

TABLED

CHEROKEE COUNCIL HOUSE
CHEROKEE, NORTH CAROLINA

Date: JUL 08 2021

ORDINANCE NO.: 539 (2021)

An ordinance establishing a system of medical marijuana.

WHEREAS, the Eastern Band of Cherokee Indians, as a federally recognized Indian tribe, has the inherent sovereign authority to make its own laws to govern activities on Tribal lands; and

WHEREAS, many enrolled members of the Tribe have expressed to Tribal Council, the Principal Chief, and the Vice Chief that those members continue to support changing Tribal law to advance access to medical marijuana; and

WHEREAS, there is evidence that when used responsibly medical marijuana can help treat chronic illness and conditions including epilepsy, seizures, muscle spasms, cancer, glaucoma, multiple sclerosis, nausea, pain (including lessening the dependence on opioids), cachexia, complications related to Alzheimer's Disease, Crohn's Disease, as well as multiple mental health conditions; and

WHEREAS, enrolled members should not be prohibited from responsibly accessing, possessing, and using small amounts of marijuana for medicinal and health reasons; and

WHEREAS, Tribal Council has previously passed resolutions to investigate the possible benefits of marijuana for the Tribe in Res. No. 241 (2016), Res. No. 635 (2017), Res. No. 401 (2018), Res. 24 (2019), and Res. 323 (2020); and

WHEREAS, while marijuana continues to be prohibited by the federal Controlled Substances Act (21 U.S.C. 801 *et seq.*), several tribes, 36 states, four U.S. territories, and the District of Columbia have legalized medical marijuana to some extent; and

WHEREAS, that Tribal law was recently amended to partially decriminalize small amounts of marijuana in Ord. 380 (2021), ratified on May 20, 2021; and

WHEREAS, it is in the best interests of the Tribe to continue advancing the policy of allowing responsible access to small amounts of marijuana to be used safely for medicinal and health purposes.

NOW THEREFORE BE IT ORDAINED, by the Tribal Council of the Eastern Band of Cherokee Indians, in Council assembled at which a quorum is present, that in order to allow for medicinal use of small amounts of marijuana that the Cherokee Code shall be amended as follows:

1 Cherokee Code Chapter 17 – Medical Marijuana

2
3 Article I: General Provisions

4
5 **Sec. 17-1. – Legislative findings and declarations.**

- 6 (a) The medical cannabis industry has the potential to be beneficial to the public health of the
7 Tribe and the general welfare of enrolled members.
8 (b) The growth and success of a medical cannabis industry is dependent upon public
9 confidence and trust that:
10 (1) People who suffer from chronic or debilitating medical conditions will be able to
11 obtain medical cannabis safely and conveniently;
12 (2) Medical cannabis establishments do not unduly impact the quality of life enjoyed
13 of nearby residents and the community at large;
14 (3) Medical cannabis establishment licenses, agent cards, and patient cards are issued
15 in a responsible manner; and
16 (4) The medical cannabis industry is free from criminal and corruptive practices.
17 (c) Public confidence and trust can only be maintained by strict regulation of all persons,
18 locations, practices, associations, and activities related to the operation of medical cannabis
19 establishments.
20 (d) All medical cannabis establishments and medical cannabis establishment agents must
21 therefore be licensed, controlled, and assisted to protect the public health, safety, morals,
22 good order, and general welfare of the Tribe and to foster the stability and success of the
23 medical cannabis industry.
24

25 **Sec. 17-2. – Definitions.**

26 As used in this chapter, unless the context clearly otherwise requires, the following words and
27 terms have the following definitions:

- 28 (a) “Administer” means the direct application of a controlled substance, whether by injection,
29 inhalation, ingestion, or any other means, to the body of a patient or research subject by:
30 (1) A practitioner or, in the practitioner’s presence, by the practitioner’s authorized
31 agent; or
32 (2) The patient or research subject at the direction and in the presence of the
33 practitioner.
34 (b) “Agent card” means a medical cannabis establishment agent card.
35 (c) “Attending provider of health care” means a provider of health care who is licensed or
36 certified to practice a profession which authorizes the person to write a prescription for a
37 medication to treat a chronic or debilitating medical condition; and has responsibility for
38 the care and treatment of a person diagnosed with a chronic or debilitating medical
39 condition.
40 (d) “Board” means the EBCI Cannabis Control Board.
41 (e) “Cannabis” means a genus of flowering plants in the family Cannabaceae of which
42 Cannabis sativa is a species, and Cannabis indica and Cannabis ruderalis are subspecies
43 thereof. Cannabis also refers to any form of the plant in which the THC concentration on
44 a dry weight basis as not yet been determined.
45 (f) “Chronic or debilitating medical condition” means:
46 (1) Acquired immune deficiency syndrome;

- 1 (2) An anxiety disorder;
2 (3) An autism spectrum disorder;
3 (4) An autoimmune disease;
4 (5) Anorexia nervosa;
5 (6) Cancer;
6 (7) Dependence upon or addiction to opioids;
7 (8) Glaucoma;
8 (9) A medical condition or treatment for a medical condition that produces, for a
9 specific patient, one or more of the following:
10 (i) Cachexia;
11 (ii) Muscle spasms, including, without limitation, spasms caused by multiple
12 sclerosis;
13 (iii) Seizures, including, without limitation, seizures caused by epilepsy;
14 (iv) Nausea; or
15 (v) Severe or chronic pain;
16 (10) A medical condition related to the human immunodeficiency virus;
17 (11) A neuropathic condition, whether or not such condition causes seizures; or
18 (12) Any other medical condition or treatment for a medical condition that is:
19 (i) Classified as a chronic or debilitating medical condition by regulation of the
20 Board; or
21 (ii) Approved as a chronic or debilitating medical condition pursuant to a
22 petition submitted in accordance with Sec. 17-99.
23 (g) "Commission" means the EBCI Cannabis Advisory Commission.
24 (h) "Community facility" means a facility that provides day care to children, a public park, a
25 playground, a public swimming pool, a community club building, or a church or other
26 building or place used for religious worship or a religious purpose.
27 (i) "Concentrated cannabis" means the extracted or separated resin, whether crude or purified,
28 containing THC or CBD from marijuana.
29 (j) "Court" means the Cherokee Court or the Cherokee Supreme Court as the context requires.
30 (k) "Day" means a calendar day not including Tribal government holidays.
31 (l) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one
32 person to another of a controlled substance, whether or not there is an agency relationship.
33 (m) "Electronic verification system" means an electronic database that:
34 (1) Keeps track of data in real time; and
35 (2) Is accessible by the Board and by the medical cannabis establishment.
36 (n) "Enclosed, locked facility" means a closet, display case, room, greenhouse or other
37 enclosed area that meets the requirements of Sec. 17-74 and is equipped with locks or other
38 security devices which allow access only by a registrant.
39 (o) "Excluded offense" means a conviction of an offense pursuant to Article XIV.A of
40 Cherokee Code Chapter 14 or an offense that would constitute a felony in the state of North
41 Carolina or another jurisdiction. The term does not include a criminal offense for which
42 the sentence, including any term of probation, incarceration, or supervised release, was
43 completed more than 10 years ago or an offense involving conduct that would be immune
44 from arrest, prosecution, or penalty pursuant to this chapter except that the conduct
45 occurred before the effective date of this chapter or in a jurisdiction other than the Eastern
46 Band of Cherokee Indians.

- 1 (p) "Executive Director" means the Executive Director of the EBCI Cannabis Control Board
2 appointed pursuant to Sec. 17-27.
- 3 (q) "Inventory control system" means a process, device, or other contrivance that may be used
4 to monitor the chain of custody of cannabis from the point of cultivation to the end
5 consumer.
- 6 (r) "Licensee" means the holder of a medical cannabis establishment license.
- 7 (s) "Medical cannabis cultivation facility" mean a business that:
8 (1) Is licensed by the Board pursuant to Sec. 17-62 and
9 (2) Acquires, possesses, cultivates, delivers, transfers, transports, supplies, or sells
10 medical cannabis and related supplies to:
11 (i) Medical cannabis dispensaries;
12 (ii) Medical cannabis production facilities; or
13 (iii) Other medical cannabis cultivation facilities.
- 14 (t) "Medical cannabis dispensary" means a business that:
15 (1) Is licensed by the Board pursuant to Sec. 17-62 and
16 (2) Acquires, possesses, delivers, transfers, transports, supplies, sells, or dispenses
17 medical cannabis or related supplies and educational materials to the holder of a
18 valid medical cannabis patient card or to another medical cannabis dispensary.
- 19 (u) "Medical cannabis establishment" means:
20 (1) A medical cannabis independent testing laboratory;
21 (2) A medical cannabis cultivation facility;
22 (3) A medical cannabis production facility; or
23 (4) A medical cannabis dispensary.
- 24 (v) "Medical cannabis establishment agent" means an owner, officer, board member,
25 employee, or volunteer of a medical cannabis establishment, an independent contractor
26 who provides labor relating to the cultivation or processing of cannabis or the production
27 of usable cannabis or cannabis products for a medical cannabis establishment or an
28 employee of such an independent contractor.
- 29 (w) "Medical cannabis establishment agent card" means an identification card that is issued by
30 the Board pursuant to Sec. 17-66 to authorize a person:
31 (1) To be an owner, officer, or board member of a medical cannabis establishment; or
32 (2) To volunteer for, work at, or contract to provide labor or services to a medical
33 cannabis establishment.
- 34 (x) "Medical cannabis establishment license" means a license that is issued by the Board
35 pursuant to Sec. 17-62 to authorize the operation of a medical cannabis establishment.
- 36 (y) "Medical cannabis independent testing laboratory" means a facility described in Sec. 17-
37 64 that:
38 (1) Is licensed by the Board pursuant to Sec. 17-62; and
39 (2) Tests:
40 (i) Cannabis intended for the medical use of cannabis.
41 (ii) Medical cannabis products.
- 42 (z) "Medical cannabis-infused product" means a product intended for the medical use of
43 cannabis that:
44 (1) Is infused with cannabis or an extract thereof; and
45 (2) Is intended for use or consumption by humans through means other than inhalation
46 or oral ingestion.

- 1 (3) The term includes, without limitation, topical products, ointments, oils, and
2 tinctures.
- 3 (aa) "Medical cannabis product" means:
4 (1) A medical edible-cannabis product; or
5 (2) A medical cannabis-infused product.
- 6 (bb) "Medical cannabis production facility" means a business that:
7 (1) Is licensed by the Board pursuant to Sec. 17-62; and
8 (2) Acquires, possesses, manufactures, delivers, transfers, transports, supplies or sells
9 medical cannabis products to medical cannabis dispensaries.
- 10 (cc) "Medical cannabis patient card" means a document issued by the Board that
11 identifies a person who is exempt from Tribal prosecution for engaging in medical use of
12 cannabis or the designated primary caregiver, if any, of such a person exempt from tribal
13 prosecution for engaging in medical use of cannabis.
- 14 (dd) "Medical edible cannabis product" means a product intended for the medical use of
15 cannabis that:
16 (1) Contains cannabis or an extract thereof;
17 (2) Is intended for human consumption by oral ingestion; and
18 (3) Is presented in the form of a foodstuff, extract, oil, tincture, or other similar product.
- 19 (ee) "Medical use of cannabis" means:
20 (1) The possession, delivery, production, or use of cannabis;
21 (2) The possession, delivery or use of paraphernalia used to administer cannabis; or
22 (3) Any combination of the acts described in subsections (1) and (2) above, as
23 necessary for the exclusive benefit of a person to mitigate the symptoms or effects
24 of his or her chronic or debilitating medical condition.
- 25 (ff) "Paraphernalia" means accessories, devices and other equipment that is necessary or useful
26 for a person to engage in the medical use of cannabis or the adult use of cannabis.
- 27 (gg) "Person" means a natural person, corporation, limited liability company, or other
28 such or similar entity.
- 29 (hh) "Production" includes the manufacturing of a controlled substance and the planting,
30 cultivation, growing, or harvesting of a plant from which a controlled substance is derived.
- 31 (ii) "Registrant" means the holder of a medical cannabis establishment agent card.
- 32 (jj) "Registration card" means:
33 (1) A medical cannabis establishment agent card.
- 34 (kk) "THC" means:
35 (1) Delta-9-tetrahydrocannabinol;
36 (2) Delta-8-tetrahydrocannabinol; and
37 (3) The optical isomers of such substances.
- 38 (ll) "Tribe" or "Tribal" means the Eastern Band of Cherokee Indians.
- 39 (mm) "Unreasonably impracticable" means the measures necessary to comply with the
40 law or regulation require such a high investment of risk, money, time or any other resource
41 or asset that the operation of a medical cannabis establishment is not worthy of being
42 carried out in practice by a reasonably prudent businessperson.
- 43 (nn) "Written documentation" means a statement signed by the attending provider of
44 health care of a person diagnosed with a chronic or debilitating medical condition; copies
45 of the relevant medical records of a person diagnosed with a chronic or debilitating medical

1 condition; proof of current prescription of opioid, opiate, or other pain medications; or a
2 valid proof of authorization to use medical cannabis issued by another jurisdiction.
3

4 **Secs. 17-3 to 17-9 – Reserved.**
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6

7 **Article II: EBCI Cannabis Advisory Commission**
8

9 **Sec. 17-10. – Commission established.**

10 (a) The EBCI Cannabis Advisory Commission is hereby created for the purposes of studying
11 issues related to cannabis and making recommendations to the EBCI Cannabis Control
12 Board, Tribal Council, and Principal Chief regarding the regulation of medical cannabis
13 and any activity related to cannabis. The Commission consists of:

- 14 (1) The Principal Chief, or his or her designee;
15 (2) The Chair of Tribal Council, or his or her designee;
16 (3) The Community Club Chair, or his or her designee;
17 (4) The Secretary of Agriculture and Natural Resources, or his or her designee;
18 (5) The Secretary of Public Health and Human Services, or his or her designee;
19 (6) The Chief of Police, or his or her designee; and
20 (7) The Chief Executive Officer of the Cherokee Indian Hospital Authority, or his or
21 her designee.

22 (b) A designee on the Commission serves a term of two years. Designees may be reappointed.
23 Designees shall not serve more than three consecutive terms.

24 (c) Members of the Commission shall not be compensated for their service on the
25 Commission.

26 (d) The members of the Commission may meet throughout each year at the times and places
27 specified by a call of the Chair or a majority of its members. A majority of the members of
28 the Commission constitutes a quorum, and a quorum may exercise all the powers conferred
29 on the Commission. The Commission shall designate members as Chair, Vice-Chair, and
30 any other officers deemed necessary or appropriate.

31 (e) The Cannabis Control Board shall provide the Commission with such staff and logistical
32 support as is necessary to carry out the duties of the Commission. The Attorney General,
33 or his or her other designated attorney, shall represent the Commission.
34

35 **Sec. 17-11. – Commission duties.**

36 (a) The Commission shall:

- 37 (1) Consider all matters submitted to it by the Board, the Principal Chief, the Vice
38 Chief, or Tribal Council;
39 (2) On its own initiative, recommend to the Board any policies, procedures, guidelines,
40 rules, or regulations or any changes to existing guidelines, rules, or regulations that
41 the Commission considers important or necessary for the review and consideration
42 of the Board;
43 (3) Advise the Board on the preparation and amendment of any regulations adopted
44 pursuant to this chapter;
45 (4) Study the distribution of licenses, including, without limitation, the number of
46 licenses authorized to be issued to medical cannabis establishments within the

1 jurisdiction of the Tribe, and recommend to the Board any legislative changes that
2 the Commission determines to be appropriate; and

3 (5) Study the feasibility of the use of emerging technologies, including, without
4 limitation, blockchain and systems that use a single source of truth, as a means of
5 collecting data or efficiently and effectively handling transactions electronically to
6 reduce or eliminate the handling of cash.

7 (b) The Commission may establish subcommittees for the purposes of carrying out its duties.
8

9 **Secs. 17-12 to 17-19 – Reserved.**
10
11

12 Article III: EBCI Cannabis Control Board
13

14 **Sec. 17-20. – Board established.**

15 The EBCI Cannabis Control Board is hereby established.
16

17 **Sec. 17-21. – Members of the Board.**

18 (a) There shall be five members of the Board. The members of the Board are appointed by
19 nomination by the Principal Chief and confirmation by Tribal Council.

20 (b) At least three members of the Board shall be enrolled members of the Eastern Band of
21 Cherokee Indians or another federally-recognized tribe.

22 (c) It is the intention of Tribal Council that the Board be made up of the most qualified persons
23 available. At least one member of the Board shall:

24 (1) Be a certified public accountant with have five years of progressively responsible
25 experience in general accounting and have a comprehensive knowledge of the
26 principles and practices of corporate finance, or possess the qualifications of an
27 expert in the fields of corporate finance and auditing, general finance or economics.

28 (2) be selected with special reference to his or her training and experience in the fields
29 of investigation, financial auditing, or corporate compliance.

30 (3) be a licensed attorney licensed and selected with special reference to his or her
31 knowledge, skill, and experience in regulatory compliance.

32 (4) be selected with special reference to his or her knowledge, skill and experience in
33 the cannabis industry.

34 (5) be a physician licensed to practice medicine and have knowledge, skill, and
35 experience in the area of public health or be a psychologist, clinical professional
36 counselor, alcohol and drug counselor, or social worker with knowledge, skill, and
37 experience in the area of education and prevention of abuse relating to cannabis.

38 (d) In addition to any other requirements imposed by this section, the member who is
39 designated as Chair of the Board must have at least five years of leadership experience in
40 his or her field.
41

42 **Sec. 17-22. – Terms, chair, removal.**

43 (a) The term of office of each member of the Board is four years.

44 (b) The Principal Chief shall nominate the members of the Board and designate one member
45 to serve as Chair, who shall preside over all official activities of the Board.

1 (c) Tribal Council may remove any member for misfeasance, malfeasance or nonfeasance in
2 office. Removal may be made after:

3 (1) The member has been served with a copy of the charges against the member; and

4 (2) A public hearing before Tribal Council is held upon the charges, if requested by the
5 member charged. The request for a public hearing must be made to the Chair of
6 Tribal Council within 10 days after service upon such member of the charges. If a
7 hearing is not requested, a member is removed effective 10 days after service of
8 charges upon the member. A record of the proceedings at the public hearing must
9 be open to public inspection.

10
11 **Sec. 17-23. – Certain political activities, financial interests prohibited.**

12 (a) Elected Tribal officials, appointed Tribal officials, and Tribal employees are not eligible to
13 serve as Board members.

14 (b) A member may not be an official, employee, or agent in any business or organization
15 holding a license under this chapter or doing business with any person or organization
16 holding a license or registration card under this chapter.

17 (c) Before entering upon the duties of office, each member shall subscribe to the oath of office
18 and, in addition, swear that the member is not an official, employee, or agent of any person,
19 business, or organization holding a license or registration card under this title or doing
20 business with any such person, business, or organization. The oath of office must be filed
21 in the Office of the Attorney General.

22
23 **Sec. 17-24. – Salaries.**

24 (a) The Chair of the Board is entitled to receive an annual salary of \$40,000.

25 (b) Each of the other members of the Board is entitled to receive an annual salary of \$30,000.

26
27 **Sec. 17-25. – Employment of consultants.**

28 (a) The Board may employ the services of such persons or firms as it considers necessary for
29 the purposes of consultation, investigation, or other professional services.

30 (b) The Board may consult with divisions or offices of the Tribal government as it considers
31 necessary.

32
33 **Sec. 17-26. – Meetings, quorum.**

34 (a) The Board may hold regular and special meetings at such times and places as it may deem
35 convenient, and it shall hold at least one regular meeting each month.

36 (b) A majority of the members constitutes a quorum of the Board, and a majority of members
37 present at any meeting determines the action of the Board.

38 (c) All meetings of the Board are open to the public, except that the Board may hold executive
39 sessions closed to the public for the purposes listed in Sec. 117-13.

40
41 **Sec. 17-27. – Executive Director.**

42 (a) The position of Executive Director of the Cannabis Control Board is hereby created.

43 (b) The Executive Director:

44 (1) Is appointed by the Board and may be removed by the Board;

45 (2) Is responsible for the conduct of the administrative matters of the Board; and

- 1 (3) Shall devote his or her entire time and attention to the business of the office of
2 Executive Director and shall not pursue any other business or occupation or hold
3 any other office for profit if it conflicts with his or her Board-related duties.
4 (c) The Executive Director is entitled to an annual salary in the amount specified by the Board.
5

6 **Sec. 17-28. – Organization, expenses, employees.**

- 7 (a) The Executive Director may, subject to the approval of the Board
8 (1) Establish, and from time to time alter, such a plan of organization as he or she may
9 deem expedient.
10 (2) Acquire such furnishings, equipment, supplies, stationery, books, motor vehicles
11 and other things as he or she may deem necessary or desirable in carrying out his
12 or her functions and the functions of the Board.
13 (3) Incur such other expenses, within the limit of money available to the Board, as he
14 or she may deem necessary.
15 (b) Except as otherwise provided in this chapter, all costs of administration incurred by the
16 Board must be paid out of the Tribe's operating budget in the same manner as other
17 governmental expenses are paid.
18 (c) The Executive Director shall organize the work of the Board in such a way as to secure
19 maximum efficiency in the conduct of the Board and make possible a definite placing of
20 responsibility. To this end, the Executive Director may establish such organizational units
21 within the Board as he or she deems necessary.
22 (d) The Executive Director may employ such clerical or expert assistance as may be required.
23 (e) Persons employed by the Board may be assigned to stations, offices, or locations selected
24 by the Executive Director both within and outside the jurisdiction of the Tribe where, in
25 the judgment of the Executive Director, it is necessary to maintain personnel to protect,
26 investigate, and ensure the safe and lawful conduct of the cannabis industry on Tribal lands.
27 (f) Any person assigned to a station, office or location as provided in subsection (e) shall be
28 entitled to receive a per diem allowance only when the business of the Board takes the
29 person away from the particular station, office, or location to which he or she is assigned.
30

31 **Sec. 17-29. – General Board powers.**

32 In addition to any other powers granted by this chapter, the Board has the power to:

- 33 (a) Establish and amend a plan of organization for the Board, including, without limitation,
34 various divisions or sections with leaders for such divisions or sections
35 (b) Apply for and accept any gift, donation, bequest, grant or other source of money to carry
36 out the provisions of this title.
37 (c) Prepare, publish, and distribute such studies, reports, bulletins, and other materials as the
38 Board deems appropriate.
39 (d) Refer cases to the Office of the Attorney General for criminal prosecution.
40 (e) Maintain an official Internet website for the Board.
41 (f) Monitor federal activity regarding cannabis and report its findings to the Commission.
42

43 **Sec. 17-30. – Board regulations.**

- 44 (a) The Board may issue regulations pursuant to Cherokee Code Chapter 150 when necessary
45 or convenient to carry out the provisions of this chapter. Such regulations may include,
46 without limitation:

- 1 (1) Financial requirements for licensees.
- 2 (2) Establishing such investigative and enforcement mechanisms as the Board deems
- 3 necessary to ensure the compliance of a licensee or registrant with the provisions
- 4 of this title.
- 5 (3) Requirements for licensees or registrants relating to the cultivation, processing,
- 6 manufacture, transport, distribution, testing, study, advertising, and sale of cannabis
- 7 and cannabis products.
- 8 (4) Reasonable restrictions on the signage, marketing, display, and advertising of
- 9 medical cannabis establishments. Such a restriction must not require a medical
- 10 cannabis establishment to obtain the approval of the Board before using a logo,
- 11 sign, or advertisement.
- 12 (5) Prescribe the form and any additional required content of applications for licenses
- 13 or registration cards issued pursuant to this chapter;
- 14 (6) Establish procedures for the suspension or revocation of a license or registration
- 15 card or other disciplinary action to be taken against a licensee or registrant;
- 16 (7) Set forth rules pertaining to the safe and healthful operation of medical cannabis
- 17 establishments, including, without limitation:
 - 18 (i) The manner of protecting against diversion and theft without imposing an
 - 19 undue burden on medical cannabis establishments or compromising the
 - 20 confidentiality of consumers and holders of patient identification cards and
 - 21 letters of approval;
 - 22 (ii) Minimum requirements for the oversight of medical cannabis
 - 23 establishments;
 - 24 (iii) Minimum requirements for the keeping of records by medical cannabis
 - 25 establishments;
 - 26 (iv) Minimum requirements for the conduct of medical cannabis establishment
 - 27 agents;
 - 28 (v) Provisions for the security of medical cannabis establishments, including
 - 29 without limitation, requirements for the protection by a fully operational
 - 30 security alarm system of each medical cannabis establishment; and
 - 31 (vi) Procedures pursuant to which medical cannabis establishments must use the
 - 32 services of medical cannabis independent testing laboratories to ensure that
 - 33 any cannabis or cannabis product or commodity or product made from hemp
 - 34 sold by a medical cannabis dispensary to an end user is tested for content,
 - 35 quality, and potency in accordance with standards established by the Board;
 - 36 (vii) Establish circumstances and procedures pursuant to which the maximum
 - 37 fees set forth in Sec. 17-69 may be reduced over time to ensure that the
 - 38 fees are, insofar as may be practicable, revenue neutral;
 - 39 (viii) As far as possible while maintaining accountability, protect the identity, and
 - 40 personal identifying information of each person who receives, facilitates, or
 - 41 delivers services in accordance with this chapter;
 - 42 (ix) Address such other matters as the Board deems necessary to carry out the
 - 43 provisions of this chapter.

44
45 **Sec. 17-31. – Board records.**

- 1 (a) The Board shall cause to be made and kept minutes of all proceedings at regular and special
2 meetings of the Board. These minutes are open to public inspection.
- 3 (b) Any and all information and data prepared or obtained by the Board or by an agent or
4 employee of the Board relating to a holder of or an applicant for a medical cannabis
5 establishment license, other than the name of a licensee and each owner, officer, and board
6 member of the licensee and information relating to the scoring and ranking of applications
7 and the imposition of disciplinary action, are confidential and may be revealed in whole or
8 in part only in the course of the necessary administration of this chapter or upon the lawful
9 order of a court of competent jurisdiction. The Board may reveal such information and data
10 to an authorized agent of any agency of the United States Government. Notwithstanding
11 any other provision of Cherokee law, such information and data may not be otherwise
12 revealed without specific authorization by the Board pursuant to the regulations of the
13 Board.
- 14 (c) Any and all information and data prepared or obtained by the Board or by an agent or
15 employee of the Board relating to a holder of or an applicant for a medical cannabis patient
16 card or a medical cannabis agent card are confidential and may be revealed in whole or in
17 part only in the course of the necessary administration of this chapter or upon the lawful
18 order of a court of competent jurisdiction. The Board may reveal such information and data
19 to an authorized agent of any agency of the United States Government. Notwithstanding
20 any other provision of Cherokee law, such information and data may not be otherwise
21 revealed without specific authorization by the Board pursuant to the regulations of the
22 Board.
- 23 (d) As used in this section, "information and data" means all information and data in any form,
24 including, without limitation, any oral, written, audio, visual, digital, or electronic form,
25 and the term includes, without limitation, any account, book, correspondence, file,
26 message, paper, record, report, or other type of document, including, without limitation,
27 any document containing self-evaluative assessments, self-critical analysis, or self-
28 appraisals of an applicant's or licensee's compliance with regulatory requirements.

29
30 **Sec. 17-32. – Audits of licenses, standards, annual report.**

- 31 (a) As often as the Board deems necessary, the Board shall conduct a financial or operational
32 audit of the accounts, funds, programs, activities, and functions of all licensees.
- 33 (b) A licensee shall make available to the Board all books, accounts, claims, reports, vouchers,
34 and other records requested by the Board in connection with an audit conducted pursuant
35 to subsection (a).
- 36 (c) If a licensee refuses to produce any of the records described in subsection (b), the Board or
37 Department may petition the Cherokee Court to order the licensee to produce the requested
38 records. The Court shall order the production of all such records upon a finding that the
39 requested records are within the scope of the audit.
- 40 (d) If any audit report of the accounts, funds, programs, activities, and functions of a licensee
41 contains adverse or critical audit results, the Board may require the licensee subject to the
42 audit to respond, in writing, to the results of the audit. A licensee shall provide such
43 response to the Board not more than 15 days after receiving a request from the Board.
- 44 (e) On or before April 1 of each year, the Board shall submit to the Chair of Tribal Council a
45 report concerning the audits conducted pursuant to this section for the preceding year. The
46 report must include, without limitation:

- (1) The number of audits performed pursuant to this section in the preceding year;
- (2) A summary of the findings of the audits; and
- (3) The cost of each audit.

Secs. 17-33 – 17-39. – Reserved.

Article IV: Disciplinary Actions

Sec. 17-40. – Complaints.

- (a) If the Executive Director becomes aware that a licensee or registrant has violated, is violating or is about to violate any provision of this chapter or any regulation adopted pursuant thereto, the Executive Director may transmit the details of the suspected violation, along with any further facts or information related to the violation which are known to the Executive Director, to the Attorney General or the Cherokee Indian Police Department.
- (b) If any person other than the Executive Director becomes aware that a licensee or registrant has violated, is violating or is about to violate any provision of this title or any regulation adopted pursuant thereto, the person may file a written complaint with the Executive Director specifying the relevant facts. The Executive Director shall review each such complaint and, if the Executive Director finds the complaint not to be frivolous, may transmit the details of the suspected violation, along with any further facts or information derived from the review of the complaint to the Attorney General or the Cherokee Indian Police Department.
- (c) Employees of the Board shall cooperate with the Attorney General and Cherokee Indian Police Department in the performance of any investigation.

Sec. 17-41. – Investigations, recommendations to Board.

- (a) If the Executive Director transmits the details of a suspected violation to the Cherokee Indian Police Department pursuant to Sec. 17-40, the Cherokee Indian Police Department shall investigate the matter in accordance with its policies and procedures.
- (b) If the Executive Director transmits the details of a suspected violation to the Attorney General pursuant to Sec. 17-40, the Attorney General shall conduct an investigation of the suspected violation to determine whether it warrants proceedings for disciplinary action of the licensee or registrant. If the Attorney General determines that further proceedings are warranted, he or she shall report the results of the investigation together with a recommendation to the Executive Director in a manner which does not violate the right of the person charged in the complaint to due process in any later hearing on the complaint. The Executive Director shall transmit the recommendation and other information received from the Attorney General to the Board.
- (c) The Board shall promptly make a determination with respect to each complaint resulting in an investigation by the Attorney General. The Board shall:
 - (1) Dismiss the complaint; or
 - (2) Proceed with appropriate disciplinary action in accordance with this chapter and regulations adopted by the Board.

Sec. 17-42. – Complaint, answer, notice of hearing.

- 1 (a) If the Board proceeds with disciplinary action pursuant to Sec. 17-41, the Board shall serve
2 a complaint upon the respondent either personally, or by registered or certified mail at the
3 address of the respondent that is on file with the Board. Such complaint must be a written
4 statement of charges and must set forth in ordinary and concise language the acts or
5 omissions with which the respondent is charged. The complaint must specify the sections
6 and regulations which the respondent is alleged to have violated, but must not consist
7 merely of charges raised in the language of the sections or regulations. The complaint must
8 provide notice of the right of the respondent to request a hearing. The Chair of the Board
9 may grant an extension to respond to the complaint for good cause.
10 (b) Unless granted an extension, the respondent must answer within 20 days after the service
11 of the complaint. In the answer the respondent:
12 (1) Must state in short and plain terms the defenses to each claim asserted.
13 (2) Must admit or deny the facts alleged in the complaint.
14 (3) Must state which allegations the respondent is without knowledge or information
15 to form a belief as to their truth. Such allegations shall be deemed denied.
16 (4) Must affirmatively set forth any matter which constitutes an avoidance or
17 affirmative defense.
18 (5) May demand a hearing. Failure to demand a hearing constitutes a waiver of the
19 right to a hearing and to judicial review of any decision or order of the Board, but
20 the Board may order a hearing even if the respondent so waives his or her right.
21 (c) Failure to answer or to appear at the hearing constitutes an admission by the respondent of
22 all facts alleged in the complaint. The Board may take action based on such an admission
23 and on other evidence without further notice to the respondent. If the Board takes action
24 based on such an admission, the Board shall include in the record which evidence was the
25 basis for the action.
26 (d) The Board shall determine the time and place of the hearing as soon as is reasonably
27 practical after receiving the respondent's answer. The Board shall deliver or send by
28 registered or certified mail a notice of hearing to all parties at least 10 days before the
29 hearing. The hearing must be held within 45 days after receiving the respondent's answer
30 unless an expedited hearing is determined to be appropriate by the Board, in which event
31 the hearing must be held as soon as practicable.
32

33 **Sec. 17-43. – Subpoenas, depositions.**

- 34 (a) Before a hearing before the Board, and during a hearing upon reasonable cause shown, the
35 Board shall issue subpoenas and subpoenas duces tecum at the request of a party.
36 (b) The testimony of any material witness residing within or without the jurisdiction of the
37 Tribe may be taken by deposition in the manner provided by the Rules of Civil Procedure
38 of the Cherokee Courts.
39

40 **Sec. 17-44. – Hearing procedure.**

- 41 (a) At all hearings before the Board:
42 (1) Oral evidence may be taken only upon oath or affirmation administered by the
43 Board.
44 (2) Every party has the right to:
45 (i) Call and examine witnesses;
46 (ii) Introduce exhibits relevant to the issues of the case;

- 1 (iii) Cross-examine opposing witnesses on any matters relevant to the issues of
2 the case, even though the matter was not covered in a direct examination;
3 (iv) Impeach any witness regardless of which party first called the witness to
4 testify; and;
5 (v) Offer rebuttal evidence.
6 (3) If the respondent does not testify in his or her own behalf, the respondent may be
7 called and examined as if under cross-examination.
8 (4) The hearing need not be conducted according to technical rules relating to evidence
9 and witnesses. Any relevant evidence may be admitted and is sufficient in itself to
10 support a finding if it is the sort of evidence on which responsible persons are
11 accustomed to rely in the conduct of serious affairs, regardless of the existence of
12 any common law or statutory rule which might make improper the admission of
13 such evidence over objection in a civil action in the Cherokee Courts.
14 (5) The parties or their counsel may by written stipulation agree that certain specified
15 evidence may be admitted even though such evidence might otherwise be subject
16 to objection.
17 (b) The Board may take official notice of any generally accepted information or technical or
18 scientific matter within the field of cannabis, and of any other fact which may be judicially
19 noticed by the Cherokee Courts. The parties must be informed of any information, matters,
20 or facts so noticed, and must be given a reasonable opportunity, on request, to refute such
21 information, matters, or facts by evidence or by written or oral presentation of authorities,
22 the manner of such refutation to be determined by the Board.
23 (c) Affidavits may be received in evidence at any hearing of the Board in accordance with the
24 following:
25 (1) The party wishing to use an affidavit must, not less than 10 days before the day set
26 for hearing, serve upon the opposing party or counsel, either personally or by
27 registered or certified mail, a copy of the affidavit which the party proposes to
28 introduce in evidence together with a notice as provided in paragraph (3) below.
29 (2) Unless the opposing party, within 7 days after such service, mails or delivers to the
30 proponent a request to cross-examine the affiant, the opposing party's right to cross-
31 examine the affiant is waived and the affidavit, if introduced in evidence, must be
32 given the same effect as if the affiant had testified orally. If an opportunity to cross-
33 examine an affiant is not afforded after request therefor is made in accordance with
34 this paragraph, the affidavit may be introduced in evidence, but must be given only
35 the same effect as other hearsay evidence.
36 (3) The notice referred to in paragraph (1) above must be substantially in the following
37 form:

38
39 The accompanying affidavit of (here insert name of affiant) will be introduced as evidence
40 at the hearing set for the day of the month of of the year (Here insert
41 name of affiant) will not be called to testify orally and you will not be entitled to question
42 (here insert name of affiant) unless you notify the undersigned that you wish to cross-
43 examine (here insert name of affiant). To be effective your request must be mailed or
44 delivered to the undersigned on or before 7 days from the date this notice and the enclosed
45 affidavit are served upon you.
46 -

1
2
3 (Party or Counsel)
4
5

6
7 (Address)
8

9
10
11 **Sec. 17-45. – Members present, reporting.**

12 (a) At least three members of the Board shall be present at every hearing, and they shall
13 exercise all powers relating to the conduct of the hearing and shall enforce all decisions
14 with respect thereto.

15 (b) The proceedings at the hearing must be reported either stenographically or by a
16 phonographic reporter.

17
18 **Sec. 17-46. – Limitations on communication.**

19 After the Board has initiated a hearing, the members of the Board shall not communicate, directly
20 or indirectly, in connection with any issue of fact, with any person or party, nor, in connection with
21 any issue of law, with any party or the party's representative, except upon notice and opportunity
22 to all parties to participate.

23
24 **Sec. 17-47. – Amended or supplemental pleadings.**

25 The Board may, before submission of the case for decision, permit the filing of amended or
26 supplemental pleadings and shall notify all parties thereof, and provide a reasonable opportunity
27 for objections thereto.

28
29 **Sec. 17-48. – Contempt.**

30 If any person in proceedings before the Board disobeys or resists any lawful order or refuses to
31 respond to a subpoena, or refuses to take the oath or affirmation as a witness or thereafter refuses
32 to be examined, or is guilty of misconduct during the hearing or so near the place thereof as to
33 obstruct the proceeding, the Board may certify the facts to the Cherokee Court. The Court shall
34 thereupon issue an order directing the person to appear before the Court and show cause why the
35 person should not be punished as for contempt. The Court order and a copy of the statement of the
36 Board must be served on the person cited to appear. Thereafter the Court has jurisdiction of the
37 matter, and the same proceedings must be had, the same penalties may be imposed and the person
38 charged may purge himself or herself of the contempt in the same way as in the case of a person
39 who has committed a contempt in the trial of a civil action before the Cherokee Court.

40
41 **Sec. 17-49. – Written decision.**

42 (a) Within 60 days after the hearing or service of the complaint, whichever is later, the Board
43 shall render a written decision on the merits which must contain findings of fact, a
44 determination of the issues presented, and the penalty to be imposed, if any. The Board
45 shall thereafter make and enter its written order in conformity to its decision. No member
of the Board who did not hear the evidence may vote on the decision. The affirmative votes
of a majority of the whole Board are required to impose any penalty. Copies of the decision
and order must be served on the parties personally or sent to them by registered or certified
mail. The decision is effective upon such service, unless the Board orders otherwise.

1 (b) The Board may, upon motion made within 10 days after service of a decision and order,
2 order a rehearing before the Board upon such terms and conditions as it may deem just and
3 proper if a petition for judicial review of the decision and order has not been filed. The
4 motion must not be granted except upon a showing that there is additional evidence which
5 is material and necessary and reasonably calculated to change the decision of the Board,
6 and that sufficient reason existed for failure to present the evidence at the hearing of the
7 Board. The motion must be supported by an affidavit of the moving party or his or her
8 counsel showing with particularity the materiality and necessity of the additional evidence
9 and the reason why it was not introduced at the hearing. Upon rehearing, rebuttal evidence
10 to the additional evidence must be permitted. After rehearing, the Board may modify its
11 decision and order as the additional evidence may warrant.

12
13 **Sec. 17-50. – Penalties.**

14 If the Board finds that a licensee or registrant has violated a provision of this title or any regulation
15 adopted pursuant thereto, the Board may take any or all of the following actions:

- 16 (a) Limit, condition, suspend or revoke the license or registration card of the licensee or
17 registrant.
18 (b) Impose a civil penalty in an amount established by regulation for each violation.
19

20 **Sec. 17-51. – Judicial review.**

- 21 (a) Any person aggrieved by a final decision or order of the Board made after hearing or
22 rehearing by the Board and whether or not a motion for rehearing was filed, may obtain a
23 judicial review thereof in the Cherokee Supreme Court.
24 (b) The judicial review must be instituted by filing a petition within 20 days after the effective
25 date of the final decision or order. A petition may not be filed while a motion for rehearing
26 or a rehearing is pending before the Board. The petition must set forth the order or decision
27 appealed from and the grounds or reasons why petitioner contends a reversal or
28 modification should be ordered.
29 (c) Copies of the petition must be served upon the Board and all other parties of record, or
30 their counsel of record, either personally or by certified mail.
31 (d) The Court, upon a proper showing, may permit other interested persons to intervene as
32 parties to the appeal or as friends of the court.
33 (e) The filing of the petition does not stay enforcement of the decision or order of the Board,
34 but the Board itself may grant a stay upon such terms and conditions as it deems proper.
35

36 **Sec. 17-52. – Record on review.**

- 37 (a) Upon written request of the petitioner, the complete record on review, or such parts thereof
38 as are designated by the petitioner, must be prepared by the Board.
39 (b) The complete record on review must include copies of:
40 (1) All pleadings in the case;
41 (2) All notices and interim orders issued by the Board in connection with the case;
42 (3) All stipulations;
43 (4) The decision and order appealed from;
44 (5) A transcript of all testimony, evidence and proceedings at the hearing;
45 (6) The exhibits admitted or rejected; and
46 (7) Any other papers in the case.

1 (c) The original of any document may be used in lieu of a copy thereof. The record on review
2 may be shortened by stipulation of all parties to the review proceedings. The record on
3 review must be filed with the Court within 30 days after service of the petition for review,
4 but the Court may allow the Board additional time to prepare and transmit the record on
5 review.

6
7 **Sec. 17-53. – Additional evidence, review, court decisions.**

8 (a) The Court may, upon motion therefor, order that additional evidence in the case be taken
9 by the Board upon such terms and conditions as the Court deems just and proper. The
10 motion must not be granted except upon a showing that the additional evidence is material
11 and necessary and that sufficient reason existed for failure to present the evidence at the
12 hearing of the Board. The motion must be supported by an affidavit of the moving party or
13 his or her counsel showing with particularity the materiality and necessity of the additional
14 evidence and the reason why it was not introduced in the Board hearing. Rebuttal evidence
15 to the additional evidence must be permitted. In cases in which additional evidence is
16 presented to the Board, the Board may modify its decisions and orders as the additional
17 evidence may warrant and shall file with the Court a transcript of the additional evidence
18 together with any modifications of the decision and order, all of which become a part of
19 the record on review.

20 (b) The review must not be a trial de novo but is confined to the record on review. The filing
21 of briefs and oral argument must be made in accordance with the Court's rules.

22 (c) The Court may affirm the decision and order of the Board, or it may remand the case for
23 further proceedings or reverse the decision if the substantial rights of the petitioner have
24 been prejudiced because the decision is:

25 (1) In violation of the Charter and Governing Document;

26 (2) In excess of the authority or jurisdiction of the Board;

27 (3) Made upon unlawful procedure;

28 (4) Unsupported by any evidence; or

29 (5) Arbitrary or capricious or otherwise not in accordance with law.

30 (d) The judicial review afforded in this chapter is the exclusive method of review of the
31 Board's actions, decisions, and orders in disciplinary hearings against a licensee. Review
32 of actions, decisions, and orders of the Board relating to the denial of a license or
33 registration card is pursuant to Cherokee Code Chapter 150. Decisions of the Cherokee
34 Supreme Court are final.

35
36 **Secs. 17-54 – 17-59. – Reserved.**

37
38
39 **Article V: Licensing of Medical Cannabis Establishments and Medical Cannabis Establishment**
40 **Agents**

41
42 **Sec. 17-60. – License and purpose.**

43 (a) The purpose for licensing medical cannabis establishments and registering medical
44 cannabis establishment agents is to protect the public health and safety and the general
45 welfare of the Tribe.

- 1 (b) Any medical cannabis establishment license, medical cannabis establishment agent card,
2 is a revocable privilege and the holder of such a license or card, as applicable, does not
3 acquire thereby any vested right.
- 4 (c) A medical cannabis establishment is prohibited from acquiring, possessing, cultivating,
5 manufacturing, delivering, transferring, transporting, supplying, or dispensing cannabis for
6 any purpose except to
- 7 (1) Directly or indirectly assist patients who possess valid patient cards;
8 (2) Assist patients who possess valid patient cards by way of those patients' designated
9 primary caregivers; and
10 (3) Return for a refund cannabis, medical edible cannabis products or medical
11 cannabis-infused products to the medical cannabis establishment from which the
12 cannabis, medical edible cannabis products or medical cannabis-infused products
13 were acquired.

14
15 **Sec. 17-61. – General qualifications for licensure or registration.**

- 16 (a) Any person who the Board determines is qualified to receive a license or registration card
17 under the provisions of this chapter, having due consideration for the proper protection of
18 the health, safety, morals, good order, and general welfare of the Tribe and its enrolled
19 members and the declared policy of the Tribe, may be issued a license or registration card.
20 The burden of proving an applicant's qualification to receive any license or registration
21 card under this chapter is on the applicant.
- 22 (b) When determining whether to approve an application to receive a license or registration
23 card, the Board may consider whether the applicant is:
- 24 (1) A person of good character, honesty and integrity;
25 (2) A person whose prior activities, criminal record, if any, reputation, habits, and
26 associations do not pose a threat to the public interest of the Tribe or to the effective
27 regulation and control of cannabis, or create or enhance the dangers of unsuitable,
28 unfair, or illegal practices, methods and activities in the conduct of cannabis-related
29 activities, or in the carrying on of the business and financial arrangements incidental
30 thereto; and
31 (3) In all other respects qualified to be issued a license or registration card consistently
32 with the declared policy of the Tribe.
- 33 (c) An application to receive a license or registration card constitutes a request for a
34 determination of the applicant's general character, integrity, and ability to participate or
35 engage in, or be associated with a medical cannabis establishment. Any written or oral
36 statement made in the course of an official proceeding of the Board by any member thereof
37 or any witness testifying under oath which is relevant to the purpose of the proceeding is
38 absolutely privileged and does not impose liability for defamation or constitute a ground
39 for recovery in any civil action.
- 40 (d) The Board may by regulation establish such other qualifications for a license or registration
41 card as it may, in its discretion, deem to be in the public interest and consistent with the
42 declared policy of the Tribe.
- 43 (e) Any person granted a license or registration card by the Board must continue to meet the
44 applicable standards and qualifications set forth in this chapter and any other qualifications
45 established by the Board by regulation. The failure to continue to meet such standards and
46 qualifications constitutes grounds for disciplinary action.

- 1 (f) The Board shall, to the greatest extent practicable, ensure that persons who have been
2 adversely affected by cannabis prohibition have equal opportunity to obtain licenses and
3 registration cards and to participate in the cannabis industry of the Tribe.
4

5 **Sec. 17-62. – Licensing medical cannabis establishments.**

- 6 (a) A person shall not engage in the business of a medical cannabis establishment unless the
7 person holds a medical cannabis establishment license issued by the Board pursuant to this
8 section. The Board is the sole issuer of medical cannabis establishment licenses.

- 9 (b) A person who wishes to engage in the business of a medical cannabis establishment must
10 submit to the Board an application on a form prescribed by the Board.

- 11 (c) After receiving a complete application to engage in the business of a medical cannabis
12 establishment, the Board may deny or approve the application and register the medical
13 cannabis establishment and issue a medical cannabis establishment license and a random
14 20-digit alphanumeric identification number if:

- 15 (1) The person who wishes to operate the proposed medical cannabis establishment has
16 submitted to the Board all of the following:

- 17 (i) The application fee, as set forth in Sec. 17-69;

- 18 (ii) And application, which must include:

- 19 (A) The legal name of the proposed medical cannabis establishment;

- 20 (B) The physical address where the proposed medical cannabis
21 establishment will be located and the physical address of any co-
22 owned additional or otherwise associated medical cannabis
23 establishments, the locations of which may not be within 1,000 feet
24 of a school that provides formal education traditionally associated
25 with preschool or kindergarten through grade 12 and that existed on
26 the date on which the application for the proposed medical cannabis
27 establishment was submitted to the Board, or within 300 feet of a
28 community facility that existed on the date on which the application
29 for the proposed medical cannabis establishment was submitted to
30 the Board.

- 31 (C) Evidence that the applicant controls not less than \$250,000 in liquid
32 assets to cover the initial expenses of opening the proposed medical
33 cannabis establishment and complying with the provisions of this
34 chapter.

- 35 (D) Evidence that the applicant owns or has lawful possession of the
36 property on which the proposed medical cannabis establishment will
37 be located or has the written permission of the property owner to
38 operate the proposed medical cannabis establishment on that
39 property;

- 40 (E) For the applicant and each person who is proposed to be an owner,
41 officer, or board member of the proposed medical cannabis
42 establishment, a complete set of the person's fingerprints and
43 written permission of the person authorizing the Board to use the
44 fingerprints for criminal background check purposes, including
45 submission to the Federal Bureau of Investigation for its report; and

- 1 (F) The full legal name, address, and date of birth of each person who
2 is proposed to be an owner, officer, or board member of the
3 proposed medical cannabis establishment;
4 (iii) Operating procedures consistent with rules of the Board for oversight of the
5 proposed medical cannabis establishment, including, without limitation:
6 (A) Procedures to ensure the use of adequate security measures; and
7 (B) The use of an electronic verification system and an inventory control
8 system pursuant to Sec. 17-72 and Sec. 17-73;
9 (iv) If the proposed medical cannabis establishment will sell or deliver medical
10 cannabis products, proposed operating procedures for handling such
11 products which must be preapproved by the Board;
12 (v) Proof that the proposed location is in compliance with all applicable
13 building requirements; and
14 (vi) Such other information as the Board may require by regulation.
15 (2) None of the persons who are proposed to be owners, officers, or board members of
16 the proposed medical cannabis establishment have been convicted of an excluded
17 felony offense;
18 (3) None of the persons who are proposed to be owners, officers, or board members of
19 the proposed medical cannabis establishment have:
20 (i) Served as an owner, officer, or board member for a cannabis establishment
21 that has had its medical cannabis establishment license or adult-use
22 cannabis establishment license, or equivalent, revoked in any jurisdiction;
23 (ii) Previously had a cannabis establishment agent registration card revoked, or
24 equivalent, in any jurisdiction; and
25 (4) None of the persons who are proposed to be owners, officers, or board members of
26 the proposed medical cannabis establishment are under 21 years of age.
27 (d) For each person who submits an application pursuant to this section, and each person who
28 is proposed to be an owner, officer, or board member of a proposed medical cannabis
29 establishment, the Board shall submit the fingerprints of the person to the Federal Bureau
30 of Investigation to determine the criminal history of that person.
31 (e) Except as otherwise provided in subsection (f), if an application for registration as a
32 medical cannabis establishment satisfies the requirements of this section, is qualified in the
33 determination of the Board pursuant to Sec. 17-61 and the establishment is not disqualified
34 from being registered as a medical cannabis establishment pursuant to this section or other
35 applicable law, the Board shall issue to the establishment a medical cannabis establishment
36 license. A medical cannabis establishment license expires one year after the date of
37 issuance and may be renewed upon:
38 (1) Submission of the information required by the Board by regulation; and
39 (2) Payment of the renewal fee set forth in Sec. 17-69.
40 (f) In determining whether to issue a medical cannabis establishment license pursuant to this
41 section, the Board shall consider the criteria of merit set forth in Sec. 17-63.
42 (g) For the purposes of sub-subparagraph (B) of subparagraph (ii) of paragraph (1) of
43 subsection (c), the distance must be measured from the front door of the proposed medical
44 cannabis establishment to the front door of a school, community facility, or gaming
45 establishment.

1 (h) A medical cannabis establishment license is not a substitute for a Tribal business license.
2 Licensees must abide by all applicable Tribal laws, rules, and regulations at all times.

3 (i) The Board, by regulation, may adopt regulations prescribing requirements for the issuances
4 of licenses to business entities and standards for licensees that are business entities which
5 are more stringent than the requirements and standards otherwise set forth in this chapter.

6
7 **Sec. 17-63. – Considerations in issuing licenses.**

8 (a) In determining whether to issue a medical cannabis establishment license pursuant to Sec.
9 17-62, the Board shall, in addition to the factors set forth in that section, consider criteria
10 of merit established by regulation of the Board. Such criteria must include, without
11 limitation:

12 (1) Whether the applicant controls liquid assets in an amount determined by the Board
13 to be sufficient to cover the initial expenses of opening the proposed medical
14 cannabis establishment and complying with the provisions of this chapter;

15 (2) The previous experience of the persons who are proposed to be owners, officers, or
16 board members of the proposed medical cannabis establishment at operating other
17 businesses or nonprofit organizations;

18 (3) The educational and life experience of the persons who are proposed to be owners,
19 officers, or board members of the proposed medical cannabis establishment;

20 (4) Any demonstrated knowledge or expertise on the part of the persons who are
21 proposed to be owners, officers, or board members of the proposed medical
22 cannabis establishment with respect to the compassionate use of cannabis to treat
23 medical conditions;

24 (5) Whether the proposed location of the proposed medical cannabis establishment
25 would be convenient to serve the needs of persons who are authorized to engage in
26 the medical use of cannabis;

27 (6) The likely impact of the proposed medical cannabis establishment on the
28 community in which it is proposed to be located;

29 (7) The adequacy of the size of the proposed medical cannabis establishment to serve
30 the needs of persons who are authorized to engage in the medical use of cannabis;

31 (8) Whether the applicant has an integrated plan for the care, quality, and safekeeping
32 of medical cannabis from seed to sale; and

33 (9) Any other criteria of merit that the Board determines to be relevant.

34 (b) The Board shall adopt regulations for determining the relative weight of each criteria of
35 merit established by the Board pursuant to subsection (a).

36
37 **Sec. 17-64. – Medical cannabis independent testing laboratories.**

38 (a) The Board shall establish standards for and certify one or more cannabis independent
39 testing laboratories to test cannabis for medical use and medical cannabis products that are
40 to be sold in within the Tribe's jurisdiction.

41 (b) Such a cannabis independent testing laboratory must be able to:

42 (1) Determine accurately, with respect to cannabis or cannabis products that are sold
43 or will be sold at cannabis sales facilities:

44 (i) The concentration therein of THC and cannabidiol.

45 (ii) The presence and identification of microbes, molds, and fungus.

46 (iii) The composition of the tested material.

- 1 (iv) The presence of chemicals in the tested material, including, without
2 limitation, pesticides, heavy metals, herbicides, or growth regulators.
3 (2) Demonstrate the validity and accuracy of the methods used by the cannabis
4 independent testing laboratory to test cannabis and cannabis products.
5 (c) To obtain a license to operate a cannabis independent testing laboratory, an applicant must:
6 (1) Apply successfully as required pursuant to Sec. 17-62.
7 (2) Pay the fees required pursuant to Sec. 17-69.
8 (3) Agree to become accredited pursuant to standard ISO/IEC 17025 of the
9 International Organization for Standardization within one year after licensure.
10

11 **Sec. 17-65. – Information regarding the inspection or review of a medical cannabis**
12 **establishment by a Tribal division, department, or office.**

13 The Board may request information regarding any inspection or review of a medical cannabis
14 establishment by a Tribal division, department, or office. The recipient of a reasonable request
15 from the Board pursuant to this section shall comply with the request as soon as is reasonably
16 practicable after receiving the request.
17

18 **Sec. 17-66. – Agents required to register with Board, requirements.**

- 19 (a) Except as otherwise provided in this section, a person shall not hold an ownership interest
20 in a medical cannabis establishment of less than five percent, volunteer or work at, contract
21 to provide labor to, or be employed by an independent contractor to provide labor to a
22 medical cannabis establishment as a medical cannabis establishment agent unless the
23 person is registered with the Board pursuant to this section.
24 (b) A person who wishes to volunteer or work at a medical cannabis establishment shall submit
25 to the Board an application on a form prescribed by the Board. The application must be
26 accompanied by:
27 (1) The full legal name, physical and mailing address, and date of birth of the
28 prospective medical cannabis establishment agent;
29 (2) A statement signed by the prospective medical cannabis establishment agent
30 pledging not to dispense or otherwise divert cannabis to any person who is not
31 authorized to possess cannabis in accordance with the provisions of this title;
32 (3) A statement signed by the prospective medical cannabis establishment agent
33 asserting that he or she has not previously had a medical cannabis establishment
34 agent registration card revoked;
35 (4) The application fee, as set forth in Sec. 17-69; and
36 (5) Such other information as the Board may require by regulation.
37 (c) A person who wishes to contract to provide labor to or be employed by an independent
38 contractor to provide labor to a medical cannabis establishment shall submit to the Board
39 an application on a form prescribed by the Board for the registration of the independent
40 contractor and each employee of the independent contractor who will provide labor as a
41 medical cannabis establishment agent. The application must be accompanied by:
42 (1) The full legal name and physical and mailing address of the prospective medical
43 cannabis establishment agent;
44 (2) The name, address and date of birth of each employee of the prospective medical
45 cannabis establishment agent who will provide labor as a medical cannabis
46 establishment agent;

- 1 (3) A statement signed by the prospective medical cannabis establishment agent
2 pledging not to dispense or otherwise divert cannabis to, or allow any of its
3 employees to dispense or otherwise divert cannabis to, any person who is not
4 authorized to possess cannabis in accordance with the provisions of this title;
5 (4) A statement signed by the prospective medical cannabis establishment agent
6 asserting that it has not previously had a medical cannabis establishment agent
7 registration card revoked and that none of its employees who will provide labor as
8 a medical cannabis establishment agent have previously had a medical cannabis
9 establishment agent registration card revoked;
10 (5) The application fee, as set forth in Sec. 17-69; and
11 (6) Such other information as the Board may require by regulation.
12 (d) A person who wishes to hold an ownership interest in a medical cannabis establishment of
13 less than five percent shall submit to the Board an application on a form prescribed by the
14 Board. The application must be accompanied by:
15 (1) The name, physical and mailing address, and date of birth of the prospective
16 medical cannabis establishment agent;
17 (2) A statement signed by the prospective medical cannabis establishment agent
18 pledging not to dispense or otherwise divert cannabis to any person who is not
19 authorized to possess cannabis in accordance with the provisions of this title;
20 (3) A statement signed by the prospective medical cannabis establishment agent
21 asserting that he or she has not previously had a medical cannabis establishment
22 agent registration card revoked;
23 (4) Any information required by the Board to complete an investigation into the
24 background of the prospective medical cannabis establishment agent, including,
25 without limitation, financial records and other information relating to the business
26 affairs of the prospective medical cannabis establishment agent;
27 (5) The application fee, as set forth in Sec. 17-69; and
28 (6) Such other information as the Board may require by regulation.
29 (e) The Board may conduct any investigation of a prospective medical cannabis establishment
30 agent and, for an independent contractor, each employee of the prospective medical
31 cannabis establishment agent who will provide labor as a medical cannabis establishment
32 agent, that the Board deems appropriate. In connection with such an investigation, the
33 Board may:
34 (1) Conduct or accept any background check the Board determines to be reliable and
35 expedient to determine the criminal history of the prospective medical cannabis
36 establishment agent or the employee;
37 (2) Require a prospective medical cannabis establishment agent, if a natural person,
38 and each employee of a prospective medical cannabis establishment agent who will
39 provide labor as a medical cannabis establishment agent to submit to the Board a
40 complete set of fingerprints and written permission authorizing the Board to submit
41 to the Federal Bureau of Investigation for its report; and
42 (3) If the Board imposes the requirement described in paragraph (2), submit the
43 fingerprints of the prospective medical cannabis establishment agent and each
44 employee of the prospective medical cannabis establishment agent who will
45 provide labor as a medical cannabis establishment agent to the Federal Bureau of
46 Investigation for its report.

- 1 (f) A medical cannabis establishment shall notify the Board within 10 days after a medical
2 cannabis establishment agent ceases to hold an ownership interest in the medical cannabis
3 establishment of less than five percent, be employed by, volunteer at, or provide labor as a
4 medical cannabis establishment agent to the medical cannabis establishment.
- 5 (g) A person who has been convicted of an excluded felony offense, is less than 21 years of
6 age, or is not qualified in the determination of the Board pursuant to Sec. 17-61 shall not
7 serve as a medical cannabis establishment agent.
- 8 (h) The provisions of this section do not require a person who is an owner, officer, or board
9 member of a medical cannabis establishment to resubmit information already furnished to
10 the Board at the time the establishment was licensed with the Board.
- 11 (i) If an applicant for registration as a medical cannabis establishment agent satisfies the
12 requirements of this section, is found to be qualified by the Board pursuant to C.C. 17-
13 61 and is not disqualified from serving as such an agent pursuant to this section or any
14 other applicable law, the Board shall issue to the person and, for an independent contractor,
15 to each person identified in the independent contractor's application for registration as an
16 employee who will provide labor as a medical cannabis establishment agent, a medical
17 cannabis establishment agent registration card. If the Board does not act upon an
18 application for a medical cannabis establishment agent registration card within 45 days
19 after the date on which the application is received, the application shall be deemed
20 conditionally approved until such time as the Board acts upon the application. A medical
21 cannabis establishment agent registration card expires two years after the date of issuance
22 and may be renewed upon:
23 (1) Resubmission of the information set forth in this section; and
24 (2) Payment of the renewal fee set forth in Sec. 17-69.
- 25 (j) A person to whom a medical cannabis establishment agent registration card is issued or for
26 whom such a registration card is renewed shall submit to the Board on the date of the first
27 anniversary of the issuance or renewal an affidavit attesting that in the preceding year there
28 has been no change in the information previously provided to the Board which would
29 subject the person to disciplinary action by the Board.
- 30 (k) A medical cannabis establishment agent registration card issued pursuant to this section to
31 an independent contractor or an employee of an independent contractor authorizes the
32 independent contractor or employee to provide labor to any medical cannabis establishment
33 within the Tribe's jurisdiction.
- 34 (l) A medical cannabis establishment agent registration card issued pursuant to this section to
35 a person who wishes to volunteer or work at a medical cannabis establishment authorizes
36 the person to volunteer or work at any medical cannabis establishment within the Tribe's
37 jurisdiction for which the category of the medical cannabis establishment agent registration
38 card authorizes the person to volunteer or work.
- 39 (m) Except as otherwise prescribed by regulation of the Board, an applicant for registration or
40 renewal of registration as a medical cannabis establishment agent is deemed temporarily
41 registered as a medical cannabis establishment agent on the date on which a complete
42 application for registration or renewal of registration is submitted to the Board. A
43 temporary registration as a medical cannabis establishment agent expires 45 days after the
44 date upon which the application is received.

45
46 **Sec. 17-67. – License and registration card nontransferable.**

1 (a) Except as otherwise provided by regulations adopted by the Board pursuant to subsection
2 (b), the following are nontransferable:

3 (1) A medical cannabis establishment license.

4 (2) A cannabis establishment agent registration card.

5 (b) The Board shall adopt regulations which prescribe procedures and requirements by which
6 a holder of a license may transfer the license to another party who is qualified to hold such
7 a license pursuant to the provisions of this chapter.

8
9 **Sec. 17-68. – Grounds for immediate revocation of registration card.**

10 (a) The following acts constitute grounds for the immediate revocation of a medical cannabis
11 establishment agent registration card of a medical cannabis establishment agent:

12 (1) Having committed or committing any excluded offense.

13 (2) Dispensing, delivering or otherwise transferring cannabis to a person who is not
14 authorized by law to possess cannabis in accordance with the provisions of this
15 chapter.

16 (3) Having been electronically recorded by a video monitoring system stealing
17 cannabis or cannabis products.

18 (4) Having been convicted of any crime involving the theft of cannabis or cannabis
19 products.

20 (5) Having been electronically recorded by a video monitoring system smoking or
21 otherwise consuming cannabis on the premises of a cannabis establishment.

22 (6) Intentionally submitting to the Board any document required under the provisions
23 of this title which is false or contains any material misstatement of fact.

24 (7) Violating a regulation of the Board, the violation of which is stated to be grounds
25 for immediate revocation of a cannabis establishment agent registration card.

26
27 **Sec. 17-69. – Fees.**

28 (a) Except as otherwise provided in subsection (b), the Board shall collect not more than the
29 following maximum fees:

30 (1) For the initial issuance of a medical cannabis establishment license for a medical
31 cannabis dispensary: \$30,000.00.

32 (2) For the renewal of a medical cannabis establishment license for a medical cannabis
33 dispensary: \$5,000.00.

34 (3) For the initial issuance of a medical cannabis establishment license for a medical
35 cannabis cultivation facility: \$3,000.00

36 (4) For the renewal of a medical cannabis establishment license for a medical cannabis
37 cultivation facility: \$1,000.00.

38 (5) For the initial issuance of a medical cannabis establishment license for a medical
39 cannabis production facility: \$3,000.00.

40 (6) For the renewal of a medical cannabis establishment license for a medical cannabis
41 production facility: \$1,000.00.

42 (7) For the initial issuance of a medical cannabis establishment license for a medical
43 cannabis independent testing laboratory: \$5,000.00.

44 (8) For the renewal of a medical cannabis establishment license for a medical cannabis
45 independent testing laboratory: \$3,000.00.

- 1 (9) For each person identified in an application for the initial issuance of a medical
2 cannabis establishment agent registration card: \$150.00.
3 (10) For each person identified in an application for the renewal of a cannabis
4 establishment agent registration card: \$150.00.
5 **(b) In addition to the fees described in subsection 1, each applicant for a medical cannabis**
6 **establishment license must pay to the Board:**
7 (1) A one-time, nonrefundable application fee of \$5,000; and
8 (2) The actual costs incurred by the Board in processing the application, including,
9 without limitation, conducting background checks.
10 **(c) Any revenue generated from the fees imposed pursuant to this section**
11 (1) Must be expended first to pay the costs of the Board in carrying out the provisions
12 of this title; and
13 (2) If any excess revenue remains after paying the costs described in paragraph (c)(1),
14 such excess revenue must be paid over as instructed by the Secretary of the
15 Treasury so as not to comingle such revenue with the Tribe's other monies.
16

17 Article VI: Requirements Concerning Operation of Medical Cannabis Establishments
18

19 **Sec. 17-70. – Location, land use and signage, change of location.**

- 20 **(a) Each cannabis establishment must**
21 (1) comply with all Tribal ordinances and rules pertaining to land development, land
22 use, and signage.
23 (2) Have an appearance, both as to the interior and exterior, that is professional,
24 orderly, dignified, and consistent with the traditional style of pharmacies, medical
25 offices, or commercial/industrial properties; and
26 (3) Have discreet and professional signage that is consistent with the traditional style
27 of signage for pharmacies and medical offices or commercial/industrial properties.
28 **(b) A cannabis establishment may not change locations without permission from the Board.**
29

30 **Sec. 17-71. – Operating documents, security, inspections.**

- 31 **(a) The operating documents of a medical cannabis establishment must include procedures:**
32 (1) For the oversight of the medical cannabis establishment; and
33 (2) To ensure accurate recordkeeping
34 **(b) Except as otherwise provided in this subsection, a medical cannabis establishment:**
35 (1) That is a medical cannabis dispensary must have a single entrance for patrons,
36 which must be secure, and shall implement strict security measures to deter and
37 prevent the theft of cannabis and unauthorized entrance into areas containing
38 cannabis.
39 (2) That is not a medical cannabis dispensary must have a single secure entrance and
40 shall implement strict security measures to deter and prevent the theft of cannabis
41 and unauthorized entrance into areas containing cannabis.
42 **(c) All cultivation or production of cannabis that a medical cannabis cultivation facility carries**
43 **out or causes to be carried out must take place in an enclosed, locked facility at the physical**
44 **address provided to the Board during the licensing process for the medical cannabis**
45 **cultivation facility. Such an enclosed, locked facility must be accessible only by medical**
46 **cannabis establishment agents who are lawfully associated with the cannabis cultivation**

1 facility, except that limited access by persons necessary to perform construction or repairs
2 or provide other labor is permissible if such persons are supervised by a medical cannabis
3 establishment agent.

4 (d) A medical cannabis establishment shall not allow any person to consume cannabis on the
5 property or premises of the establishment.

6 (e) Medical cannabis establishments are subject to reasonable inspection by the Board at any
7 time, and a person who holds a license must make himself or herself, or a designee thereof,
8 available and present for any inspection by the Board of the medical cannabis
9 establishment.

10 (f) Each medical cannabis establishment shall install a video monitoring system which must,
11 at a minimum:

12 (1) Allow for the transmission and storage, by digital or analog means, of a video feed
13 which displays the interior and exterior of the medical cannabis establishment; and

14 (2) Be capable of being accessed remotely by a law enforcement agency in real-time
15 upon request.

16 (g) A medical cannabis establishment shall not dispense or otherwise sell medical cannabis or
17 medical cannabis products from a vending machine or allow such a vending machine to be
18 installed at the interior or exterior of the premises of the cannabis establishment.
19

20 **Sec. 17-72. – Electronic verification system.**

21 (a) Each medical cannabis establishment, in consultation with the Board, shall maintain an
22 electronic verification system.

23 (b) The electronic verification system required pursuant to subsection (a) must be able to
24 monitor and report information, including, without limitation:

25 (1) In the case of a medical cannabis dispensary, for each person who holds a valid
26 patient card and who purchased cannabis from the dispensary in the immediately
27 preceding 60-day period:

28 (i) The number of the card;

29 (ii) The date on which the card was issued; and

30 (iii) The date on which the card will expire.

31 (2) For each cannabis establishment agent who is employed by or volunteers at the
32 medical cannabis establishment, the number of the person's cannabis establishment
33 agent card.

34 (3) In the case of a medical cannabis dispensary, such information as may be required
35 by the Board by regulation regarding persons who are not residents of Tribal land
36 and who have purchased cannabis from the dispensary.

37 (4) Verification of the identity of a person to whom cannabis or medical cannabis
38 products are sold or otherwise distributed.

39 (5) Such other information as the Board may require.

40 (c) Nothing in this section prohibits more than one medical cannabis establishment from co-
41 owning an electronic verification system in cooperation with other medical cannabis
42 establishments, or sharing the information obtained therefrom.

43 (d) A medical cannabis establishment must exercise reasonable care to ensure that the personal
44 identifying information of persons who hold patient identification cards which is contained
45 in an electronic verification system is encrypted, protected, and not divulged for any
46 purpose not specifically authorized by law.

1
2 **Sec. 17-73. – Inventory control system.**

- 3 (a) Each medical cannabis establishment, in consultation with the Board, shall maintain an
4 inventory control system.
- 5 (b) The inventory control system required pursuant to subsection (a) must be able to monitor
6 and report information, including, without limitation:
- 7 (1) Insofar as is practicable, the chain of custody and current whereabouts, in real time,
8 of cannabis from the point that it is harvested at a cannabis cultivation facility until
9 it is sold at a medical cannabis dispensary and, if applicable, medical cannabis
10 production facility;
- 11 (2) The name of each person or other medical cannabis establishment, or both, to which
12 the establishment sold cannabis;
- 13 (3) In the case of a medical cannabis dispensary, the date on which it sold cannabis to
14 a person who holds a patient card and, if any, the quantity of medical cannabis
15 products sold, measured both by weight and potency; and
- 16 (4) Such other information as the Board may require.
- 17 (c) Nothing in this section prohibits more than one medical cannabis establishment from co-
18 owning an inventory control system in cooperation with other medical cannabis
19 establishments, or sharing the information obtained therefrom.
- 20 (d) A medical cannabis establishment must exercise reasonable care to ensure that the personal
21 identifying information of persons who hold patient cards which is contained in an
22 inventory control system is encrypted, protected, and not divulged for any purpose not
23 specifically authorized by law.

24
25 **Sec. 17-74. – Requirements for storage, removal, transportation of medical cannabis.**

- 26 (a) At each medical cannabis establishment, medical cannabis must be stored only in an
27 enclosed, locked facility.
- 28 (b) Except as otherwise provided in subsection (c), at each medical cannabis dispensary,
29 medical cannabis must be stored in a secure, locked device, display case, cabinet, or room
30 within the enclosed, locked facility. The secure, locked device, display case, cabinet, or
31 room must be protected by a lock or locking mechanism that meets at least the security
32 rating established by the Underwriters Laboratories for key locks.
- 33 (c) At a medical cannabis dispensary, medical cannabis may be removed from the secure
34 setting described in subsection (b):
- 35 (1) Only for the purpose of dispensing the cannabis;
36 (2) Only immediately before the cannabis is dispensed; and
37 (3) Only by a cannabis establishment agent who is employed by or volunteers at the
38 dispensary.
- 39 (d) A medical cannabis establishment may:
- 40 (1) Transport medical cannabis to another medical cannabis establishment or between
41 the buildings of the medical cannabis establishment; and
- 42 (2) Enter into a contract with a third party to transport cannabis to another medical
43 cannabis establishment or between the buildings of the medical cannabis
44 establishment.

45
46 **Sec. 17-75. – Duties of medical cannabis dispensaries relating to sale of medical cannabis.**

1 (a) Each medical cannabis dispensary shall ensure all of the following:

2 (1) The weight, concentration, and content of THC in all cannabis and cannabis
3 products that the dispensary sells is clearly and accurately stated on the product
4 sold.

5 (2) That the dispensary does not sell to a person, in any one transaction, more than one
6 ounce of cannabis.

7 (3) That, posted clearly and conspicuously within the dispensary, are the legal limits
8 on the possession of cannabis for medical purposes, as set forth in Sec. 17-91.

9 (4) That only persons who are at least 21 years of age or hold a patient card are allowed
10 to enter the premises of the medical cannabis dispensary.

11 (b) A medical cannabis dispensary shall not sell cannabis or cannabis products to a consumer
12 through the use of, or accept a sale of cannabis or cannabis products from, a third party,
13 intermediary business, broker or any other business that does not hold a medical cannabis
14 establishment license for a medical cannabis dispensary.

15 (c) A medical cannabis dispensary may deliver medical cannabis or medical cannabis products
16 to a person who holds a valid patient card if the delivery is made by a medical cannabis
17 establishment agent who is authorized to make the delivery by the medical cannabis
18 dispensary which sold the cannabis or cannabis product.

19 (1) The Board may adopt regulations prescribing procedures and protocols for
20 deliveries conducted pursuant to subsection (c).

21
22 **Sec. 17-76. – Requirements concerning medical cannabis products.**

23 (a) Each medical cannabis establishment shall, in consultation with the Board, cooperate to
24 ensure that all cannabis products offered for sale:

25 (1) Are labeled clearly and unambiguously:

26 (i) As medical cannabis with the words “THIS IS A MEDICAL CANNABIS
27 PRODUCT” in bold type; and

28 (ii) As required by the other provisions of this chapter.

29 (2) Are not presented in packaging that contains an image of a cartoon character,
30 mascot, action figure, balloon or toy, except that such an item may appear in the
31 logo of the cannabis production facility which produced the product.

32 (3) Are regulated and sold on the basis of the concentration of THC in the products and
33 not by weight.

34 (4) Are packaged and labeled in such a manner as to allow tracking by way of an
35 inventory control system.

36 (5) Are not packaged and labeled in a manner which is modeled after a brand of
37 products primarily consumed by or marketed to children.

38 (6) Are labeled in a manner which indicates the amount of THC in the product,
39 measured in milligrams, and includes a statement that the product contains cannabis
40 and its potency was tested with an allowable variance of the amount determined by
41 the Board by regulation.

42 (7) Are not labeled or marketed as candy.

43 (b) A medical cannabis production facility shall not produce cannabis products in any form
44 that:

45 (1) Is or appears to be a lollipop.

- 1 (2) Bears the likeness or contains characteristics of a real or fictional person, animal or
2 fruit, including, without limitation, a caricature, cartoon or artistic rendering.
3 (3) Is modeled after a brand of products primarily consumed by or marketed to
4 children.
5 (4) Is made by applying concentrated cannabis to a commercially available candy or
6 snack food item other than dried fruit, nuts, or granola.
7 (c) A medical cannabis production facility shall:
8 (1) Seal any medical cannabis product that consists of cookies or brownies in a bag or
9 other container which is not transparent.
10 (2) Affix a label to each medical cannabis product which includes without limitation,
11 in a manner which must not mislead consumers, the following information:
12 (i) The words "Keep out of reach of children";
13 (ii) A list of all ingredients used in the medical cannabis product;
14 (iii) A list of all allergens in the cannabis product; and
15 (iv) The total content of THC measured in milligrams.
16 (3) Maintain a hand washing area with hot water, soap and disposable towels which is
17 located away from any area in which cannabis products are cooked or otherwise
18 prepared.
19 (4) Require each person who handles cannabis or medical cannabis products to restrain
20 his or her hair, wear clean clothing, and keep his or her fingernails neatly trimmed.
21 (5) Package all cannabis products produced by the cannabis production facility on the
22 premises of the cannabis production facility.
23 (d) A medical cannabis establishment shall not engage in advertising that in any way makes
24 cannabis or medical cannabis products appeal to children, including without limitation,
25 advertising which uses an image of a cartoon character, mascot, action figure, balloon,
26 fruit, or toy.
27 (e) Each medical cannabis dispensary shall offer for sale containers for the storage of medical
28 cannabis and medical cannabis products which lock and are designed to prohibit children
29 from unlocking and opening the container.
30 (f) A medical cannabis dispensary shall:
31 (1) Include a written notification with each sale of medical cannabis or medical
32 cannabis products which advises the purchaser:
33 (i) To keep cannabis and cannabis products out of the reach of children;
34 (ii) That cannabis products can cause severe illness in children;
35 (iii) That allowing children to ingest cannabis or cannabis products or storing
36 cannabis or cannabis products in a location which is accessible to children
37 may result in an investigation by an agency which provides child welfare
38 services or criminal prosecution for child abuse or neglect;
39 (iv) That the intoxicating effects of edible cannabis products may be delayed by
40 2 hours or more and users of edible medical cannabis products should
41 initially ingest a small amount of the product, then wait at least 120 minutes
42 before ingesting any additional amount of the product;
43 (v) That pregnant women should consult with a physician before ingesting
44 medical cannabis or medical cannabis products;
45 (vi) That ingesting medical cannabis or medical cannabis products with alcohol
46 or other drugs, including prescription medication, may result in

- 1 unpredictable levels of impairment and that a person should consult with a
2 physician before doing so;
- 3 (vii) That medical cannabis or medical cannabis products can impair
4 concentration, coordination and judgment and a person should not operate
5 a motor vehicle while under the influence of cannabis or cannabis products;
6 and
- 7 (viii) That ingestion of any amount of medical cannabis or medical cannabis
8 products before driving may result in criminal prosecution for driving under
9 the influence.
- 10 (2) Enclose all medical cannabis and medical cannabis products in opaque, child-proof
11 packaging upon sale.
- 12 (g) A cannabis dispensary shall not allow any person who is at less than 21 years of age to
13 enter the premises of the cannabis dispensary.
- 14 (h) If the applicable health authority where a medical cannabis production facility or medical
15 cannabis dispensary which sells edible medical cannabis products is located requires
16 persons who handle food at a food establishment to obtain certification, the medical
17 cannabis production facility or medical cannabis dispensary shall ensure that at least one
18 employee maintains such certification.
- 19 (i) A medical cannabis production facility may sell a commodity or product made using hemp
20 or containing cannabidiol to a medical cannabis dispensary.
- 21 (j) In addition to any other product authorized by the provisions of this chapter, a medical
22 cannabis dispensary may sell:
- 23 (1) Any commodity or product made using hemp;
24 (2) Any commodity or product containing cannabidiol with a THC concentration of
25 not more than 0.3 percent; and
26 (3) Any other product specified by regulation of the Board.
- 27 (k) A medical cannabis establishment:
- 28 (1) Shall not engage in advertising which contains any statement or illustration that:
- 29 (i) Is false or misleading;
30 (ii) Promotes overconsumption of medical cannabis or medical cannabis
31 products;
32 (iii) Depicts the actual consumption of medical cannabis or medical cannabis
33 products; or
34 (iv) Depicts a child or other person who is less than 21 years of age consuming
35 medical cannabis or medical cannabis products or objects suggesting the
36 presence of a child, including, without limitation, toys, characters, or
37 cartoons, or contains any other depiction which is designed in any manner
38 to be appealing to or encourage consumption of medical cannabis or
39 medical cannabis products by a person who is less than 21 years of age.
- 40 (2) Shall not advertise in any publication or on radio, television, or any other medium
41 if 30 percent or more of the audience of that medium is reasonably expected to be
42 persons who are less than 21 years of age.
- 43 (3) Shall not place an advertisement:
- 44 (i) Within 1,000 feet of a school, playground, public park, or library, but may
45 maintain such an advertisement if it was initially placed before the school.

- 1 playground, public park, or library was located within 1,000 feet of the
2 location of the advertisement;
3 (ii) On or inside of a motor vehicle used for public transportation or any shelter
4 for public transportation;
5 (iii) At a sports event to which persons who are less than 21 years of age are
6 allowed entry; or
7 (iv) At an entertainment event if it is reasonably estimated that 30 percent or
8 more of the persons who will attend that event are less than 21 years of age.
9 (4) Shall not advertise or offer any medical cannabis or medical cannabis product as
10 “free” or “donated” without a purchase.
11 (5) Shall ensure that all advertising by the medical cannabis establishment contains
12 such warnings as may be prescribed by the Board, which must include, without
13 limitation, the following words:
14 (i) “Keep out of reach of children”; and
15 (ii) “For use only by adults 21 years of age and older.”
16 (l) If a medical cannabis establishment engages in advertising for which it is required to
17 determine the percentage of persons who are less than 21 years of age and who may
18 reasonably be expected to view or hear the advertisement, the medical cannabis
19 establishment shall maintain documentation for not less than five years after the date on
20 which the advertisement is first broadcasted, published, or otherwise displayed that
21 demonstrates the manner in which the medical cannabis establishment determined the
22 reasonably expected age of the audience for that advertisement.
23 (m) In addition to any other penalties provided for by law, the Board may impose a civil penalty
24 upon a cannabis establishment that violates the provisions of subsection (k) and (l) as
25 follows:
26 (1) For the first violation in the immediately preceding 2 years, a civil penalty not to
27 exceed \$1,250.
28 (2) For the second violation in the immediately preceding 2 years, a civil penalty not
29 to exceed \$2,500.
30 (3) For the third violation in the immediately preceding 2 years, a civil penalty not to
31 exceed \$5,000.
32 (4) For the fourth violation in the immediately preceding 2 years, a civil penalty not to
33 exceed \$10,000.

34
35 **Sec. 17-77. – Advertising, selling, appearing to sell medical cannabis without a license is**
36 **prohibited.**

37 A person shall not advertise the sale of medical cannabis or medical cannabis products by the
38 person, sell, offer to sell, or appear to sell medical cannabis or medical cannabis products unless
39 the person holds a medical cannabis establishment license.
40

41 **Sec. 17-78. – Random laboratory assurance checks.**

- 42 (a) The Board may establish a program to ensure the integrity of all testing performed by a
43 medical cannabis independent testing laboratory by subjecting each such laboratory to
44 random laboratory assurance checks.
45 (b) If the Board establishes a program pursuant to subsection (a), each medical cannabis
46 independent testing laboratory shall participate in the program.

1 (c) If the Board establishes a program pursuant to subsection (a), as part of the program, the
2 Board shall:

3 (1) Collect samples of cannabis or cannabis products from medical cannabis
4 establishments that have already been tested by medical cannabis independent
5 testing laboratories in amounts deemed sufficient by the Board;

6 (2) Remove identifying characteristics from and randomize such samples; and

7 (3) Provide each cannabis independent testing laboratory with a sample for analysis.

8 (d) A cannabis independent laboratory that receives a sample from the Board shall perform
9 such quality assurance tests upon the sample as the Board may require. Such tests may
10 include, without limitation:

11 (1) Screening the sample for pesticides, heavy metals, chemical residues, herbicides,
12 growth regulators and microbial analysis;

13 (2) A potency analysis to test for and quantify the presence of the following
14 cannabinoids:

15 (i) THC;

16 (ii) Tetrahydrocannabinolic acid;

17 (iii) Cannabidiol;

18 (iv) Cannabidiolic acid; and

19 (v) Cannabinol; and

20 (3) Such other quality assurance tests that the Board may require.

21 (e) If the Board establishes a program pursuant to subsection (a), the Board shall adopt
22 regulations necessary to carry out the program. Such regulations:

23 (1) Must require each cannabis independent testing laboratory to perform a random
24 laboratory assurance check at least once every six months but not more frequently
25 than once every three months.

26 (2) May modify the procedures and requirements set forth in this section if the Board
27 determines that advances in science necessitate such a modification.

28 (f) As used in this section, "random laboratory assurance check" means the evaluation of the
29 performance of a cannabis independent testing laboratory in conducting quality assurance
30 tests upon a sample if required by the Board under the program established pursuant to
31 subsection (a).

32
33 **Sec. 17-79. – Reciprocity.**

34 Medical cannabis dispensaries shall offer reciprocity to the participants of medical cannabis
35 programs of other jurisdictions. A medical cannabis dispensary may sell medical cannabis and
36 medical cannabis products to a person without a medical cannabis patient card if the person has
37 valid documentation or credentials showing that the person is a participant of a medical cannabis
38 program in a different jurisdiction.

39
40 **Article VII: Miscellaneous Licensing Provisions**

41
42 **Sec. 17-80. – Certain employees and persons exempt from prosecution.**

43 (a) A member or employee of the Board who, in the course of his or her duties:

44 (1) Possesses, delivers, or produces cannabis;

45 (2) Aids and abets another in the possession, delivery or production of cannabis;

46 (3) Performs any combination of the acts described in paragraphs (1) and (2); or

- 1 (4) Performs any other criminal offense in which the possession, delivery or production
2 of cannabis is an element,
3 is exempt from Tribal prosecution for such offense. The persons described in this
4 subsection must ensure that the cannabis described in this section is safeguarded in a
5 secure location.
6 (b) In addition to the provisions of subsection (a), no person may be subject to Tribal
7 prosecution for constructive possession, conspiracy, or any other criminal offense solely
8 for being in the presence or vicinity of the cannabis in accordance with the provisions of
9 this chapter.
10 (c) As used in this section, "cannabis" includes, without limitation, cannabis products.

11
12 **Sec. 17-81. – Enforcement of contracts.**

13 It is the public policy of the Tribe that contracts related to the operation of cannabis establishments
14 under this chapter should be enforceable, and no contract entered into by the licensee or registrant
15 as permitted pursuant to such a license or registration card, or by those who allow property to be
16 used by a licensee or registrant as permitted pursuant to such a license or registration card, shall
17 be deemed unenforceable on the basis that the actions or conduct permitted pursuant to the license
18 or registration card are prohibited by federal law.
19

20 **Sec. 17-82. – Training of medical cannabis establishment agents.**

- 21 (a) An independent contractor, including, without limitation, an educational institution,
22 nonprofit organization, or labor organization, may enter into a contract with a medical
23 cannabis establishment to provide training to the medical cannabis establishment agents
24 who volunteer or work at, contract to provide labor to, or are employed by an independent
25 contractor to provide labor to the medical cannabis establishment.
26 (b) The Board shall issue to an independent contractor who wishes to provide training as
27 described in subsection (a) a medical cannabis establishment agent registration card if:
28 (1) The independent contractor submits to the Board an organized, written plan
29 describing the manner in which the independent contractor will conduct the training
30 which has been agreed to by the independent contractor and the cannabis
31 establishment; and
32 (2) The independent contractor satisfies the requirements of Sec. 17-66.
33

34 **Sec. 17-83. – Petition to determine if criminal history is disqualifying.**

- 35 (a) The Board shall develop and implement a process by which a person with a criminal history
36 may petition the Board to review the criminal history of the person to determine if the
37 person's criminal history will disqualify the person from obtaining a license or medical
38 cannabis establishment agent registration card pursuant to this chapter.
39 (b) Not later than 90 days after a petition is submitted to the Board pursuant to subsection (a),
40 the Board shall inform the person of the determination of the Board of whether the person's
41 criminal history will disqualify the person from obtaining a license or medical cannabis
42 establishment agent registration card. The Board is not bound by its determination of
43 disqualification or qualification and may rescind such a determination at any time.
44 (c) The Board may provide instructions to a person who receives a determination of
45 disqualification to remedy the determination of disqualification. A person may resubmit a

- 1 petition pursuant to subsection (a) not earlier than six months after receiving instructions
2 pursuant to this subsection if the person remedies the determination of disqualification.
3 (d) A person with a criminal history may petition the Board at any time, including, without
4 limitation, before obtaining any education or paying any fee required to obtain a license or
5 medical cannabis establishment agent registration card from the Board.
6 (e) A person may submit a new petition to the Board not earlier than two years after the final
7 determination of the initial petition submitted to the Board.
8 (f) The Board may impose a fee of up to \$50 upon the person to fund the administrative costs
9 in complying with the provisions of this section. The Board may waive such fees or allow
10 such fees to be covered by funds from a scholarship or grant.
11 (g) The Board may post on its Internet website:
12 (1) The requirements to obtain a license and a medical cannabis establishment agent
13 registration card from the Board; and
14 (2) A list of crimes, if any, that would disqualify a person from obtaining a license or
15 a medical cannabis establishment agent registration card from the Board.
16 (h) The Board may request the criminal history record of a person who petitions the Board for
17 a determination pursuant to subsection (a). To the extent consistent with federal law, if the
18 Board makes such a request of a person, the Board shall require the person to submit his
19 or her criminal history record which includes a report from:
20 (1) The Central Repository for North Carolina Records of Criminal History; and
21 (2) The Federal Bureau of Investigation.
22 (i) A person who petitions the Board for a determination pursuant to subsection (a) shall not
23 submit false or misleading information to the Board.
24 (j) The Director shall transmit a report of petitions and the results thereof to Tribal Council
25 quarterly, unless otherwise directed by the Commission.

26
27 **Sec. 17-84 – 17-89. – Reserved.**
28

29 Article VIII: Medical use of cannabis
30

31 **Sec. 17-90. – Exemption from tribal prosecution for certain acts involving cannabis.**

- 32 (a) Possessing, cultivating, delivering, transferring, transporting, supplying, or selling in
33 accordance with this chapter is authorization to possess a controlled substance for purposes
34 of Cherokee Code Chapter 14.
35 (b) Except as otherwise provided in this chapter, a person who holds a valid medical cannabis
36 patient card is exempt from tribal prosecution for:
37 (1) The possession, delivery, or production of cannabis;
38 (2) The possession or delivery of paraphernalia;
39 (3) Aiding and abetting another in the possession, delivery or production of cannabis;
40 (4) Aiding and abetting another in the possession or delivery of paraphernalia;
41 (5) Any combination of the acts described in paragraphs (1) to (4), inclusive; and
42 (6) Any other criminal offense in which the possession, delivery, or production of
43 cannabis or the possession or delivery of paraphernalia is an element.
44 (c) The exemption from tribal prosecution set forth in subsection (a) applies only to the extent
45 that a person who holds a patient identification card and the designated primary caregiver,
46 if any, of such a person:

- 1 (1) Engage in or assist in, as applicable, the medical use of cannabis in accordance with
2 the provisions of this title as justified to mitigate the symptoms or effects of a
3 person's chronic or debilitating medical condition; and
4 (2) Do not, at any one time, collectively possess with another who is authorized to
5 possess, deliver or produce more than:
6 (i) Two and one-half ounces of usable cannabis;
7 (ii) Twelve cannabis plants, irrespective of whether the cannabis plants are
8 mature or immature; and
9 (iii) A maximum allowable quantity of cannabis products as established by
10 regulation of the Board.
11 (d) If the persons described in subsection (c) possess, deliver, or produce cannabis in an
12 amount which exceeds the amount described in paragraph (c)(2), those persons are not
13 exempt from state prosecution for the possession, delivery or production of cannabis.
14 (e) A person who holds a valid medical cannabis establishment license or a valid medical
15 cannabis establishment agent card and who confines his or her activities to those authorized
16 by this chapter, and the regulations adopted by the Board pursuant thereto, is exempt from
17 tribal prosecution for:
18 (1) The possession, delivery, or production of cannabis;
19 (2) The possession or delivery of paraphernalia;
20 (3) Aiding and abetting another in the possession, delivery or production of cannabis;
21 (4) Aiding and abetting another in the possession or delivery of paraphernalia;
22 (5) Any combination of the acts described in paragraphs (1) to (4), inclusive; and
23 (6) Any other criminal offense in which the possession, delivery or production of
24 cannabis or the possession or delivery of paraphernalia is an element.
25 (f) In addition to the provisions of subsections (a) and (d), no person may be subject to tribal
26 prosecution for constructive possession, conspiracy, or any other criminal offense solely
27 for being in the presence or vicinity of the medical use of cannabis in accordance with the
28 provisions of this chapter.
29 (g) The persons described in this section must ensure that the usable cannabis and cannabis
30 plants described in this subsection are safeguarded in an enclosed, secure location.
31 (h) As used in this section, "cannabis" includes, without limitation, cannabis products.
32

33 **Sec. 17-91. – Medical cannabis patient cards.**

- 34 (a) The Board shall establish and maintain a program for the issuance of medical cannabis
35 patient cards to persons who meet the requirements of this section. Medical cannabis
36 patient cards may only be issued to natural persons who are at least 21 years old.
37 (b) Except as otherwise provided in Sec. 17-93, the Board shall issue a patient identification
38 card to a person who submits an application on a form prescribed by the Board
39 accompanied by the following:
40 (1) The name, physical and mailing address, telephone number, and date of birth of the
41 person;
42 (2) A copy of a government-issued identification;
43 (3) Written documentation a chronic or debilitating medical condition;
44 (4) The name, physical and mailing address, telephone number, and date of birth of the
45 person's designated primary caregiver, if any

- 1 (5) The name, physical and mailing address, telephone number, and date of birth of the
2 person for whom the applicant is acting as designated primary caregiver, if any, and
3 (6) Such other and further information required by the Board to ensure the accuracy of
4 the written documentation.
5 (c) The Board shall verify the information contained in an application submitted pursuant to
6 this section and shall approve or deny an application within the period of time specified by
7 the Board by regulation, not to exceed 30 days. The Board may contact an applicant, the
8 applicant's attending provider of health care or designated primary caregiver, if any, by
9 telephone to determine that the information provided on or accompanying the application
10 is accurate. The Board may deny an application only on the following grounds:
11 (1) The applicant failed to provide a complete application;
12 (2) The applicant failed to comply with regulations adopted by the Board;
13 (3) The Board determines that the information provided by the applicant was falsified
14 or incorrect;
15 (4) The Board determines that the attending provider of health care of the applicant is
16 not licensed, certified, or not in good standing as reported by the applicable
17 professional licensing board;
18 (5) The Board has prohibited the applicant from obtaining or using a patient
19 identification card pursuant to Se. 17-97.
20 (6) The Division determines that the applicant, or the applicant's designated primary
21 caregiver, if applicable, has had a patient card revoked.
22 (d) A person may have only one designated primary caregiver at one time. A person may act
23 a designated primary caregiver for multiple people at one time.
24 (e) The decision of the Board to deny an application for a medical cannabis patient card is a
25 final decision for the purposes of administrative appeal and judicial review. Only the
26 person whose application has been denied has standing to contest the determination of the
27 Board. A judicial review shall be conducted with the procedures set forth Chapter 150 for
28 review of administrative actions.
29 (f) A person whose application has been denied may not reapply for six months after the date
30 of the denial.
31

32 **Sec. 17-92. – Issuance of medical cannabis patient cards.**

- 33 (a) If the Board approves a medical cannabis patient card application, the Board shall issue the
34 applicant a serially numbered medical cannabis patient card as soon as practicable.
35 (b) A medical cannabis patient card must set forth:
36 (1) The name, address, photograph, and date of birth of the applicant;
37 (2) The date of issuance and date of expiration of the patient card;
38 (3) The name and address of the applicant's designated primary caregiver, if any; and
39 (4) Any other information prescribed by regulation of the Board.
40 (c) A patient card issued to a designated primary caregiver must set forth:
41 (1) The name, address and photograph of the designated primary caregiver;
42 (2) The date of issuance and date of expiration of the patient identification card;
43 (3) The name and address of the applicant for whom the person is the designated
44 primary caregiver;
45 (4) Any other information prescribed by regulation of the Board.

- 1 (d) Unless sooner revoked, a patient card is valid for a period of one year from the date of
2 issuance.

3
4 **Sec. 17-93. – Medical cannabis patient card revocation.**

- 5 (a) If, at any time after the Board has issued a patient card, the Board determines, on the basis
6 of official documents or records or other credible evidence, that the person provided
7 falsified or materially inaccurate information on his or her application to the Board, the
8 Board shall immediately revoke the patient identification card issued to that person and
9 shall immediately revoke the patient identification card issued to that person's designated
10 primary caregiver, if any.
11 (b) Upon the revocation of a patient card pursuant to this section:
12 (1) The Board shall send, by certified mail, return receipt requested, notice to the
13 person whose patient identification card has been revoked, advising the person of
14 the requirements of paragraph (2) below; and
15 (2) The person shall return his or her patient card to the Board within seven days after
16 receiving the notice sent pursuant to paragraph (1) above.
17 (c) The decision of the Board to revoke a patient card pursuant to this section is a final decision
18 for the purposes of judicial review.
19 (d) A person whose patient identification card has been revoked pursuant to this section may
20 not reapply for a patient identification card for 12 months after the date of the revocation.
21

22 **Sec. 17-94. – Duty to notify Board of certain changes in information.**

- 23 (a) A person to whom the Board has issued a patient identification card shall, in accordance
24 with regulations adopted by the Board:
25 (1) Notify the Board of any change in the person's name, physical or mailing address,
26 telephone number, attending provider of health care or designated primary
27 caregiver, if any;
28 (2) Notify the Board of any change in the identity of a person for whom he or she acts
29 as designated primary caregiver, if any;
30 (3) Notify the Board of any change in the person's chronic or debilitating medical
31 condition, with accompanying written documentation; and
32 (4) If the person elects to designate a primary caregiver for the subsequent year and the
33 primary caregiver so designated was not the person's designated primary caregiver
34 during the previous year:
35 (i) The name, physical and mailing address, and telephone number of the
36 designated primary caregiver.
37 (b) If a person fails to comply with the provisions of subsection (a), the medical cannabis
38 patient card shall be deemed expired. If a person's patient card is deemed expired under
39 subsection (a), the patient card for the person's designated primary caregiver, if any, shall
40 also be deemed expired.
41

42 **Sec. 17-95. – Renewal and expiration of medical cannabis patient cards.**

- 43 (a) Upon the expiration of a patient card pursuant to this section:
44 (1) The Board shall send, by certified mail, return receipt requested, notice to the
45 person whose patient identification card has been revoked, advising the person of
46 the requirements of paragraph (2) below; and

- 1 (2) The person shall return his or her patient card to the Board within seven days after
2 receiving the notice sent pursuant to paragraph (1) above.
3 **(b) A person may apply for renewal of his or her patient card pursuant to regulations issued by**
4 **the Board, but no earlier than 30 days from the date of expiration.**
5

6 **Sec. 17-96. – Diagnosis of absence of chronic or debilitating medical condition.**

- 7 **(a) If a person to whom the Board has issued a patient card is diagnosed by the person's**
8 **attending provider of health care as no longer having a chronic or debilitating medical**
9 **condition, the person shall return his or her patient card and his or her designated primary**
10 **caregiver, if any, shall return his or her patient card to the Board within seven days after**
11 **notification of the diagnosis.**
12 **(b) Failing to comply with this section is grounds for revocation of a medical cannabis patient**
13 **card.**
14

15 **Sec. 17-97. – Acts for which there is no exemption of tribal prosecution.**

- 16 **(a) A person who holds a patient identification card is not exempt from tribal prosecution for**
17 **any of the following acts:**
18 **(1) Driving, operating or being in actual physical control of a vehicle or a vessel under**
19 **power or sail while under the influence of cannabis;**
20 **(2) Transporting an open container of cannabis in the passenger area of a motor vehicle;**
21 **(3) Delivering cannabis to another person who he or she knows does not lawfully hold**
22 **a patient card issued by the Board;**
23 **(4) Delivering cannabis for consideration or remuneration to any person, regardless of**
24 **whether the recipient lawfully holds a patient identification card issued by the**
25 **Division;**
26 **(5) Possessing cannabis if the possession occurs in any place open to the public or**
27 **exposed to public view, in any Tribal government office or facility, in any place**
28 **which the owner or one in lawful possession prohibits possession of cannabis, or**
29 **on the property of a school or community facility.**
30 **(6) Any other act as set out in regulations issued by the Board.**
31 **(b) In addition to any other penalty provided by law, if the Board determines that a person has**
32 **willfully violated a provision of this chapter or any regulation adopted by the Board to**
33 **carry out the provisions of this chapter, the Division may, at its own discretion, prohibit**
34 **the person from obtaining or using a patient identification card for a period of up to six**
35 **months.**
36

37 **Sec. 17-98. – Search and seizure.**

- 38 **(a) The fact that a person possesses a medical cannabis patient card, a medical cannabis**
39 **establishment license, or a medical cannabis establishment agent card does not, alone:**
40 **(1) Constitute probable cause to search the person or the person's property; or**
41 **(2) Subject the person or the person's property to inspection by any governmental**
42 **agency.**
43 **(b) Except as otherwise provided in this subsection, if the officers of a law enforcement agency**
44 **seize cannabis, paraphernalia, or other related property from a person engaged in,**
45 **facilitating, or assisting in the medical use of cannabis the law enforcement agency shall**

1 ensure that the cannabis, paraphernalia, or other related property is not destroyed while in
2 the possession of the law enforcement agency.

3 (1) Any property interest of the person from whom the cannabis, paraphernalia or other
4 related property was seized must not be forfeited pursuant to any provision of law
5 providing for the forfeiture of property, except as part of a sentence imposed after
6 conviction of a criminal offense.

7 (2) Upon a decision not to prosecute, dismissal of charges, or acquittal the law
8 enforcement agency shall, to the extent permitted by law, return to that person any
9 usable cannabis, cannabis plants, paraphernalia or other related property that was
10 seized.

11 (3) The provisions of this subsection do not require a law enforcement agency to care
12 for live cannabis plants.

13
14 **Sec. 17-99. – Addition of diseases and conditions to the list of chronic and debilitating medical**
15 **conditions.**

16 (a) A person may submit to the Board a petition requesting that a particular disease or
17 condition be included among the diseases and conditions that qualify as chronic or
18 debilitating medical conditions.

19 (b) The Board shall adopt regulations setting forth the manner in which the Board will accept
20 and evaluate petitions submitted pursuant to this section. The regulations must provide,
21 without limitation, that:

22 (1) The Board will approve or deny a petition within 180 days after the Division
23 receives the petition; and

24 (2) The decision of the Board to deny a petition is a final decision for the purposes of
25 judicial review.

26
27 **Sec. 17-100. – Effect of chapter.**

28 (a) The provisions of this chapter do not:

29 (1) Require any employer to allow the medical use of cannabis in the workplace.

30 (2) Except as otherwise provided in subsection (a)(3), require an employer to modify
31 the job or working conditions of a person who engages in the medical use of
32 cannabis that are based upon the reasonable business purposes of the employer but
33 the employer must attempt to make reasonable accommodations for the medical
34 needs of an employee who engages in the medical use of cannabis if the employee
35 holds a valid patient identification card, provided that such reasonable
36 accommodation would not:

37 (i) Pose a threat of harm or danger to persons or property or impose an undue
38 hardship on the employer; or

39 (ii) Prohibit the employee from fulfilling any and all of his or her job
40 responsibilities.

41 (3) Prohibit a law enforcement agency from adopting policies and procedures that
42 preclude an employee from engaging in the medical use of cannabis.

43 (4) Impose any responsibility upon the Tribe for any deleterious outcomes from the
44 medical use of cannabis by any person.

45 (5) In any way or manner waive the sovereign immunity of the Tribe.
46

1
2 Article IX: Introductory Period
3

4 **Sec. 17-101. – Introductory period established.**

- 5 (a) There is hereby established an introductory period of thirty-six (36) months from the date
6 this legislation becomes effective. During the introductory period the restrictions of this
7 section shall apply and the Board may not adopt regulations or policies in conflict with
8 this section.
9 (b) During the introductory period the following restrictions shall be apply:
10 (1) There shall be a limit of one ounce of medical marijuana sold to a medical cannabis
11 patient card holder per day, not to exceed six ounces per month.
12 (2) There shall be a limit of 2,500 milligrams of THC in medical cannabis products
13 sold to a medical cannabis patient card holder per day, not to exceed 10,000
14 milligrams of THC within medical cannabis products per month.
15 (3) There shall be no medical cannabis establishment licenses, other than a license
16 for a medical cannabis laboratory, issued to any person or entity other than
17 Kituwah Medical, LLC, an entity wholly-owned by the Eastern Band of Cherokee
18 Indians as the sole member, or one of its wholly-owned subsidiaries incorporated
19 under Tribal law.
20 (4) There shall not be more than two medical cannabis dispensary locations.
21 (c) After the exclusivity period ends, the Board may consider the issuance of additional
22 medical cannabis establishment licenses and the adoption of regulations or policies in
23 conflict with this section. Nothing in this section reduces, lessens, or otherwise alters the
24 applicability of the remainder of this chapter during or after the introductory period.
25
26

27 **Sec. 14-95.10 Transporting controlled substance into the territory of the Eastern band of**
28 **Cherokee Indians.**

- 29 (a) Except as authorized by Cherokee Law, it is unlawful for any person to transport, carry,
30 or otherwise cause, assist, or provide for the importation of any controlled substance or
31 immediate precursor chemical into the territory of the Eastern Band of Cherokee Indians.
32 Unless a person's conduct is covered under some other provision of law providing greater
33 punishment, violation of this section shall be punished with a class B penalty.
34 (b) It shall be unlawful for a person to transport medical cannabis in the passenger area of a
35 motor vehicle in other than the manufacturer's unopened original container. It shall be
36 unlawful for person who is driving a motor vehicle on a highway or public vehicular area
37 to consume in the passenger area of that vehicle any medical cannabis. Violation of this
38 section shall constitute a criminal offense punishable by a fine of \$25.00 to \$500.00,
39 imprisonment for not more than 30 days.
40 (c) For purposes of this section, the definitions contained in Sec. 14-15.3(c) shall apply.
41

42 **Sec. 105-3. – Exemptions from Levy.**

43 The following are exempt from the Tribal Levy:

- 44 (a) Non-retail sales by members of the Eastern Band of their own arts and crafts, agricultural,
45 forest or other products produced or processed by the Tribal member making such sale.

1 In this section non-retail means not sold at a retail business open to the general public for
2 that purpose.

3 (b) Sales of gasoline or other motor fuel.

4 (c) Sales of any article which is otherwise solely subject to a separate levy in the Cherokee
5 code.

6 (d) Sales by members of the Eastern Band from food and other concessions on the Tribal
7 Ceremonial Grounds during the Cherokee Fall Festival.

8 (e) Sales by the Steve Youngdeer American Legion Post on fundraising activities.

9 (f) Admission charges or sales to persons by the Cherokee Bingo Enterprise, except for store
10 sales and concession sales.

11 (g) Tips by enrolled members of the Tribe received while Chiefing on the Reservation.

12 (h) Admission charges, tips and other remuneration of string bands. In this section, "string
13 band" means a group of persons playing live music and in which at least two persons
14 playing music are enrolled members of the Tribe.

15 (i) Sales from not for profit corporations or other charitable organizations as determined by
16 the Tribal Business Committee; including, but not limited to, thrift shops, church
17 organizations, and other public assistance groups. Any group desiring an exemption shall
18 submit an application to Tribal Business Committee for approval. Any organization
19 approved by the Business Committee for exemption shall be published in the Cherokee
20 One Feather.

21 (j) All retail sales of food, except for prepared food, shall be tax-free. Further, any retail
22 sales that are lawfully paid for by or through federal food assistance program's guidelines
23 are tax-free.

24 (k) Newspaper sales; including sales made by vending machines.

25 (l) Sales to other native American Tribes when they honor the same exemption and when
26 paying with tribal government funds.

27 (m) Sales of cannabis made in accordance with Cherokee Code Chapter 17.
28
29
30

31 BE IT FINALLY ORDAINED, that all ordinances and resolutions inconsistent with this ordinance
32 are hereby rescinded, and this ordinance shall become effective upon ratification by
33 the Principal Chief.
34

35 Submitted by: *Principal Chief Richard G. Sneed*

36 *Jeremy Wilson, Governmental Affairs Liaison*

37 *Joseph Owle, Secretary of Agriculture and Natural Resources*