

**DEPARTMENT OF PUBLIC HEALTH
MANUFACTURED CANNABIS SAFETY BRANCH
CHANGES WITHOUT REGULATORY EFFECT UNDER
CALIFORNIA CODE OF REGULATIONS, TITLE 1, SECTION 100**

SUBJECT MATTER OF PROPOSED REGULATIONS: Medicinal and adult-use commercial cannabis regulations.

SECTION AFFECTED: Title 4, California Code of Regulations, sections 17000 – 17510; Title 17 California Code of Regulations, sections 40100-40570.

BACKGROUND

On January 16, 2019, the Manufactured Cannabis Safety Branch within the California Department of Public Health (Department of Public Health), adopted regulations to clarify and make specific licensing and enforcement criteria for commercial cannabis businesses under the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA).

On January 10, 2020, Governor Newsom’s administration (Administration) announced as part of the budget for the 2020-2021 fiscal year the consolidation of the Department of Public Health, the Bureau of Cannabis Control (Bureau) within the Department of Consumer Affairs, and the CalCannabis Cultivation Licensing Division within the Department of Food and Agriculture (Department of Food and Agriculture), into a single entity to be named the Department of Cannabis Control (Department). The Department will oversee the licensing and enforcement of all commercial cannabis activity conducted in the state. Consolidation of the three licensing entities was to occur by July 1, 2020; however, due to the COVID-19 pandemic, the Administration re-evaluated its ability to implement the consolidation as scheduled and subsequently postponed the consolidation until the 2021-2022 fiscal year. On January 8, 2021, the Administration announced during the 2021-2022 budget proposal that the consolidation of the three entities into the Department will be effective July 1, 2021.

STATEMENT OF EXPLANATION

Title 1, California Code of Regulations (CCR), sections 100 (a)(1) and (a)(4), provide that an agency may revise text published in the California Code of Regulations in order to renumber, reorder, or relocate regulatory provisions and to revise structure, syntax, cross-reference, grammar, or punctuation.

The Department will continue to enforce MAUCRSA and all the regulations adopted by the three licensing entities. Currently, the regulations of each of the three licensing entities are in different titles within the CCR. The Bureau is under Title 16, the Department of Food and Agriculture is under Title 3, and the Department of Public Health is under Title 17. The Department’s regulations will be located under 4 CCR, Division 19, sections 15000 - 17999. Therefore, the Department of Public Health’s regulations will need to be relocated and renumbered within the new title. Further, all

references and cross-references in the regulations to the Department of Public Health, the Department of Food and Agriculture, and the Bureau as separate licensing entities will need to be changed to reference the Department since these entities will no longer exist as currently named as of July 1, 2021.

Additionally, the Department of Public Health's regulations use a different hierarchy than the Department of Food and Agriculture and the Bureau. For consistency in the consolidation process, the Department of Public Health's regulations will need to be restructured under the new title to match the hierarchy of the Bureau's and the Department of Food and Agriculture's regulations. Therefore, Subchapters 2 through 6 will need to be renamed as chapters. All of the chapters will need to be renumbered to cause them to be sequential when consolidated into Title 4 with the regulations from the Bureau and Department of Food and Agriculture. Chapter 13 becomes Chapter 10 and Subchapters 2 through 6 become Chapters 11 through 15. The titles of Chapter 12, formerly Subchapter 3, and Chapter 15, formerly Subchapter 6, were amended to clarify that these regulations only apply to licensed commercial cannabis manufacturers. Subchapter 1 has been removed as this designation is no longer necessary.

1 CCR 100 (a)(2), provides that an agency may delete text published in the California Code of Regulations if all statutory or constitutional authority for the regulatory provision has been repealed.

The three cannabis licensing entities, including the Department of Public Health, were authorized by MAUCRSA, under Business and Professions Code section 26054.2, to provide priority licensing to applicants identified as operating in compliance with the Compassionate Use Act of 1996 (Section 11362.5 of the Health and Safety Code) and its implementing laws before September 1, 2016. This section became inoperative by its own provisions on December 31, 2019 and the licensing entities were no longer authorized to provide priority licensing for applicants identified as operating in compliance with the Compassionate Use Act of 1996. Since the Department will continue to operate under the authority of MAUCRSA, it will also not have the statutory authority to provide priority licensing. Therefore, section 40156 of the Department of Public Health's regulations is no longer enforceable.

Based upon the foregoing, the Department of Public Health has determined that the proposed changes to relocate and renumber 17 CCR, sections 40100 - 40570, to 4 CCR, sections 17000 – 17510, are appropriate for revision under 1 CCR 100(a)(1) and (a)(4) because the changes are relocating and renumbering the regulations consistent with the consolidation plans implemented by the Administration and revising the structure of the hierarchy in the Department of Public Health's regulations to be uniform with the other two licensing entities. Subchapters 2 through 6 are renamed as chapters, and all of the chapters are renumbered to cause them to be sequential when consolidated into Title 4 with the regulations from the Bureau and Department of Food and Agriculture. Chapter 13 becomes Chapter 10 and Subchapters 2 through 6 become Chapters 11 through 15. The titles of Chapter 12, formerly Subchapter 3, and Chapter 15, formerly Subchapter 6, have been amended to clarify that the regulations only apply to licensed commercial cannabis manufacturers. Subchapter 1 has been removed as

this designation is no longer necessary. The changes eliminate any potential confusion and inconsistency created by the existing language of the regulations in referencing the Department of Public Health, the Bureau, or the Department of Food and Agriculture as separate licensing entities instead of the Department.

Further, the deletion of section 40156 regarding priority licensing is consistent with 1 CCR 100(a)(2) as the statutory authority to provide priority licensing has become inoperative.

The proposed changes do not materially alter any requirement, right, responsibility, condition, prescription, or other regulatory element of any other provision of MAUCRSA.