenses, and regulating the relevant licensees are:

Department of Food and Agriculture:	Cultivators
Bureau of Marijuana Regulation:	Distributors, Dispensaries and Transporters
Department of Public Health:	Manufacturers & Certified Testing Laboratories

The MMRSA breaks up the current vertical integration model of a closed loop of patient members from seed to distribution and replaces it with a multi-tiered model consisting of:

Cultivation → Distribution → Transportation → Testing → Manufacturing → Dispensing

License classifications in the multi-tiered model are as follows:

- (a) Type 1 = Cultivation; Specialty outdoor; Small.
- (b) Type 1A = Cultivation; Specialty indoor; Small.
- (c) Type 1B = Cultivation; Specialty mixed-light; Small.
- (d) Type 2 = Cultivation; Outdoor; Small.
- (e) Type 2A = Cultivation; Indoor; Small.
- (f) Type 2B = Cultivation; Mixed-light; Small.

- (g) Type 3 = Cultivation; Outdoor; Medium.
- (h) Type 3A = Cultivation; Indoor; Medium.
- (i) Type 3B = Cultivation; Mixed-light; Medium.
- (j) Type 4 = Cultivation; Nursery.
- (k) Type 6 = Manufacturer 1.
- (l) Type 7 = Manufacturer 2.
- (m) Type 8 = Testing.
- (n) Type 10 = Dispensary; General.
- (o) Type 10A = Dispensary; No more than three retail sites.
- (p) Type 11 = Distribution.
- (q) Type 12 = Transporter.

A Chart breaking down the License Categories, Types, and Restrictions is attached. State Licensing authorities may issue state licenses only to qualified applicants engaging in commercial cannabis activity. Upon the date of implementation of regulations by the state licensing authority, no person shall engage in commercial cannabis activity without possessing both (1) a state license and (2) a local permit, license, or other authorization. A licensee shall not commence activity under the authority of a state license until the applicant has obtained, in addition to the state license, a license or permit from the local jurisdiction in which he or she proposes to operate, following the requirements of the applicable local ordinance

Operating until State Licensed: A facility or entity that is operating in compliance with local zoning ordinances and other state and local requirements on or before January 1, 2018, may continue its operations until its application for licensure is approved or denied pursuant to this part. The Bureau of Marijuana Regulation shall prioritize when issuing licensees, any facility or entity that can demonstrate to the bureau's satisfaction that it was in operation and in good standing with the local jurisdiction by January 1, 2016.

An "Applicant" for the annual state license under the Medical Marijuana Regulation and Safety Act must have an official document granted by a local jurisdiction that specifically authorizes a person to conduct the type of commercial cannabis activity applied for. A local jurisdiction may adopt ordinances that establish additional standards, requirements, and regulations for local licenses and permits for commercial cannabis activity, but not less than the state standard. A local jurisdiction maintains the right to prohibit commercial cannabis activity within their jurisdiction.

City of Los Angeles: The MMRSA provides that the issuance of a state license or a determination of compliance with local law by the licensing authority shall in no way limit the ability of the City of Los Angeles to prosecute any person or entity for a violation of, or otherwise enforce, Proposition D, approved by the voters of the City of Los Angeles on the May 21, 2013, ballot for the city, or the city's zoning laws. Nor may issuance of a license or determination of compliance with local law by the licensing authority be deemed to establish, or be relied upon, in determining satisfaction with the immunity requirements of Proposition D or local zoning law, in court or in any other context or forum.

Since Proposition D is a limited immunity ordinance there is no ability to apply for a state license since Proposition D does not provide for any form of authorization. An amendment to Proposition D would be required. Although a voter initiative, Proposition D states in LAMC Section 45.19.6 that its purpose and intent was to enact an ordinance that (a) prohibits medical marijuana businesses, but (b) grants a limited immunity from the enforcement of its prohibition to those medical marijuana businesses that do not violate the restrictions set forth in this ordinance, until such time as the California Supreme Court rules regarding what cities can and cannot regulate and the City enacts new medical marijuana legislation consistent with that judicial guidance. The California Supreme Court provided such judicial guidance in *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013) 56 Cal.4th 729 holding that a city or county maintains the right to regulate or prohibit commercial cannabis activity within their jurisdiction. The City of Los Angeles may enact new medical marijuana legislation consistent with *City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* and state regulations. On-site cultivation would be prohibited under any new city legislation which must be consistent with statewide regulations which prohibit onsite cultivation by a Type 10 dispensary.

Grandfathering Vertical Integration: The MMRSA provides for a grandfather provision to allow vertical integration as to operations in effect as of July 1, 2015. In a jurisdiction that adopted a local ordinance, prior to July 1, 2015, allowing or requiring qualified businesses to cultivate, manufacture, and dispense medical cannabis or medical cannabis products, with all commercial cannabis activity being conducted by a single qualified business, upon licensure that business shall not be subject to subdivision (a) if it meets all of the following conditions:

(A) The business was cultivating, manufacturing, and dispensing medical cannabis or medical cannabis products on July 1, 2015, and has continuously done so since that date.

(B) The business has been in full compliance with all applicable local ordinances.

(C) The business is registered with the State Board of Equalization.

A business licensed pursuant to the grandfathering provision is not required to conduct all cultivation or manufacturing within the bounds of a local jurisdiction, but all cultivation and manufacturing shall have commenced prior to July 1, 2015, and have been in full compliance with applicable local ordinances. A business licensed by a local vertical integration ordinance shall not be issued a state license or local licenses or permits for commercial cannabis activity after July 1, 2015, unless it complies with the three conditional requirements.

The MMRSA amends Senate Bill 420 – Medical Marijuana Program Act (“MMPA”). Senate Bill 420 established Health and Safety Code Section 11362.775 which provides:

"Qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients and persons with identification cards, who associate within the State of California in order collectively or cooperatively to cultivate marijuana for medical purposes, shall not solely on the basis of that fact be subject to state criminal sanctions under Section 11357 [possession of marijuana or "concentrated cannabis"], 11358 [cultivation of marijuana], 11359 [possession of marijuana for sale], 11360 [transporting, importing, selling, furnishing, or giving away marijuana], 11366 [maintaining a place for the sale, giving away, or use of marijuana], 11366.5 [making real property available for the manufacture, storage, or distribution of controlled substances], or 11570 [abatement of nuisance created by premises used for manufacture, storage, or distribution of controlled substance]."

The MMRSA does not modify Proposition 215 the “Compassionate Use Act of 1996” which was a voter initiative.

The MMRSA does not modify Health and Safety Code § 11362.765 which provides immunity from criminal liability as follows:

(a) Subject to the requirements of this article, the individuals specified in subdivision (b) shall not be subject, on that sole basis, to criminal liability under Section 11357, 11358, 11359, 11360, 11366, 11366.5, or 11570. However, nothing in this section shall authorize the individual to smoke or otherwise consume marijuana unless otherwise authorized by this article, nor shall anything in this section authorize any individual or group to cultivate or distribute marijuana for profit.

(b) Subdivision A shall apply to all of the following:

(1) A qualified patient or a person with an identification card who transports or processes marijuana for his or her own personal medical use.

(2) A designated primary caregiver who transports, processes, administers, delivers, or gives away marijuana for medical purposes, in amounts not exceeding those established in subdivision (a) of Section 11362.77, only to the qualified patient of the primary caregiver, or to the person with an identification card who has designated the individual as a primary caregiver.

(3) Any individual who provides assistance to a qualified patient or a person with an identification card, or his or her designated primary caregiver, in administering medical marijuana to the qualified patient or person or acquiring the skills necessary to cultivate or administer marijuana for medical purposes to the qualified patient or person.

(c) A primary caregiver who receives compensation for actual expenses, including reasonable compensation incurred for services provided to an eligible qualified patient or person with an identification card to enable that person to use marijuana under this article, or for payment for out-of-pocket expenses incurred in providing those services, or both, shall not, on the sole basis of that fact, be subject to prosecution or punishment under Section 11359 or 11360

Not for Profit Issue: There has been much discussion if the MMRSA deletes the non-profit model in California. The Medical Marijuana Regulation and Safety Act only modified Health and Safety Code Section 11362.775. The MMRSA did not modify or otherwise amend Health and Safety Code Section 11262.765. Nothing in Senate Bill 420 “Medical Marijuana Program” authorizes collectives, cooperatives, or individuals to profit from the sale or distribution of marijuana. (See, e.g., § 11362.765(a) [“nothing in this section shall authorize . . . any individual or group to cultivate or distribute marijuana for profit”]).

The legal analysis is that if the MMRSA left Health & Safety Code Section 11362.765 intact, then only costs of cultivation, manufacture, distribution, testing and dispensing can be reimbursed. The not for profit model requirement set forth in Health & Safety Code Section 11362.765 would remain intact.

If the legislative language of Senate Bill 420 (“Medical Marijuana Program”) codified in Health and Safety Code Section 11362.765 which provides that the cultivation and distribution of marijuana by any individual or group be done in a not for profit manner remains intact and undisturbed, then does it not follow then that the amendment to Health

and Safety Code Section 11362.775 contained in the MMRSA does nothing to change the not for profit requirement set forth in Health and Safety Code Section 11362.765.

Applicant: Under the MMRSA an “Applicant” for a state license is a “Person” which is defined as an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit. There is no residency requirement for an Applicant.

License Categories: An Applicant under the MMRSA may apply for a state license to engage in commercial cannabis activity in 5 different license categories: Cultivation, Manufacture, Distribution, Testing, and Dispensing of Medical Cannabis or Medical Cannabis Products. Commercial cannabis activity is defined in the MMRSA as the cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of medical cannabis or a medical cannabis product. A chart breaking down the different licenses and restrictions is attached.

Number of Licenses: Only two licenses may be held in any one category. A dispensary license may not hold a license in any other category. There is an exception for the holder of a “special dispensary status,” license for dispensers who have three licensed dispensary facilities.

Basis for denial of an Application: The state licensing authority shall deny an application if either the applicant or the premises for which a state license is applied do not qualify for licensure. The state licensing authority may deny the application for licensure or renewal of a state license if the applicant or licensee has been convicted of an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, except that if the licensing authority determines that the applicant or licensee is otherwise suitable to be issued a license and granting the license would not compromise public safety, the licensing authority shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the applicant, and shall evaluate the suitability of the applicant or licensee to be issued a license based on the evidence found through the review.

In determining which offenses are substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, the licensing authority shall include, but not be limited to, the following:

- (A) A felony conviction for the illegal possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance.

- (B) A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code.
- (C) A serious felony conviction, as specified in subdivision (c) of Section 1192.7 of the Penal Code.
- (D) A felony conviction involving fraud, deceit, or embezzlement.

An applicant, or any of its officers, directors, or owners, is a licensed physician making patient recommendations for medical cannabis pursuant to Section 11362.7 of the Health and Safety Code are ineligible for a state license.

An applicant or any of its officers, directors, or owners who have been subject to fines or penalties for cultivation or production of a controlled substance on public or private lands pursuant to Section 12025 or 12025.1 of the Fish and Game Code are ineligible for a state license.

An applicant, or any of its officers, directors, or owners, previously sanctioned by a licensing authority or a local jurisdiction for unlicensed commercial medical cannabis activities or had a license revoked in the three years immediately preceding the date the application is filed are ineligible for a state license.

Individual Patient and Primary Caregiver exemptions: A Qualified patient who cultivates, possesses, stores, manufactures, or transports cannabis exclusively for his or her personal medical use but who does not provide, donate, sell, or distribute cannabis to any other person or entity is not considered engaged in commercial cannabis activity and is exempt from state licensing requirements under the MMRSA. A Primary Caregiver who cultivates, possesses, stores, manufactures, transports, donates, or provides cannabis exclusively for the personal medical purposes of no more than five specified qualified patients for whom he or she is the primary caregiver within the meaning of Section 11362.7 of the Health and Safety Code, but who does not receive remuneration for these activities except for compensation in full compliance with subdivision (c) of Section 11362.765 of the Health and Safety Code is not engaged in commercial cannabis activity and is, therefore, exempt from state licensing requirements under the MMRSA.

Cultivation: A state licensed Cultivator may engage in “Cultivation” which is any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis. Cultivation will be recognized as an agricultural activity. The amount of cannabis that can be grown is determined by an agricultural term known as “plant canopy”. If you picture looking down from the top of a plant and determine the amount of space the top of the plant consumes, that space is called plant canopy.

Plant Canopy: Plant Canopy limits for the different cultivation license categories are as follows:

- (1) Type 1, or “specialty outdoor,” for outdoor cultivation using no artificial lighting of less than 5,000 square feet of total canopy size on one premises, or up to 50 mature plants on non-contiguous plots.
- (2) Type 1A, or “specialty indoor,” for indoor cultivation using exclusively artificial lighting of less than 5,000 square feet of total canopy size on one premises.
- (3) Type 1B, or “specialty mixed-light,” for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, of less than 5,000 square feet of total canopy size on one premises.
- (4) Type 2, or “small outdoor,” for outdoor cultivation using no artificial lighting between 5,001 and 10,000 square feet of total canopy size on one premises.
- (5) Type 2A, or “small indoor,” for indoor cultivation using exclusively artificial lighting between 5,001 and 10,000 square feet of total canopy size on one premises.
- (6) Type 2B, or “small mixed-light,” for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, between 5,001 and 10,000 square feet of total canopy size on one premises.
- (7) Type 3, or “outdoor,” for outdoor cultivation using no artificial lighting between 10,001 and 44,000 square feet of total canopy on one premises.
- (8) Type 3A, or “indoor,” for indoor cultivation using exclusively artificial lighting between 10,001 and 22,000 square feet of total canopy size on one premises.

Section 11362.769 is added to the Health and Safety Code, which provides that indoor and outdoor medical marijuana cultivation shall be conducted in accordance with state and local laws related to land conversion, grading, electricity usage, water usage, water quality, woodland and riparian habitat protection, agricultural discharges, and similar matters. State agencies, including, but not limited to, the State Board of Forestry and Fire Protection, the Department of Fish and Wildlife, the State Water Resources Control Board, the California regional water quality control boards, and traditional state law enforcement agencies shall address environmental impacts of medical marijuana cultivation and shall coordinate, when appropriate, with cities and counties and their law enforcement agencies in enforcement efforts.

Section 11362.777 is added to the Health and Safety Code, which will establish within the Department of Food and Agriculture a Medical Cannabis Cultivation Program in which medical cannabis is treated an agricultural product. A person or entity shall not cultivate medical marijuana without first obtaining both a license, permit, or other entitlement, specifically permitting cultivation pursuant to the MMRSA provisions, from the city, county, or city and county in which the cultivation will occur and a state license.

The state regulations establish a program for the identification of permitted medical marijuana plants at a cultivation site during the cultivation period. The unique identifier shall be attached at the base of each plant. A unique identifier, such as, but not limited to, a zip tie, shall be issued for each medical marijuana plant. Unique identifiers will only be issued to those persons appropriately licensed. Information associated with the assigned unique identifier and licensee shall be included in a statewide trace and track program. A person or entity shall not submit an application for a state license issued by the department pursuant to this section unless that person or entity has received a license, permit, or other entitlement, specifically permitting cultivation from the local jurisdiction in which the cultivation will occur.

A person or entity shall not submit an application for a state license issued by the department pursuant to this section if the proposed cultivation of marijuana will violate the provisions of any local ordinance or regulation, or if medical marijuana is prohibited by the local jurisdiction in which the cultivation is proposed to occur, either expressly or otherwise under principles of permissive zoning. A local jurisdiction, through its current or future land use regulations or ordinance, may issue or deny a permit to cultivate medical marijuana. A local jurisdiction may inspect the intended cultivation site for suitability prior to issuing a permit. A local jurisdiction's locally issued conditional permit requirements must be at least as stringent as the state licensing requirements.

If a local jurisdiction does not have land use regulations or ordinances regulating or prohibiting the cultivation of marijuana, either expressly or otherwise under principles of permissive zoning, or chooses not to administer a conditional permit program pursuant to

this section, then commencing March 1, 2016, the state shall be the sole licensing authority for medical marijuana cultivation applicants in that local jurisdiction.

Transportation: Once the medical marijuana crop is ready for transport, a state licensed “Transporter” will transfer the medical cannabis from the licensed Cultivator to the fixed location of a state licensed “Distributor” for distribution to either a licensed dispensary or manufacturer. Protocols are established for the statewide transportation of medical cannabis.

Prior to transporting medical cannabis or medical cannabis products, a licensed transporter of medical cannabis or medical cannabis products shall do both of the following:

- (1) Complete an electronic shipping manifest as prescribed by the licensing authority. The shipping manifest must include the unique identifier, pursuant to Section 11362.777 of the Health and Safety Code, issued by the Department of Food and Agriculture for the original cannabis product.
- (2) Securely transmit the manifest to the bureau and the licensee that will receive the medical cannabis product. The bureau shall inform the Department of Food and Agriculture of information pertaining to commercial cannabis activity for the purpose of the track and trace program identified in Section 19335.

Upon receipt of the transported shipment, the licensee receiving the shipment shall submit to the licensing agency a record verifying receipt of the shipment and the details of the shipment. A local jurisdiction shall not prevent transportation of medical cannabis or medical cannabis products on public roads by a licensee transporting medical cannabis or medical cannabis products in compliance with state regulations.

Distribution: All licensees holding cultivation or manufacturing licenses shall send all medical cannabis and medical cannabis products cultivated or manufactured to a licensed Distributor for (1) quality assurance and inspection for (2) batch testing by a licensed Testing laboratory prior to distribution to a state licensed dispensary.

Upon receipt of medical cannabis or medical cannabis products by a cultivation or manufacturing licensee the Distributor shall first inspect the product to ensure the identity and quantity of the product and then ensure a random sample of the medical cannabis or medical cannabis product is tested by a licensed Testing laboratory prior to distributing the batch of medical cannabis or medical cannabis products.

Upon issuance of a certificate of analysis by the licensed Testing laboratory that the medical cannabis product is fit for manufacturing or retail, all medical cannabis and medical cannabis products shall undergo a quality assurance review by the Distributor prior to distribution to ensure the quantity and content of the medical cannabis or medical cannabis product, and for tracking and taxation purposes by the state.

Licensed cultivators and manufacturers shall package or seal all medical cannabis and medical cannabis products in tamper-evident packaging and use a unique identifier, such as a batch and lot number or bar code, to identify and track the medical cannabis or medical cannabis products. All packaging and sealing shall be completed prior to medical cannabis or medical cannabis products being transported or delivered to a licensee, qualified patient, or caregiver.

Licensed cultivators, manufacturers, and dispensaries may directly enter into contracts with one another indicating the price and quantity of medical cannabis or medical cannabis products to be distributed. A licensed Distributor responsible for executing the contract is authorized to collect a fee for the services rendered, including, but not limited to, costs incurred by a licensed Testing Laboratory, as well as applicable state or local taxes and fees.

Testing: Medical cannabis and medical cannabis products will be required to be tested by a licensed testing laboratory, prior to retail sale or dispensing, as follows:

- (1) Medical cannabis from dried flower shall, at a minimum, be tested for potency, pesticides, mold, and other contaminants.
- (2) Medical cannabis extracts shall, at a minimum, be tested for potency and purity of the product.

Nothing prohibits a licensee from performing on-site testing for the purposes of quality assurance of the product in conjunction with reasonable business operations. However, on-site testing by the licensee will not be certified by the Department of Public Health. Upon issuance of a certificate of analysis by the licensed Testing laboratory that the medical cannabis product is fit for manufacturing or retail, all medical cannabis and medical cannabis products shall undergo a quality assurance review by the Distributor prior to distribution to ensure the quantity and content of the medical cannabis or medical cannabis product, and for tracking and taxation purposes by the state.

Upon issuance of a certificate of analysis by the licensed Testing laboratory and quality assurance review by the Distributor the medical cannabis may be transported by the licensed Transporter to either: (1) the physical retail location of a state licensed Dispensary that makes retail sales of medical cannabis or medical cannabis products, or (2) the manufacturer of cannabis products.

Manufacturer: A state licensed “Manufacturer” may put the raw cannabis through a process where the raw agricultural product is transformed into a concentrate, an edible product, or a topical product at a manufacturing site. A state licensed “Manufacturer” is the “Person” that conducts the production, preparation, propagation, or compounding of medical cannabis or medical cannabis products, at a specified location, either directly or indirectly or by extraction methods, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis, and includes a location that packages or repackages medical cannabis or medical cannabis products or labels or relabels its container, and that has been issued both a local license or permit and a state license pursuant to the MMRSA. An Edible cannabis product is manufactured cannabis that is intended to be used, in whole or in part, for human consumption. Under the MMRSA an Edible medical cannabis product is not considered a food product. Only generic names can be used to describe edible food products.

Concentrated Cannabis Issue: The MMRSA provides for a Type 6, or “manufacturing level 1,” for manufacturing sites that produce medical cannabis products using nonvolatile solvents and a Type 7, or “manufacturing level 2,” for manufacturing sites that produce medical cannabis products using volatile solvents. The MMRSA did not amend Health & Safety Code §11379.6(a) which makes the manufacturing of a controlled substance using chemical extraction or independent chemical synthesis a felony. There is a conflict between a Type 6 and Type 7 manufacturing licenses issued under the MMRSA and Health & Safety Code § 11379.6(a) which states:

(a) Except as otherwise provided by law, every person who manufactures, compounds, converts, produces, derives, processes, or prepares, either directly or indirectly by chemical extraction or independently by means of chemical synthesis, any controlled substance specified in Section 11054, 11055, 11056, 11057, or 11058 shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for three, five, or seven years and by a fine not exceeding fifty thousand dollars (\$50,000).

Dispensary: A holder of a “Dispensary” license may operate a physical retail establishment that makes retail sales of medical cannabis or medical cannabis products from a fixed location.

Deliveries may originate from the fixed location of the Dispensary license to Qualified Patients and their Primary Caregivers, if so expressly authorized by a local ordinance.

A Type 10, or “dispensary” license for the retail of medical cannabis or medical cannabis products is prohibited from engaging in the cultivation of medical cannabis or the manufacture of medical cannabis products.

A Type 10A “special dispensary status” licensee, which is the operator of 3 dispensaries, may apply for a Type 6 (Manufacturing Level 1) or Type 7 (Manufacturing Level 2) state license and hold a 1, 1A, 1B, 2, 2A, 2B, 3, 3A, 3B, 4 or combination thereof if, under the 1, 1A, 1B, 2, 2A, 2B, 3, 3A, 3B, 4 or combination of licenses thereof, no more than four acres of total canopy size of cultivation by the licensee is occurring throughout the state during the period that the respective licenses are valid. All cultivation pursuant to this section shall comply with local ordinances. This provision becomes inoperative on January 1, 2026.

Taxation: A county may impose a tax on the privilege of cultivating, dispensing, producing, processing, preparing, storing, providing, donating, selling, or distributing medical cannabis or medical cannabis products by a licensee operating pursuant state regulations. The board of supervisors shall specify in the ordinance proposing the tax the activities subject to the tax, the applicable rate or rates, the method of apportionment, if necessary, and the manner of collection of the tax. The tax may be imposed for general governmental purposes or for purposes specified in the ordinance by the board of supervisors. A county may impose a tax on the privilege of cultivating, dispensing, producing, processing, preparing, storing, providing, donating, selling, or distributing medical cannabis or medical cannabis products by a licensee operating pursuant to state regulations. Any tax imposed shall be subject to applicable voter approval requirements imposed by law.

Labor Agreement: Licensees with 20 or more employees, must provide a statement that the applicant will enter into, or demonstrate that his has already entered into, and abide by the terms of a labor peace agreement. A Labor peace agreement” means an agreement between a licensee and a bona fide labor organization that, at a minimum, protects the state’s proprietary interests by prohibiting labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the applicant’s business. This agreement means that the applicant has agreed not to disrupt efforts by the bona fide labor organization to communicate with, and attempt to organize and represent, the applicant’s employees. The agreement shall provide a bona fide labor organization access at reasonable times to areas in which the applicant’s employees work, for the purpose of meeting with employees to discuss their right to representation, employment rights under state law, and terms and conditions of employment. This type of agreement shall not mandate a particular method of election or certification of the bona fide labor organization.

**“Medical Marijuana Regulation and Safety Act”
State License Types**

License Type: Cultivation

Issuing Authority: Department of Food and Agriculture

- (1) Type 1, or “specialty outdoor,” for outdoor cultivation using no artificial lighting of less than 5,000 square feet of total canopy size on one premises, or up to 50 mature plants on non-contiguous plots.
- (2) Type 1A, or “specialty indoor,” for indoor cultivation using exclusively artificial lighting of less than 5,000 square feet of total canopy size on one premises.
- (3) Type 1B, or “specialty mixed-light,” for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, of less than 5,000 square feet of total canopy size on one premises.
- (4) Type 2, or “small outdoor,” for outdoor cultivation using no artificial lighting between 5,001 and 10,000 square feet of total canopy size on one premises.
- (5) Type 2A, or “small indoor,” for indoor cultivation using exclusively artificial lighting between 5,001 and 10,000 square feet of total canopy size on one premises.
- (6) Type 2B, or “small mixed-light,” for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, between 5,001 and 10,000 square feet of total canopy size on one premises.
- (7) Type 3, or “outdoor,” for outdoor cultivation using no artificial lighting between 10,001 and 44,000 square feet of total canopy on one premises. The Division of Medical Cannabis Cultivation shall limit the number of licenses allowed of this type. (1 acre = 43,560 square feet)
- (8) Type 3A, or “indoor,” for indoor cultivation using exclusively artificial lighting between 10,001 and 22,000 square feet of total canopy size on one premises. The Division of Medical Cannabis Cultivation shall limit the number of licenses allowed of this type.

- (9) Type 3B, or “mixed-light,” for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, between 10,001 and 22,000 square feet of total canopy size on one premises. The Division of Medical Cannabis Cultivation shall limit the number of licenses allowed of this type
- (10) Type 4, or “nursery,” for cultivation of medical cannabis solely as a nursery. Type 4 licensees may transport live plants.

License Type: Manufacturers and Licensed Laboratories

Issuing Authority: Department of Public Health

- (1) Type 6, or “manufacturing level 1,” for manufacturing sites that produce medical cannabis products using nonvolatile solvents.
- (2) Type 7, or “manufacturing level 2,” for manufacturing sites that produce medical cannabis products using volatile solvents. The Division shall limit the number of licenses of this type.
- (3) Type 8, or “testing,” for testing of medical cannabis and medical cannabis products. Type 8 (testing) licensees shall have their facilities licensed according to regulations set forth by the division. A Type 8 (testing) licensee shall not hold a license in another license category of this chapter and shall not own or have ownership interest in a laboratory licensed pursuant to this chapter.

License Type: Distributors, Dispensaries, and Transporters

Issuing Authority: Bureau of Marijuana Regulation

- (1) Type 10, or “dispensary,” for the retail of medical cannabis or medical cannabis products. This license shall allow for delivery where expressly authorized by local ordinance.
- (2) Type 10A, or “special dispensary status,” for dispensers who have no more than three licensed dispensary facilities. This license shall allow for delivery where expressly authorized by local ordinance.
- (3) Type 11, or “distributor,” for the certification of the content of all medical cannabis or medical cannabis products and distribution between licensees. A Type 11 licensee shall hold a Type 12 license, or transporter license, and register each laboratory location where product is stored for the purposes of

distribution. A Type 11 licensee shall not hold a license in any cultivation, manufacturing, dispensing, or testing license category and shall not own, or have an ownership interest in, a laboratory licensed to these categories pursuant to this chapter other than a security interest, lien, or encumbrance on property that is used by a licensee. A Type 11 license shall be bonded and insured at a level no less the minimum established by the licensing authorities.

- (4) Type 12, or “transport,” for transporters of medical cannabis or medical cannabis products. A Type 12 license shall be bonded and insured at a level no less the minimum established by the licensing authorities.

Medical Marijuana Regulation and Safety Act - License Restrictions

A Licensee may hold a state license in up to two separate license categories, as follows:

- (1) Type 1 (specialty outdoor), 1A (specialty indoor), 1B (specialty mixed-light), Type 2 (small outdoor), Type 2A (small indoor), and Type 2B (small mixed-light) licensees, or a combination thereof, may apply for a Type 6 (manufacturing level 1) or Type 7 (manufacturing level 2) state license, or a combination thereof.
- (2) Type 6 (manufacturing level 1) and Type 7 (manufacturing level 2), or a combination thereof, may apply for a Type 1 (specialty outdoor), 1A (specialty indoor), 1B (specialty mixed-light), Type 2 (small outdoor), Type 2A (small indoor), and Type 2B (small mixed-light) or a combination thereof.
- (3) Type 6 (manufacturing level 1) and Type 7 (manufacturing level 2), or a combination thereof, may apply for a Type 10A (special dispensary status) state license.
- (4) Type 10A (special dispensary status) may apply for a Type 6 (manufacturing level 1) and Type 7 (manufacturing level 2), state license, or a combination thereof.
- (5) Type 1 (specialty outdoor), 1A (specialty indoor), 1B (specialty mixed-light), Type 2 (small outdoor), Type 2A (small indoor), and Type 2B (small mixed-light) licensees, or a combination thereof, may apply for a Type 10A (special dispensary status) state license.
- (6) Type 10A (special dispensary status) state licensees may apply for Type 1 (specialty outdoor), 1A (specialty indoor), 1B (specialty mixed-light), Type 2

(small outdoor), Type 2A (small indoor), and Type 2B (small mixed-light) state license, or a combination thereof.

(7) Type 11 (distributor) licensees may apply for a Type 12 (transport) license.

(8) Type 12 (transport) licensees may apply for a Type 11 (distributor) license.

A person or entity that holds a state license is prohibited from holding an ownership interest in real property, personal property, or other assets associated or used in any other license category, except as set forth above.

A Type 10 “dispensary” license for the retail of medical cannabis or medical cannabis products is prohibited from engaging in cultivation of medical cannabis or the manufacture of medical cannabis products.

A Type 10A “special dispensary status” licensee, which is the operator of 3 dispensaries, may apply for a Type 6 (Manufacturing Level 1) or Type 7 (Manufacturing Level 2) state license and hold a 1, 1A, 1B, 2, 2A, 2B, 3, 3A, 3B, 4 or combination thereof if, under the 1, 1A, 1B, 2, 2A, 2B, 3, 3A, 3B, 4 or combination of licenses thereof, no more than four acres of total canopy size of cultivation by the licensee is occurring throughout the state during the period that the respective licenses are valid. All cultivation pursuant to this section shall comply with local ordinances. This provision becomes inoperative on January 1, 2026.

This Summary is provided for educational purposes only. No legal advice is intended to be given, or attorney/client relationship established, by the providing of this summary. Consult with an Attorney of your choice with respect to questions regarding any matter contained herein.

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