

## NOTICES OF EMERGENCY RULEMAKING

Under the Administrative Procedure Act, an agency may determine that adoption, amendment, or repeal of a rule is necessary for immediate preservation of the public health, safety, or welfare and the notice and public participation requirements are impracticable. Under this determination, the agency may adopt the rule as an emergency and submit it to the Attorney General for review. The Attorney General approves the rule and then files it with the Secretary of State. The rule remains in effect for 180 days. An emergency rule may be renewed for one 180-day period if the requirements of A.R.S. § 41-1026 are met. If the emergency rule is not renewed or the rule is not permanently adopted by the end of the 180-day period, the emergency rule expires and the text of the rule returns to its former language, if any.

### NOTICE OF EMERGENCY RULEMAKING

#### TITLE 9. HEALTH SERVICES

#### CHAPTER 17. DEPARTMENT OF HEALTH SERVICES

#### MEDICAL MARIJUANA PROGRAM

*Editor's Note: The following Notice of Emergency Rulemaking was reviewed per Executive Order 2011-05 as issued by Governor Brewer. (See the text of the executive order on page 1045.) The Governor's Office authorized the notice to proceed through the rulemaking process on January 30, 2012.*

[R12-54]

#### PREAMBLE

**1. Sections Affected**

Table 1.1  
R9-17-302  
R9-17-303  
R9-17-304  
R9-17-308  
R9-17-311  
R9-17-312  
R9-17-322

**Rulemaking Action**

Amend  
Amend  
Amend  
Amend  
Amend  
Amend  
Amend  
Amend

**2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**

Authorizing statutes: A.R.S. §§ 36-104(3), 36-132(A)(1), 36-136(F)

Implementing statutes: A.R.S. §§ 36-2803, 36-2804, 36-2804.06, and 36-2815

**3. The effective date of the rule:**

April 11, 2012

**4. Citations to all related emergency rulemaking notices published in the Register as specified in R1-1-409(A) that pertain to the record of this notice of emergency rulemaking:**

None

**5. The agency's contact person who can answer questions about the rulemaking:**

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**6. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:**

The Arizona Department of Health Services (Department) believes that amending certain rules within 9 A.A.C. 17 is necessary as an emergency measure to comply with a court order and state law.

On May 27, 2011, and in response to threats of prosecution by the federal government, the dispensary component of the Medical Marijuana Rules (A.A.C. R9-17-101 *et seq.*) was suspended pending the resolution of a legal action filed by the state in U.S. District Court (CV 11-1072-PHX-SRB). On or about the same time, several state court lawsuits were filed in an effort to force the Department to fully implement the Arizona Medical Marijuana Act (Act), with one lawsuit challenging specific rules regarding criteria established by the Department for evaluating a dispensary registration certificate application (Application): A.A.C. R9-17-302(A)(1), (A)(2), and (A)(4), and A.A.C. R9-17-322(A)(2). The Department sought stays against the actions filed in state court pending the outcome of the federal court lawsuit.

On January 4, 2012, U.S. District Court Judge Susan Bolton procedurally dismissed the lawsuit filed by the state, never reaching the merits of the case. On January 13, 2012, Governor Brewer instructed the Department to proceed with implementing the dispensary application process. On January 17, 2012, Maricopa County Superior Court Judge Gama, in case CV 2011-011290, issued a ruling "directing Defendants to implement the lawful provisions of the [Act] and, if necessary, to promulgate regulations that conform thereto." As part of that ruling, Judge Gama determined that several rules challenged in that lawsuit were valid and appropriate but that the following rules were promulgated in excess of the Department's statutory authority and were therefore struck down: A.A.C. R9-17-302(A)(1), (A)(2), and (A)(4), and A.A.C. R9-17-322(A)(2).

Accordingly, the Department is obligated to begin accepting and processing Applications. However, the time-frame for the Department to accept initial Applications, "30 calendar days beginning June 1, 2011," has long come and gone. A.A.C. R9-17-303(D). Thus, although the Department is obligated to begin accepting and processing initial Applications, the Department is without any current standards for accepting initial Applications. Until certain rules within 9 A.A.C. 17 are amended and a new time-frame for accepting initial Applications is established, the Department is unable to begin accepting initial Applications and issuing dispensary registration certificates (Certificates). As a result of the court ruling invalidating certain rules within Title 9, Chapter 17 that established criteria for determining a dispensary applicant's ability to be considered for a Certificate, the Department finds that amending several rules within Title 9, Chapter 17 is necessary to begin the initial Application process.

The Department has an urgent need to begin accepting initial Applications, processing the Applications, and issuing Certificates. Amending the rules via emergency rulemaking will foster the Department's ability to accept and process initial Applications and issue Certificates in compliance with court ruling.

Further, without amending the rules in an emergency rulemaking, the Department would also be forced to accept and process Applications beginning in May 2012 (See A.A.C. R9-17-303(F) and (G)) for the purpose of expanding the number of dispensaries originally granted (when none have been granted). These two rule provisions must be amended so that the evaluation of dispensary expansion will begin in 2013 and every year thereafter.

Based on the foregoing and pursuant to A.R.S. § 41-1026, the Department finds the existence of an emergency justifying an emergency rulemaking.

**7. A reference to any study relevant to the rules that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

The Department did not review or rely on any study related to this rulemaking package.

**8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**9. A summary of the economic, small business, and consumer impact:**

The Department anticipates that this rulemaking will provide a substantial benefit to persons who successfully obtain a dispensary registration certificate. A person who is interested in opening a dispensary, but is unsuccessful in obtaining a dispensary registration certificate, may receive a significant benefit from knowing the status of the application and being able to make alternate plans for the use of monies set aside pending the outcome of the selection process.

Qualifying patients may receive a significant benefit from being able to obtain medical marijuana from a regulated source. The public may receive a significant benefit from having fewer individuals approved to grow medical marijuana since more qualifying patients would reside within 25 miles of an operating dispensary.

**10. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include but are not limited to:**

**a. Whether the rule requires a permit, whether a general permit is used and, if not, the reasons why a general permit is not used:**

The rule will allow an applicant to receive a dispensary registration certificate. Since A.R.S. § 36-2804 requires the registration of a dispensary and the issuance of a registration certificate under specific circumstances, a general permit is not appropriate and is not used.

**b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and, if so, citation to the statutory authority to exceed the requirements of federal law:**

The rule is not more stringent than federal law.

**c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**

No analysis comparing competitiveness was received by the Department.

**11. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rule:**

None

**12. An agency explanation about the situation justifying the rulemaking as an emergency rule:**

Due to recent court rulings concerning the Arizona Medical Marijuana Act (Act) and the rules that implement the Act (A.A.C. R9-17-101 *et seq.*), the Arizona Department of Health Services (Department) finds facts exist in justifying an emergency rulemaking. Pursuant to A.R.S. § 41-1026, the Department intends to amend rules within 9 A.A.C. 17 (Rules) as an emergency measure.

This situation was not caused by the Department's delay or inaction. The Department timely adopted the Rules. Rather, the current emergency situation exists as a result of a recent court ruling making a specific sections of the rules obsolete and other sections invalid. In addition, given the additional time necessary to conduct a regular rulemaking, the current situation cannot be averted by a regular rulemaking (which at a minimum could take an additional six to eight months to complete).

**13. The date the Attorney General approved the rule:**

April 11, 2012

**14. The full text of the rules follows:**

ARTICLE 1. GENERAL

Section  
Table 1.1

ARTICLE 3. DISPENSARIES AND DISPENSARY AGENTS

Section	
R9-17-302.	Evaluation of Dispensary Registration Certificate Applications
R9-17-303.	Dispensary Registration Certificate Allocation Process
R9-17-304.	Applying for a Dispensary Registration Certificate
R9-17-308.	Renewing a Dispensary Registration Certificate
R9-17-311.	Submitting an Application for a Dispensary Agent Registry Identification Card
R9-17-312.	Submitting an Application to Renew a Dispensary Agent's Registry Identification Card
R9-17-322.	Denial or Revocation of a Dispensary Registration Certificate

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**ARTICLE 1. GENERAL**

**Table 1.1.**

<b>Type of approval</b>	<b>Authority (A.R.S. § or A.A.C.)</b>	<b>Overall Time-frame (in working days)</b>	<b>Time-frame for applicant to complete application (in working days)</b>	<b>Administrative Completeness Time-frame (in working days)</b>	<b>Substantive Review Time-frame (in working days)</b>
Changing a registry identification card	36-2808	10	10	5	5
Requesting a replacement registry identification card	36-2804.06	5	5	2	3
Applying for a registry identification card for a qualifying patient or a designated caregiver	36-2804.02(A)	15	30	5	10
Amending a registry identification card for a qualifying patient or a designated caregiver	36-2808	10	10	5	5
Renewing a qualifying patient's or designated caregiver's registry identification card	36-2804.02(A) and 36-2804.06	15	15	5	10
Applying for a dispensary registration certificate	36-2804	<del>45</del> <u>30</u>	10	<del>45</del> <u>5</u>	<del>30</del> <u>25</u>
Applying for approval to operate a dispensary	R9-17-305	45	10	15	30
Changing a dispensary location or adding or changing a dispensary's cultivation site location	36-2804 and R9-17-307	90	90	30	60
Renewing a dispensary registration certificate	36-2804.06	15	15	5	10
Applying for a dispensary agent registry identification card	36-2804.01 and 36-2804.03	15	30	5	10
Renewing a dispensary agent's registry identification card	36-2804.06	15	15	5	10

**ARTICLE 3. DISPENSARIES AND DISPENSARY AGENTS**

**R9-17-302. Evaluation of Dispensary Registration Certificate Applications**

A. If more than one dispensary registration certificate application, that is complete and in compliance with A.R.S. Title 36, Chapter 28.1 and this Chapter, is received for a single CHAA, the Department shall review the dispensary registration certificate applications for the CHAA to determine if:

1. Each applicant, principal officer, or board member associated with a dispensary registration certificate application has

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- submitted Arizona resident personal income tax returns for the previous three years with the dispensary registration certificate application;
2. ~~Each applicant, principal officer, or board member associated with a dispensary registration certificate application:~~
    - a. ~~Is current on paying court-ordered child support;~~
    - b. ~~Is not delinquent paying taxes, interest, or penalties due to a governmental agency;~~
    - c. ~~Does not have an unpaid judgment due to a governmental agency; and~~
    - d. ~~Is not in default on a government-issued student loan;~~
  - 3.1. Each individual who has 20% or more interest in the dispensary is the applicant or a principal officer or board member of the dispensary; and
  4. ~~Each applicant, principal officer, or board member has never:~~
    - a. ~~Filed for personal bankruptcy; or~~
    - b. ~~Been a principal officer of a business entity that filed for bankruptcy; and~~
  - 5.2. Documentation was submitted with the dispensary registration certificate application that:
    - a. Is from an in-state financial institution or an out-of-state financial institution;
    - b. Is dated within 30 calendar days before the date the dispensary registration certificate application was submitted; and
    - c. Demonstrates that the entity applying for the dispensary registration certificate or a principal officer of the entity:
      - i. Has at least \$150,000 under the control of the entity or principal officer to begin operating the dispensary, and
      - ii. Has had control of the \$150,000 in subsection ~~(A)(5)(e)(i)~~ (A)(2)(c)(i) for at least 30 calendar days before the date the dispensary registration certificate application was submitted.
- B.** The Department shall process the dispensary registration certificate applications to allocate a dispensary registration certificate in a CHAA for each dispensary registration certificate assigned to the CHAA as follows:
1. The Department shall review all dispensary registration certificate applications received for the CHAA to determine if each application meets the criteria in subsection (A)(1);
  2. If the Department determines that only one of the reviewed dispensary registration certificate applications meets the criteria in subsection (A)(1), the Department shall allocate a dispensary registration certificate to that applicant;
  3. If the Department determines that none of the reviewed dispensary registration certificate applications meets the criteria in subsection (A)(1), the Department shall randomly select one dispensary registration certificate application and allocate a dispensary registration certificate to that applicant;
  4. If the Department determines that more than one or all of the reviewed dispensary registration certificate applications meet the criteria in subsection (A)(1), the Department shall review those applications that meet the criteria in subsection (A)(1) for the criteria in subsection (A)(2);
  5. If the Department determines that only one of the reviewed dispensary registration certificate applications meets the criteria in subsection (A)(2), the Department shall allocate a dispensary registration certificate to that applicant;
  6. If the Department determines that none of the reviewed dispensary registration certificate applications meets the criteria in subsection (A)(2), the Department shall randomly select one dispensary registration certificate application that meets the criteria in subsection (A)(1) and allocate a dispensary registration certificate to that applicant; and
  7. If the Department determines that more than one or all of the reviewed dispensary registration certificate applications meet the criteria in subsection (A)(2), the Department shall ~~review those applications that meet the criteria in subsection (A)(2) for the criteria in subsection (A)(3)~~ randomly select one of the dispensary registration certificate applications that meet the criteria in subsection (A)(2) and allocate a dispensary registration certificate to that applicant;
  8. ~~If the Department determines that only one of the reviewed dispensary registration certificate applications meets the criteria in subsection (A)(3), the Department shall allocate a dispensary registration certificate to that applicant;~~
  9. ~~If the Department determines that none of the reviewed dispensary registration certificate applications meets the criteria in subsection (A)(3), the Department shall randomly select one dispensary registration certificate application that meets the criteria in subsection (A)(2) and allocate a dispensary registration certificate to that applicant;~~
  10. ~~If the Department determines that more than one or all of the reviewed dispensary registration certificate applications meet the criteria in subsection (A)(3), the Department shall review those applications that meet the criteria in subsection (A)(3) for the criteria in subsection (A)(4);~~
  11. ~~If the Department determines that only one of the reviewed dispensary registration certificate applications meets the criteria in subsection (A)(4), the Department shall allocate a dispensary registration certificate to that applicant;~~
  12. ~~If the Department determines that none of the reviewed dispensary registration certificate applications meets the criteria in subsection (A)(4), the Department shall randomly select one dispensary registration certificate application that meets the criteria in subsection (A)(3) and allocate a dispensary registration certificate to that applicant;~~
  13. ~~If the Department determines that more than one or all of the reviewed dispensary registration certificate applications meet the criteria in subsection (A)(4), the Department shall review those applications that meet the criteria in subsection (A)(4) for the criteria in subsection (A)(5);~~
  14. ~~If the Department determines that only one of the reviewed dispensary registration certificate applications meets the~~

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- criteria in subsection (A)(5), the Department shall allocate a dispensary registration certificate to that applicant;
15. ~~If the Department determines that none of the reviewed dispensary registration certificate applications or all of the dispensary registration certificate applications meet the criteria in subsection (A)(5), the Department shall randomly select one dispensary registration certificate application that meets the criteria in subsection (A)(4) and allocate a dispensary registration certificate to that applicant; and~~
16. ~~If the Department determines that more than one of the reviewed dispensary registration certificate applications meet the criteria in subsection (A)(5), the Department shall randomly select one of the dispensary registration certificate applications that meet the criteria in subsection (A)(5) and allocate a dispensary registration certificate to that applicant.~~
- C. If an applicant submits more than one dispensary registration certificate application, the documentation in subsection ~~(A)(5)~~ (A)(2) needs to demonstrate there is at least \$150,000 available for each dispensary registration certificate application submitted.

**R9-17-303. Dispensary Registration Certificate Allocation Process**

- A. The Department shall review dispensary registration certificate applications and issue dispensary registration certificates according to the requirements in R9-17-107 and R9-17-302.
- B. Except as provided in subsection (C), the Department shall assign only one dispensary registration certificate allocation for each CHAA.
- C. A city or town that contains more than one CHAA may request the reassignment of a dispensary registration certificate allocation from one CHAA to another CHAA under the jurisdiction of the city or town by submitting a written request to the Department by ~~June 1, 2011~~ 30 calendar days after the posting in subsection (D) that contains:
1. The CHAAs involved in the reassignment,
  2. The reassignment requested, and
  3. The signature of the individual authorized to submit the request.
- D. The Department shall accept dispensary registration certificate applications for ~~30 calendar~~ 10 working days beginning ~~June 1, 2011~~ 30 calendar days after the Department posts on the Department's web site that the Department will be accepting dispensary registration certificate applications.
- E. If the Department receives:
1. Only one dispensary registration certificate application for a dispensary located in a CHAA that the Department determines is complete and is in compliance with A.R.S. Title 36, Chapter 28.1 and this Chapter by ~~60 calendar working days~~ after June 1, 2011 the Department begins accepting applications, the Department shall allocate the dispensary registration certificate for the CHAA to that applicant; or
  2. More than one dispensary registration certificate application for a dispensary located in a CHAA that the Department determines are complete and are in compliance with A.R.S. Title 36, Chapter 28.1 and this Chapter, by ~~60 calendar working days~~ after June 1, 2011 the Department begins accepting applications, the Department shall allocate a dispensary registration certificate according to R9-17-302.
- F. ~~In May of each~~ Each calendar year beginning in ~~May 2012~~ 2013, the Department shall review current valid dispensary registration certificates to determine if the Department may issue additional dispensary registration certificates pursuant to A.R.S. § 36-2804(C).
1. If the Department determines that the Department may issue additional dispensary registration certificates, the Department shall post, on the Department's web site, the information that the Department is accepting dispensary registration certificate applications, including the deadline for accepting dispensary registration certificate applications.
    - a. The Department shall post the information in subsection (F)(1) ~~by the last working day of the month~~ at least 30 calendar days before the date the Department begins accepting applications.
    - b. The deadline for submission of dispensary registration certificate applications is ~~30 calendar~~ 10 working days after the date of ~~posting in the Department begins accepting applications in subsection (F)(1)(a).~~
    - c. Sixty ~~calendar~~ working days after the date of ~~posting in subsection (F)(1)(a)~~ the Department begins accepting applications, the Department shall determine if the Department received more dispensary registration certificate applications that are complete and in compliance with A.R.S. Title 36, Chapter 28.1 and this Chapter than the Department is allowed to issue.
      - i. If the Department received more dispensary registration certificates applications than the Department is allowed to issue, the Department shall allocate any available dispensary registration certificates according to the priorities established in subsection (G).
      - ii. If the Department is allowed to issue a dispensary registration certificate for each dispensary registration certificate application the Department received, the Department shall allocate the dispensary registration certificates to those applicants.
  2. If the Department determines that the Department is not allowed to issue additional dispensary registration certificates, the Department shall, on the Department's web site:
    - a. Post the information that the Department is not accepting dispensary registration certificate applications, and

- b. Maintain the information until the next review.
- G. Beginning in ~~May 2012~~ 2013, if the Department receives, by 60 ~~calendar~~ working days after the date the Department begins accepting applications ~~posted the notice in subsection (F)(1)(a)~~, more dispensary registration certificate applications that are complete and are in compliance with A.R.S. Title 36, Chapter 28.1 and this Chapter than the Department is allowed to issue, the Department shall allocate the dispensary registration certificates according to the following criteria:
1. If dispensary registration certificate applications are received for a county that does not contain a dispensary:
    - a. If only one dispensary registration certificate application for a dispensary located in the county is received, the Department shall allocate the dispensary registration certificate to that applicant; or
    - b. If more than one dispensary registration certificate application for a dispensary located in the county is received, the Department shall prioritize and allocate a dispensary registration certificate to an applicant whose proposed dispensary location will provide dispensary services to the most qualifying patients based on:
      - i. The number of registry identification cards issued to qualifying patients who reside within 10 miles of the applicant's proposed dispensary location, and
      - ii. The number of dispensaries operating within 10 miles of the applicant's proposed dispensary location;
  2. If there are additional dispensary registration certificates available after dispensary registration certificates are allocated according to subsection (G)(1), and if dispensary registration certificate applications are received for a location in a CHAA that does not contain a dispensary and whose dispensary registration certificate has not been reassigned under subsection (C), the Department shall allocate the dispensary registration certificates as follows:
    - a. If the Department receives dispensary registration certificate applications for a dispensary in more CHAAs, that do not contain a dispensary and whose dispensary registration certificates have not been reassigned under subsection (C), than there are dispensary registration certificates available, the Department shall prioritize and assign a dispensary registration certificate allocation to a CHAA based on which CHAA has the most registry identification cards issued to qualifying patients who reside within the CHAA;
    - b. If only one dispensary registration certificate application for a dispensary located in the CHAA is received, the Department shall allocate the dispensary registration certificate to that applicant; or
    - c. If the Department receives more than one dispensary registration certificate application for a dispensary located in the CHAA, the Department shall prioritize and allocate dispensary registration certificates to an applicant whose proposed dispensary location will provide dispensary services to the most qualifying patients based on:
      - i. The number of registry identification cards issued to qualifying patients who reside within 10 miles of the applicant's proposed dispensary location, and
      - ii. The number of dispensaries operating within 10 miles of the applicant's proposed dispensary location;
  3. If there are additional dispensary registration certificates available after dispensary registration certificates are allocated according to subsections (G)(1) and (2), for all dispensary registration certificate applications not allocated a dispensary registration certificate pursuant to subsections (G)(1) and (2) and any other dispensary registration certificate applications received, the Department shall prioritize and allocate a dispensary registration certificate to an applicant whose proposed dispensary location will provide dispensary services to the most qualifying patients based on:
    - a. The number of registry identification cards issued to qualifying patients who reside within 10 miles of the applicant's proposed dispensary location, and
    - b. The number of dispensaries operating within 10 miles of the applicant's proposed dispensary location; and
  4. If there is a tie or a margin of 0.1% or less in the scores generated by applying the criteria in subsection (G), the Department shall randomly select one dispensary registration certificate application and allocate a dispensary registration certificate to that applicant.
- H. For purposes of subsection (G), "10 miles" includes the area contained within a circle that extends for 10 miles in all directions from a specific location.
- I. If the Department does not allocate a dispensary registration certificate to an applicant that had submitted a dispensary registration certificate application that the Department determined was complete and in compliance with A.R.S. Title 36, Chapter 28.1 and this Chapter, the Department shall:
1. Provide a written notice to the applicant that states that, although the applicant's dispensary registration certificate application was complete and complied with A.R.S. Title 36, Chapter 28.1 and this Chapter, the Department did not allocate the applicant a dispensary registration certificate under the processes in R9-17-302 and this Section; and
  2. Return \$1,000 of the application fee to the applicant.
- J. If the Department receives a dispensary registration certificate application at a time other than the time stated in subsection (D) or (F), the Department shall return the dispensary registration certificate application, including the application fee, to the entity that submitted the dispensary registration certificate application.

**R9-17-304. Applying for a Dispensary Registration Certificate**

- A. An individual shall not be an applicant, principal officer, or board member on:
1. More than one dispensary registration certificate application for a location in a single CHAA, or

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2. More than five dispensary registration certificate applications for locations in different CHAAs.
- B.** If the Department determines that an individual is an applicant, principal officer, or board member on more than one dispensary registration certificate application for a CHAA or more than five dispensary registration certificate applications, the Department shall review the applications and provide the applicant on each of the dispensary registration certificate applications with a written comprehensive request for more information that includes the specific requirements in A.R.S. Title 36, Chapter 28.1 and this Chapter that the dispensary registration certificate application does not comply with.
1. If an applicant withdraws an application to comply with this Chapter and submits information demonstrating compliance with A.R.S. Title 36, Chapter 28.1 and this Chapter, the Department shall process the applicant's dispensary registration certificate applications according to this Chapter.
  2. If an applicant does not withdraw an application or submit information demonstrating compliance with A.R.S. Title 36, Chapter 28.1 and this Chapter, the Department shall issue a denial to the applicant according to R9-17-322.
  3. An application fee submitted with a dispensary registration certificate application in subsection (B) that is withdrawn is not refunded.
- ~~**C.** Each principal officer or board member of a dispensary is an Arizona resident and has been an Arizona resident for the three years immediately preceding the date the dispensary submits a dispensary registration certificate application.~~
- ~~**D.C.** To apply for a dispensary registration certificate, an entity shall submit to the Department the following:~~
1. An application in a Department-provided format that includes:
    - a. The legal name of the dispensary;
    - b. The physical address of the proposed dispensary;
    - c. The following information for the entity applying:
      - i. Name,
      - ii. Type of business organization,
      - iii. Mailing address,
      - iv. Telephone number, and
      - v. E-mail address;
    - d. The name of the individual designated to submit dispensary agent registry identification card applications on behalf of the dispensary;
    - e. The name and license number of the dispensary's medical director;
    - f. Whether:
      - i. Any individual who has 20% or more interest in the dispensary is not the applicant or a principal officer or board member of the dispensary; or
      - ii. The applicant has submitted documentation that:
        - (1) Is from an in-state financial institution or an out-of-state financial institution;
        - (2) Is dated within 30 calendar days before the date the dispensary registration certificate application was submitted; and
        - (3) Demonstrates that the entity applying for the dispensary registration certificate or a principal officer of the entity has at least \$150,000 under the control of the entity or principal officer to begin operating the dispensary and has had control of the \$150,000 for at least 30 calendar days before the date the dispensary registration certificate application was submitted;
    - g. The name, residence address, and date of birth of each:
      - i. Principal officer, and
      - ii. Board member;
    - h. For each principal officer or board member, whether the principal officer or board member:
      - i. Has served as a principal officer or board member for a dispensary that had the dispensary registration certificate revoked;
      - ii. Is a physician currently providing written certifications for qualifying patients;
      - iii. Is a law enforcement officer; or
      - iv. Is employed by or a contractor of the Department;
      - v. ~~Has submitted Arizona resident personal income tax returns for the previous three years with the dispensary registration certificate application;~~
      - vi. ~~Is current on paying court ordered child support;~~
      - vii. ~~Is delinquent paying taxes, interest, or penalties due to a governmental agency;~~
      - viii. ~~Has an unpaid judgment due to a governmental agency;~~
      - ix. ~~Is in default on a government issued student loan;~~
      - x. ~~Has ever filed for personal bankruptcy; or~~
      - xi. ~~Has ever been a principal officer of a business entity that filed for bankruptcy;~~
      - i. Whether the dispensary agrees to allow the Department to submit supplemental requests for information;
      - j. A statement that, if the dispensary is issued a dispensary registration certificate, the dispensary will not operate until the dispensary is inspected and obtains an approval to operate from the Department;



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- k. An attestation that the information provided to the Department to apply for a dispensary registration certificate is true and correct; and
- l. The signatures of the principal officers of the dispensary according to R9-17-301(A) and the date the principal officers signed;
2. If the entity applying is one of the business organizations in R9-17-301(A)(2) through (7), a copy of the business organization's articles of incorporation, articles of organization, or partnership or joint venture documents that include:
  - a. The name of the business organization,
  - b. The type of business organization, and
  - c. The names and titles of the individuals in R9-17-301(A) and (B);
3. For each principal officer and board member:
  - a. An attestation signed and dated by the principal officer or board member that the principal officer or board member has not been convicted of an excluded felony offense as defined in A.R.S. § 36-2801; and
  - b. ~~An attestation signed and dated by the principal officer or board member that the principal officer or board member is an Arizona resident and has been an Arizona resident for at least three consecutive years immediately preceding the date the dispensary submitted the dispensary certificate application;~~
  - e-b. For the Department's criminal records check authorized in A.R.S. § 36-2804.05:
    - i. The principal officer's or board member's fingerprints on a fingerprint card that includes:
      - (1) The principal officer's or board member's first name; middle initial, if applicable; and last name;
      - (2) The principal officer's or board member's signature;
      - (3) If different from the principal officer or board member, the signature of the individual physically rolling the principal officer's or board member's fingerprints;
      - (4) The principal officer's or board member's residence address;
      - (5) If applicable, the principal officer's or board member's surname before marriage and any names previously used by the principal officer or board member;
      - (6) The principal officer's or board member's date of birth;
      - (7) The principal officer's or board member's Social Security number;
      - (8) The principal officer's or board member's citizenship status;
      - (9) The principal officer's or board member's gender;
      - (10) The principal officer's or board member's race;
      - (11) The principal officer's or board member's height;
      - (12) The principal officer's or board member's weight;
      - (13) The principal officer's or board member's hair color;
      - (14) The principal officer's or board member's eye color; and
      - (15) The principal officer's or board member's place of birth; or
    - ii. If the fingerprints and information required in subsection ~~(D)(3)(e)(i)~~ (C)(3)(b)(i) were submitted to the Department as part of an application for a designated caregiver or a dispensary agent registry identification card within the previous six months, the registry identification number on the registry identification card issued to the principal officer or board member as a result of the application; and
  - d. ~~A copy of one of the following containing the principal officer's or board member's name and current residence address:~~
    - i. ~~A non-expired Arizona driver's license;~~
    - ii. ~~A non-expired Arizona identification card;~~
    - iii. ~~A current lease agreement;~~
    - iv. ~~A mortgage statement for the most recent tax year;~~
    - v. ~~A tax statement issued by a governmental agency for the most recent tax year;~~
    - vi. ~~A utility bill dated within 60 calendar days before the date of the dispensary application;~~
    - vii. ~~A paycheck or statement of direct deposit issued by an employer dated within 60 calendar days before the date of the dispensary application;~~
    - viii. ~~Current motor vehicle, life, or health insurance policy; or~~
    - ix. ~~Any other document that demonstrates that the principal officer or board member is an Arizona resident;~~
4. Policies and procedures that comply with the requirements in this Chapter for:
  - a. Inventory control,
  - b. Qualifying patient recordkeeping,
  - c. Security, and
  - d. Patient education and support;
5. As required in A.R.S. § 36-2804(B)(1)(d), a sworn statement signed and dated by the individual or individuals in R9-17-301(A) certifying that the dispensary is in compliance with any local zoning restrictions;
6. Documentation from the local jurisdiction where the dispensary's proposed physical address is located that:

- a. There are no local zoning restrictions for the dispensary's location, or
  - b. The dispensary's location is in compliance with any local zoning restrictions;
  7. Documentation of:
    - a. Ownership of the physical address of the proposed dispensary, or
    - b. Permission from the owner of the physical address of the proposed dispensary for the entity applying for a dispensary registration certificate to operate a dispensary at the physical address;
  8. The dispensary's by-laws including:
    - a. The names and titles of individuals designated as principal officers and board members of the dispensary;
    - b. Whether the dispensary plans to:
      - i. Cultivate marijuana;
      - ii. Acquire marijuana from qualifying patients, designated caregivers, or other dispensaries;
      - iii. Sell or provide marijuana to other dispensaries;
      - iv. Transport marijuana;
      - v. Prepare, sell, or dispense marijuana-infused edible food products;
      - vi. Prepare, sell, or dispense marijuana-infused non-edible products;
      - vii. Sell or provide marijuana paraphernalia or other supplies related to the administration of marijuana to qualifying patients and designated caregivers;
      - viii. Deliver medical marijuana to qualifying patients; or
      - ix. Provide patient support and related services to qualifying patients;
    - c. Provisions for the disposition of revenues and receipts to ensure that the dispensary operates on a not-for-profit basis; and
    - d. Provisions for amending the dispensary's by-laws;
  9. A business plan demonstrating the on-going viability of the dispensary on a not-for-profit basis that includes:
    - a. A description of and total dollar amount of expenditures already incurred to establish the dispensary or to secure a dispensary registration certificate by the individual or business organization applying for the dispensary registration certificate,
    - b. A description and total dollar amount of monies or tangible assets received for operating the dispensary from entities other than the individual applying for the dispensary registration certificate or a principal officer or board member associated with the dispensary including the entity's name and the interest in the dispensary or the benefit the entity obtained,
    - c. Projected expenditures expected before the dispensary is operational,
    - d. Projected expenditures after the dispensary is operational, and
    - e. Projected revenue; and
  10. The applicable fee in R9-17-102 for applying for a dispensary registration certificate.
- ~~E.D.~~** Before an entity with a dispensary registration certificate begins operating a dispensary, the entity shall apply for and obtain an approval to operate a dispensary from the Department.

**R9-17-308. Renewing a Dispensary Registration Certificate**

- A.** An entity with a dispensary registration certificate that has not submitted an application for approval to operate a dispensary to the Department at least 60 calendar days before the expiration date of the dispensary registration certificate or has not obtained approval to operate a dispensary issued by the Department is prohibited from renewing the dispensary registration certificate.
- B.** To renew a dispensary registration certificate, a dispensary that has an approval to operate as a dispensary issued by the Department, shall submit to the Department, at least 30 calendar days before the expiration date of the dispensary's current dispensary registration certificate, the following:
  1. An application in a Department-provided format that includes:
    - a. The legal name of the dispensary;
    - b. The registry identification number for the dispensary;
    - c. The physical address of the dispensary;
    - d. The name of the entity applying;
    - e. The name of the individual designated to submit dispensary agent registry identification card applications on behalf of the dispensary;
    - f. The name and license number of the dispensary's medical director;
    - g. The dispensary's hours of operation during which the dispensary is available to dispense medical marijuana to qualifying patients and designated caregivers;
    - h. The name, address, date of birth, and registry identification number of each:
      - i. Principal officer,
      - ii. Board member, and
      - iii. Dispensary agent;

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- i. For each principal officer or board member, whether the principal officer or board member:
    - i. Has served as a principal officer or board member for a dispensary that had the dispensary registration certificate revoked,
    - ii. Is a physician currently providing written certifications for qualifying patients,
    - iii. Is a law enforcement officer, or
    - iv. Is employed by or a contractor of the Department;
  - j. The dispensary's Transaction Privilege Tax Number issued by the Arizona Department of Revenue;
  - k. Whether the dispensary agrees to allow the Department to submit supplemental requests for information;
  - l. An attestation that the information provided to the Department to renew the dispensary registration certificate is true and correct; and
  - m. The signature of the individual or individuals in R9-17-301(A) and the date the individual or individuals signed;
- ~~2. An attestation from each principal officer and board member, signed and dated by the principal officer or board member, that the principal officer or board member is an Arizona resident and has been an Arizona resident for at least three consecutive years immediately preceding the date the dispensary submitted the application to renew the dispensary registration certificate;~~
- ~~3.2. If the application is for renewing a dispensary registration certificate that was initially issued within the previous 12 months, a copy of the dispensary's approval to operate a dispensary issued by the Department;~~
- ~~4.3. A copy of an annual financial statement for the previous year, or for the portion of the previous year the dispensary was operational, prepared according to generally accepted accounting principles;~~
- ~~5.4. A report of an audit by an independent certified public accountant of the annual financial statement required in subsection ~~(B)(4)~~ ~~(B)(3)~~; and~~
- ~~6.5. The applicable fee in R9-17-102 for applying to renew a dispensary registration certificate.~~

**R9-17-311. Submitting an Application for a Dispensary Agent Registry Identification Card**

Except as provided in R9-17-107(F), to obtain a dispensary agent registry identification card for an individual serving as a principal officer or board member for the dispensary, employed by or contracted with the dispensary, or providing volunteer services at or on behalf of the dispensary, the dispensary shall submit to the Department the following for each dispensary agent:

1. An application in a Department-provided format that includes:
  - a. The dispensary agent's first name; middle initial, if applicable; last name; and suffix, if applicable;
  - b. The dispensary agent's residence address and mailing address;
  - c. The county where the dispensary agent resides;
  - d. The dispensary agent's date of birth;
  - e. The identifying number on the applicable card or document in subsection (5)(a) through (e);
  - f. The name and registry identification number of the dispensary; and
  - g. The signature of the individual in ~~R9-17-304(D)(1)(d)~~ R9-17-304(C)(1)(d) designated to submit dispensary agent applications on the dispensary's behalf and the date the individual signed;
2. An attestation signed and dated by the dispensary agent that the dispensary agent has not been convicted of an excluded felony offense as defined in A.R.S. § 36-2801;
3. One of the following:
  - a. A statement that the dispensary agent does not currently hold a valid registry identification card, or
  - b. The assigned registry identification number for the dispensary agent for each valid registry identification card currently held by the dispensary agent;
4. A statement in a Department-provided format signed by the dispensary agent pledging not to divert marijuana to any individual who or entity that is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
5. A copy of the dispensary agent's:
  - a. Arizona driver's license issued on or after October 1, 1996;
  - b. Arizona identification card issued on or after October 1, 1996;
  - c. Arizona registry identification card;
  - d. Photograph page in the dispensary agent's U.S. passport; or
  - e. Arizona driver's license or identification card issued before October 1, 1996 and one of the following for the dispensary agent:
    - i. Birth certificate verifying U.S. citizenship,
    - ii. U. S. Certificate of Naturalization, or
    - iii. U. S. Certificate of Citizenship;
6. A current photograph of the dispensary agent;
7. For the Department's criminal records check authorized in A.R.S. § 36-2804.05:
  - a. The dispensary agent's fingerprints on a fingerprint card that includes:
    - i. The dispensary agent's first name; middle initial, if applicable; and last name;

- ii. The dispensary agent's signature;
  - iii. If different from the dispensary agent, the signature of the individual physically rolling the dispensary agent's fingerprints;
  - iv. The dispensary agent's address;
  - v. If applicable, the dispensary agent's surname before marriage and any names previously used by the dispensary agent;
  - vi. The dispensary agent's date of birth;
  - vii. The dispensary agent's Social Security number;
  - viii. The dispensary agent's citizenship status;
  - ix. The dispensary agent's gender;
  - x. The dispensary agent's race;
  - xi. The dispensary agent's height;
  - xii. The dispensary agent's weight;
  - xiii. The dispensary agent's hair color;
  - xiv. The dispensary agent's eye color; and
  - xv. The dispensary agent's place of birth; or
- b. If the dispensary agent's fingerprints and information required in subsection (7)(a) were submitted to the Department within the previous six months as part of an application for a designated caregiver registry identification card or a dispensary agent registry identification card for another dispensary, the registry identification number on the registry identification card issued to the dispensary agent as a result of the application; and
8. The applicable fee in R9-17-102 for applying for a dispensary agent registry identification card.

**R9-17-312. Submitting an Application to Renew a Dispensary Agent's Registry Identification Card**

To renew a dispensary agent's registry identification card for an individual serving as a principal officer or board member for the dispensary, employed by or contracted with the dispensary, or providing volunteer services at or on behalf of the dispensary, the dispensary shall submit to the Department, at least 30 calendar days before the expiration of the dispensary agent's registry identification card, the following:

1. An application in a Department-provided format that includes:
  - a. The dispensary agent's first name; middle initial, if applicable; last name; and suffix, if applicable;
  - b. The dispensary agent's residence address and mailing address;
  - c. The county where the dispensary agent resides;
  - d. The dispensary agent's date of birth;
  - e. The registry identification number on the dispensary agent's current registry identification card;
  - f. The name and registry identification number of the dispensary; and
  - g. The signature of the individual in ~~R9-17-304(D)(1)(d)~~ R9-17-304(C)(1)(d) designated to submit dispensary agent applications on the dispensary's behalf and the date the individual signed;
2. If the dispensary agent's name in subsection (1)(a) is not the same name as on the dispensary agent's current registry identification card, one of the following with the dispensary agent's new name:
  - a. An Arizona driver's license,
  - b. An Arizona identification card, or
  - c. The photograph page in the dispensary agent's U.S. passport;
3. A statement in a Department-provided format signed by the dispensary agent pledging not to divert marijuana to any individual who or entity that is not allowed to possess marijuana pursuant to A.R.S. Title 36, Chapter 28.1;
4. A current photograph of the dispensary agent;
5. For the Department's criminal records check authorized in A.R.S. § 36-2804.05:
  - a. The dispensary agent's fingerprints on a fingerprint card that includes:
    - i. The dispensary agent's first name; middle initial, if applicable; and last name;
    - ii. The dispensary agent's signature;
    - iii. If different from the dispensary agent, the signature of the individual physically rolling the dispensary agent's fingerprints;
    - iv. The dispensary agent's address;
    - v. If applicable, the dispensary agent's surname before marriage and any names previously used by the dispensary agent;
    - vi. The dispensary agent's date of birth;
    - vii. The dispensary agent's Social Security number;
    - viii. The dispensary agent's citizenship status;
    - ix. The dispensary agent's gender;
    - x. The dispensary agent's race;
    - xi. The dispensary agent's height;

- xii. The dispensary agent's weight;
  - xiii. The dispensary agent's hair color;
  - xiv. The dispensary agent's eye color; and
  - xv. The dispensary agent's place of birth; or
- b. If the dispensary agent's fingerprints and information required in subsection (5)(a) were submitted to the Department within the previous six months as part of an application for a designated caregiver registry identification card or a dispensary agent registry identification card for another dispensary, the registry identification number on the registry identification card issued to the dispensary agent as a result of the application; and
6. The applicable fee in R9-17-102 for applying to renew a dispensary agent's registry identification card.

**R9-17-322. Denial or Revocation of a Dispensary Registration Certificate**

- A.** The Department shall deny an application for a dispensary registration certificate or a renewal if:
- 1. For an application for a dispensary registration certificate, the physical address of the building or, if applicable, the physical address of the dispensary's cultivation site is within 500 feet of a private school or a public school that existed before the date the dispensary submitted the initial dispensary registration certificate application;
  - 2. A principal officer or board member:
    - ~~a.~~ ~~Is not a resident of Arizona or has not been a resident of Arizona for at least three consecutive years immediately preceding the date the application for the dispensary registration certificate was submitted;~~
    - ~~b.~~a. Has been convicted of an excluded felony offense;
    - ~~e.~~b. Has served as a principal officer or board member for a dispensary that:
      - i. Had the dispensary registration certificate revoked, or
      - ii. Did not obtain an approval to operate the dispensary within the first year after the dispensary registration certificate was issued;
    - ~~d.~~c. Is under 21 years of age;
    - ~~e.~~d. Is a physician currently providing written certifications for medical marijuana for qualifying patients;
    - ~~f.~~e. Is a law enforcement officer; or
    - ~~g.~~f. Is an employee or contractor of the Department; or
  - 3. The application or the dispensary does not comply with the requirements in A.R.S. Title 36, Chapter 28.1 and this Chapter.
- B.** The Department may deny an application for a dispensary registration certificate if a principal officer or board member of the dispensary provides false or misleading information to the Department.
- C.** The Department shall revoke a dispensary's registration certificate if:
- 1. The dispensary:
    - a. Operates before obtaining approval to operate a dispensary from the Department;
    - b. Dispenses, delivers, or otherwise transfers marijuana to an entity other than another dispensary with a valid dispensary registration certificate issued by the Department, a qualifying patient with a valid registry identification card, or a designated caregiver with a valid registry identification card; or
    - c. Acquires usable marijuana or mature marijuana plants from any entity other than another dispensary with a valid dispensary registration certificate issued by the Department, a qualifying patient with a valid registry identification card, or a designated caregiver with a valid registry identification card; or
  - 2. A principal officer or board member has been convicted of an excluded felony offense.
- D.** The Department may revoke a dispensary registration certificate if the dispensary does not:
- 1. Comply with the requirements in A.R.S. Title 36, Chapter 28.1 and this Chapter; or
  - 2. Implement the policies and procedures or comply with the statements provided to the Department with the dispensary's application.
- E.** If the Department denies a dispensary registration certificate application, the Department shall provide notice to the applicant that includes:
- 1. The specific reason or reasons for the denial, and
  - 2. All other information required by A.R.S. § 41-1076.
- F.** If the Department revokes a dispensary registration certificate, the Department shall provide notice to the dispensary that includes:
- 1. The specific reason or reasons for the revocation; and
  - 2. The process for requesting a judicial review of the Department's decision pursuant to A.R.S. Title 12, Chapter 7, Article 6.