

HOUSE BILL 313

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

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AN ACT

RELATING TO CANNABIS REGULATION; CREATING A CANNABIS NURSERY
LICENSE; CHANGING THE PLANT COUNT FOR CANNABIS PRODUCER
MICROBUSINESSES AND INTEGRATED CANNABIS MICROBUSINESSES;
REMOVING THE CANNABIS CONTROL DIVISION OF THE REGULATION AND
LICENSING DEPARTMENT FROM THE PROVISIONS OF THE UNIFORM
LICENSING ACT; RESTRICTING THE SYNTHESIS OF
TETRAHYDROCANNABINOL; DELETING THE APPLICATION AND RENEWAL FEES
FOR VERTICALLY INTEGRATED CANNABIS ESTABLISHMENTS; CREATING THE
EQUITY BUREAU OF THE CANNABIS CONTROL DIVISION OF THE
REGULATION AND LICENSING DEPARTMENT; SPECIFYING HEARING
PROCEDURES; GRANTING SUBPOENA POWERS; PROVIDING FOR
DISTRIBUTION OF ASSETS OF NONPROFIT CORPORATIONS INCORPORATING
AS FOR-PROFIT CORPORATIONS, WHICH ARE ALLOWED UNDER THE
CANNABIS REGULATION ACT.

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1 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

2 SECTION 1. Section 26-2C-1 NMSA 1978 (being Laws 2021
3 (1st S.S.), Chapter 4, Section 1) is amended to read:

4 "26-2C-1. SHORT TITLE.--~~[Sections 1 through 42 of this~~
5 ~~act]~~ Chapter 26, Article 2C NMSA 1978 may be cited as the
6 "Cannabis Regulation Act"."

7 SECTION 2. Section 26-2C-2 NMSA 1978 (being Laws 2021
8 (1st S.S.), Chapter 4, Section 2) is amended to read:

9 "26-2C-2. DEFINITIONS.--As used in the Cannabis
10 Regulation Act:

11 A. "advertisement":

12 (1) means a statement or a depiction that is
13 intended to induce the purchase of cannabis products and that
14 is displayed in printed material or on a sign or other outdoor
15 display or presented in a radio, television or other media
16 broadcast or in digital media; and

17 (2) does not include:

18 (a) a sign or outdoor display or other
19 statement permanently affixed to a licensed premises that is
20 intended to induce the sale of a cannabis product produced or
21 sold on the premises;

22 (b) a label affixed to a cannabis
23 product or the covering, wrapper or container of a cannabis
24 product; or

25 (c) an editorial or other material

1 printed in a publication when the publication of the editorial
2 or material was not paid for by a licensee and was not intended
3 to promote the sale of cannabis products by a particular brand
4 or company;

5 B. "cannabis":

6 (1) means all parts of the plant genus
7 Cannabis containing a delta-9-tetrahydrocannabinol
8 concentration of more than three-tenths percent on a dry weight
9 basis, whether growing or not; the seeds of the plant; the
10 resin extracted from any part of the plant; and every compound,
11 manufacture, salt, derivative, mixture or preparation of the
12 plant, its seeds or its resin; and

13 (2) does not include:

14 (a) the mature stalks of the plant;
15 fiber produced from the stalks; oil or cake made from the seeds
16 of the plant; any other compound, manufacture, salt,
17 derivative, mixture or preparation of the mature stalks, fiber,
18 oil or cake; or the sterilized seed of the plant that is
19 incapable of germination; or

20 (b) the weight of any other ingredient
21 combined with cannabis products to prepare topical or oral
22 administrations, food, drink or another product;

23 C. "cannabis consumption area" means an area where
24 cannabis products may be served and consumed;

25 D. "cannabis courier" means a person that

1 transports cannabis products to qualified patients, primary
2 caregivers or reciprocal participants or directly to consumers;

3 E. "cannabis establishment" means:

- 4 (1) a cannabis testing laboratory;
5 (2) a cannabis manufacturer;
6 (3) a cannabis producer;
7 (4) a cannabis retailer;
8 (5) a cannabis research laboratory;
9 (6) a vertically integrated cannabis
10 establishment;
11 (7) a cannabis producer microbusiness; ~~[or]~~
12 (8) an integrated cannabis microbusiness; or
13 (9) a cannabis nursery;

14 F. "cannabis extract":

15 (1) means a product obtained by separating
16 resins, tetrahydrocannabinols or other substances from cannabis
17 by extraction methods approved by the division; and

18 (2) does not include the weight of any other
19 ingredient combined with cannabis extract to prepare topical or
20 oral administrations, food, drink or another product;

21 G. "cannabis flowers" means only the flowers of a
22 cannabis plant;

23 H. "cannabis manufacturer" means a person that:

- 24 (1) manufactures cannabis products;
25 ~~[(2) packages cannabis products;~~

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1 ~~(3)~~ (2) has cannabis products tested by a
2 cannabis testing laboratory; or

3 ~~(4)~~ (3) purchases, acquires, sells or
4 transports wholesale cannabis products to other cannabis
5 establishments;

6 I. "cannabis nursery" means a person that:

7 (1) cultivates cannabis plants for the sale of
8 cannabis seeds and immature cannabis plants;

9 (2) purchases, acquires, sells or transports
10 wholesale cannabis seeds and immature cannabis plants to other
11 cannabis establishments; and

12 (3) sells cannabis seeds and immature cannabis
13 plants to qualified patients, primary caregivers or reciprocal
14 participants or directly to consumers;

15 ~~[F.]~~ J. "cannabis producer" means a person that:

16 (1) cultivates cannabis plants;

17 (2) has unprocessed cannabis products tested
18 by a cannabis testing laboratory;

19 (3) transports unprocessed cannabis products
20 only to other cannabis establishments; or

21 (4) sells cannabis products wholesale;

22 ~~[J.]~~ K. "cannabis producer microbusiness" means a
23 cannabis producer at a single licensed premises that possesses
24 no more than ~~[two hundred]~~ one thousand total mature cannabis
25 plants at any one time;

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1 ~~[K.]~~ L. "cannabis product" means a product that is
2 or that contains cannabis or cannabis extract, including edible
3 or topical products that may also contain other ingredients;

4 ~~[H.]~~ M. "cannabis research laboratory" means a
5 facility that produces or possesses cannabis products and all
6 parts of the plant genus Cannabis for the purpose of studying
7 cannabis cultivation, characteristics or uses;

8 ~~[M.]~~ N. "cannabis retailer" means a person that
9 sells cannabis products to qualified patients, primary
10 caregivers or reciprocal participants or directly to consumers;

11 ~~[N.]~~ O. "cannabis server permit" means an
12 authorization that allows a person to directly offer, sell or
13 serve cannabis or cannabis products as part of commercial
14 cannabis activity in a cannabis consumption area;

15 ~~[O.]~~ P. "cannabis server permit education provider"
16 means a person that provides cannabis server education courses
17 and examinations;

18 ~~[P.]~~ Q. "cannabis testing laboratory" means a
19 person that samples, collects and tests cannabis products and
20 transports cannabis products for the purpose of testing;

21 ~~[Q.]~~ R. "cannabis training and education program"
22 means a practical or academic curriculum offered by a New
23 Mexico public post-secondary educational institution designed
24 to prepare students for participation in the cannabis industry;

25 ~~[R.]~~ S. "commercial cannabis activity":

1 (1) means the cultivation, production,
2 possession, manufacture, storage, testing, researching,
3 labeling, transportation, couriership, purchase for resale, sale
4 or consignment of cannabis products; and

5 (2) does not include activities related only
6 to the medical cannabis program, to cannabis training and
7 education programs or to the personal cultivation or use of
8 cannabis;

9 ~~[S.]~~ T. "consumer" means a person twenty-one years
10 of age or older who purchases, acquires, owns, possesses or
11 uses a cannabis product for a purpose other than resale;

12 ~~[F.]~~ U. "contaminant" means pesticides and other
13 foreign material, such as hair, insects or other similar
14 adulterants, in harvested cannabis;

15 ~~[U.]~~ V. "controlling person":

16 (1) means a person that controls a financial
17 or voting interest of ten percent or more of, or an officer or
18 board member of, a cannabis establishment; and

19 (2) does not include a bank or licensed
20 lending institution;

21 ~~[V.]~~ W. "cultivation" means any activity involving
22 the planting, growing, harvesting, drying, curing, grading or
23 trimming of cannabis;

24 ~~[W.]~~ X. "department" means the regulation and
25 licensing department;

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1 ~~[X.]~~ Y. "director" means the director of the
2 division;

3 ~~[Y.]~~ Z. "division" means the cannabis control
4 division of the department;

5 ~~[Z.]~~ AA. "dry weight basis", when used in the
6 context of regulation of commercial cannabis activity, means a
7 process by which delta-9-tetrahydrocannabinol concentration is
8 measured relative to the aggregate weight of all parts of the
9 plant genus Cannabis, whether growing or not, including the
10 leaves of the plant, the flowers and buds of the plant, the
11 seeds of the plant, the resin of the plant and the stalks of
12 the plant at the point of harvest by a licensee and with no
13 moisture added to the harvested plant;

14 ~~[AA.]~~ BB. "facility" means a building, space or
15 grounds licensed for the production, possession, testing,
16 manufacturing or distribution of cannabis, cannabis extracts or
17 cannabis products;

18 ~~[BB.]~~ CC. "financial consideration" means value
19 that is given or received, directly or indirectly, through
20 sales, barter, trade, fees, charges, dues, contributions or
21 donations;

22 ~~[CC.]~~ DD. "homegrown" or "homemade" means grown or
23 made for purposes that are not dependent or conditioned upon
24 the provision or receipt of financial consideration;

25 ~~[DD.]~~ EE. "household" means a housing unit and

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1 includes any place in or around the housing unit at which an
2 occupant of the housing unit produces, manufactures, keeps or
3 stores homegrown cannabis or homemade cannabis products;

4 ~~[EE.]~~ FF. "immature cannabis plant" means a
5 cannabis plant that has no observable flowers or buds;

6 ~~[FF.]~~ GG. "industry standards" means the prevailing
7 customary standards of business practice in the cannabis
8 industry in jurisdictions within the United States;

9 ~~[GG.]~~ HH. "integrated cannabis microbusiness" means
10 a person that is authorized to conduct one or more of the
11 following:

12 (1) production of cannabis at a single
13 licensed premises; provided that the person shall not possess
14 more than ~~[two hundred]~~ one thousand total mature cannabis
15 plants at any one time;

16 (2) manufacture of cannabis products at a
17 single licensed premises;

18 (3) sales and transportation of only cannabis
19 products produced or manufactured by that person;

20 (4) operation of only one retail
21 establishment; and

22 (5) couriating of cannabis products to
23 qualified patients, primary caregivers or reciprocal
24 participants or directly to consumers;

25 ~~[HH.]~~ II. "licensed premises" means a location that

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1 includes:

2 (1) all enclosed public and private areas at
3 the location that are used in the business and includes
4 offices, kitchens, restrooms and storerooms;

5 (2) all areas outside of a building that are
6 specifically included in the license for the production,
7 manufacturing, wholesale sale, ~~[or]~~ retail sale or consumption
8 of cannabis products; and

9 (3) with respect to a location that is
10 specifically licensed for the production of cannabis outside of
11 a building, the entire unit of land that is created by
12 subsection or partition of land that the licensee owns, leases
13 or has a right to occupy;

14 ~~[HH.]~~ JJ. "local jurisdiction" means a
15 municipality, home rule municipality or county;

16 ~~[JJ.]~~ KK. "manufacture" means to compound, blend,
17 extract, infuse, package or otherwise prepare a cannabis
18 product;

19 ~~[KK.]~~ LL. "medical cannabis" means cannabis
20 products used by a qualified patient or reciprocal participant
21 in accordance with the Lynn and Erin Compassionate Use Act;

22 ~~[LL.]~~ MM. "medical cannabis program" means the
23 program created pursuant to the Lynn and Erin Compassionate Use
24 Act;

25 ~~[MM.]~~ NN. "medical cannabis registry" means the

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1 system by which the department of health approves or denies
2 applications and issues and renews registry identification
3 cards for qualified patients;

4 ~~[NN-]~~ OO. "primary caregiver" means a resident of
5 New Mexico who is at least eighteen years of age and who is
6 responsible for managing the well-being of a qualified patient
7 with respect to the medical use of cannabis pursuant to the
8 Lynn and Erin Compassionate Use Act;

9 ~~[OO-]~~ PP. "public place" means a place to which the
10 general public has access and includes hallways, lobbies and
11 other parts of apartment houses and hotels that do not
12 constitute rooms or apartments designed for actual residence;
13 highways; streets; schools; places of amusement; parks;
14 playgrounds; and places used in connection with public
15 passenger transportation;

16 ~~[PP-]~~ QQ. "qualified patient" means a resident of
17 New Mexico who holds a registry identification card pursuant to
18 the Lynn and Erin Compassionate Use Act;

19 ~~[QQ-]~~ RR. "reciprocal participant" means a person
20 who is not a resident of New Mexico and who holds proof of
21 enrollment by a governmental regulatory authority to
22 participate in the medical cannabis program of another state of
23 the United States, the District of Columbia or a territory or
24 commonwealth of the United States in which the person resides
25 or a person who holds proof of enrollment by a governmental

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1 regulatory authority of a New Mexico Indian nation, tribe or
2 pueblo to participate in its medical cannabis program;

3 ~~[RR-]~~ SS. "retail establishment" means a location
4 at which cannabis products are sold to qualified patients,
5 primary caregivers and reciprocal participants and directly to
6 consumers;

7 ~~[SS-]~~ TT. "superintendent" means the superintendent
8 of regulation and licensing;

9 ~~[FF-]~~ UU. "unprocessed" means unaltered from an
10 original, raw or natural state; and

11 ~~[UU-]~~ VV. "vertically integrated cannabis
12 establishment" means a person that is authorized to act as any
13 of the following:

- 14 (1) a cannabis courier;
- 15 (2) a cannabis manufacturer;
- 16 (3) a cannabis producer; and
- 17 (4) a cannabis retailer."

18 SECTION 3. A new section of the Cannabis Regulation Act
19 is enacted to read:

20 "[NEW MATERIAL] EQUITY BUREAU--EQUITY INITIATIVES.--The
21 "equity bureau" is created in the division. The equity bureau
22 shall oversee the social and economic equity initiatives of the
23 division."

24 SECTION 4. Section 26-2C-6 NMSA 1978 (being Laws 2021
25 (1st S.S.), Chapter 4, Section 6) is amended to read:

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1 "26-2C-6. LICENSING CANNABIS ACTIVITIES--LIMITATIONS--
2 MEDICAL CANNABIS LEGACY LICENSING--CANNABIS SHORTAGE FOR
3 MEDICAL PROGRAM.--

4 A. The division shall regulate and administer and
5 may collect fees in connection with the administration of:

- 6 (1) commercial cannabis activity and licensing
7 related to commercial cannabis activity;
- 8 (2) the medical cannabis program, except for
9 the medical cannabis registry; and
- 10 (3) all aspects of cannabis relating to
11 cannabis training and education programs.

12 ~~[B. The division shall follow the provisions of the~~
13 ~~Uniform Licensing Act when licensing or permitting the~~
14 ~~following:~~

- 15 ~~(1) cannabis consumption areas;~~
- 16 ~~(2) cannabis couriers;~~
- 17 ~~(3) cannabis manufacturers;~~
- 18 ~~(4) cannabis producer microbusinesses;~~
- 19 ~~(5) cannabis producers;~~
- 20 ~~(6) cannabis research laboratories;~~
- 21 ~~(7) cannabis retailers;~~
- 22 ~~(8) cannabis servers;~~
- 23 ~~(9) cannabis testing laboratories;~~
- 24 ~~(10) cannabis training and education programs;~~
- 25 ~~(11) integrated cannabis microbusinesses; and~~

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~~(12) vertically integrated cannabis establishments.~~

~~G.]~~ B. The division shall include a clear designation on all licenses and permits that indicates whether the license or permit is for medical cannabis activity, commercial cannabis activity or both or for cannabis training and education programs.

~~D.]~~ C. The division shall issue a license to a cannabis retailer applicant at a discount if the applicant provides documentation of an agreement to accept cannabis products on consignment from a cannabis producer microbusiness or an integrated cannabis microbusiness licensed pursuant the Cannabis Regulation Act.

~~E.]~~ D. A license is valid for twelve months from the date the license is issued and may be renewed annually, except that a license issued for a cannabis training and education program is valid until terminated by the licensee or suspended or revoked by the division.

~~F.]~~ E. The director shall not renew a license issued pursuant to the provisions of the Cannabis Regulation Act until the director receives notification from the secretary of taxation and revenue or the secretary's designee that on a certain date:

(1) the licensee is not a delinquent taxpayer;

and

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1 (2) there are no unfiled tax returns due from
2 engaging in business authorized by the license.

3 ~~[G.]~~ F. No license shall be transferable or
4 assignable from a licensee to another person. The division
5 shall not allow a person that is licensed as any type of
6 cannabis establishment other than a cannabis research
7 laboratory to hold, directly or indirectly, a cannabis testing
8 laboratory license.

9 ~~[H.]~~ G. Except for verification of age, the
10 division shall not require licensees to request information
11 from consumers or impose any residency requirement upon
12 consumers for the purchase of cannabis products pursuant to the
13 commercial cannabis activity authorized by the Cannabis
14 Regulation Act. The division may require licensees to request
15 information from consumers for the purchase of cannabis
16 products pursuant to the medical cannabis program, which may
17 include the presentation of legal identification issued by an
18 authorized governmental entity or other documents as required
19 by the medical cannabis program.

20 ~~[I.]~~ H. Except as otherwise provided in the
21 Cannabis Regulation Act, the division shall not limit the
22 number of licensed premises a licensee may occupy or operate
23 under a license. Multiple licensees may occupy a single
24 licensed premises, and the division shall not place any
25 restriction or prohibition on the number of licensees occupying

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1 a single licensed premises or on the number of licensed
2 premises of a cannabis establishment except as otherwise
3 specifically provided for by the Cannabis Regulation Act. A
4 licensee may conduct any lawful activity or any combination of
5 lawful activities at a licensed premises; provided that the
6 licensee is not ~~[a licensee pursuant to]~~ occupying a premises
7 licensed under the provisions of the Liquor Control Act.

8 Smoking in a cannabis consumption area on a licensed premises
9 shall be allowed only if the cannabis consumption area is in a
10 designated smoking area or in a standalone building from which
11 smoke does not infiltrate other indoor workplaces or other
12 indoor public places where smoking is otherwise prohibited
13 pursuant to the Dee Johnson Clean Indoor Air Act.

14 ~~[J.]~~ I. Licensees are specifically allowed to
15 conduct other licensed activities, including activities
16 pursuant to the Hemp Manufacturing Act, except for sales of
17 alcoholic beverages.

18 ~~[K.]~~ J. A person properly licensed and in good
19 standing pursuant to the Lynn and Erin Compassionate Use Act on
20 the effective date of the Cannabis Regulation Act may continue
21 to operate under that license for medical cannabis until
22 comparable licenses for commercial cannabis activity are
23 available. The division shall determine when retail sales of
24 commercial cannabis products begin, but no later than April 1,
25 2022. A facility of such a licensee, upon issuance of the

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1 applicable cannabis establishment license, shall constitute
2 licensed premises of the licensee and the licensee shall be
3 entitled to continued and uninterrupted operations of the
4 licensed premises. As to activity under the medical cannabis
5 program, the licensee shall continue to operate under rules
6 promulgated for the medical cannabis program until the division
7 promulgates rules for medical cannabis activity, except that a
8 qualified patient, a primary caregiver and a reciprocal
9 participant shall not be prohibited from purchasing and
10 obtaining cannabis products pursuant to the medical cannabis
11 program.

12 ~~[E.]~~ K. To address a shortage of cannabis supply in
13 the medical cannabis program, the division may:

14 (1) require all cannabis establishment
15 licensees to ensure that at least ten percent of their cannabis
16 in stock on a monthly basis is designated for sale to qualified
17 patients, primary caregivers and reciprocal participants;

18 (2) initially take reasonable measures to
19 expeditiously incentivize increased production of cannabis
20 plants to remedy a shortage of cannabis supply in the medical
21 cannabis program;

22 (3) after having first exhausted measures to
23 increase production of cannabis plants to address the shortage
24 of cannabis supply in the medical cannabis program, exclude
25 commercial cannabis activity from the scope of new licenses

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1 issued to initial applicants for a vertically integrated
2 cannabis establishment, cannabis producer, integrated cannabis
3 microbusiness, cannabis producer microbusiness or cannabis
4 manufacturer license, which limitation shall be in force for a
5 period of at least six months; and

6 (4) require licensees who are licensed to
7 produce cannabis to produce a specified quota of mature
8 cannabis plants to be designated for use in the medical
9 cannabis program; provided that:

10 (a) the division may require a licensee
11 to devote no more than twenty-five percent of the licensee's
12 cultivated cannabis plants on a monthly basis for use in the
13 medical cannabis program; and

14 (b) the division may require specific
15 tracking of cannabis plants.

16 ~~[M.]~~ L. As used in this section, "shortage of
17 cannabis supply in the medical cannabis program" means that the
18 average number of cannabis plants in production in the medical
19 cannabis program per qualified patient after the effective date
20 of the Cannabis Regulation Act is substantially less than the
21 average number of cannabis plants in production in the medical
22 cannabis program per qualified patient as of the effective date
23 of the Cannabis Regulation Act, where:

24 (1) the average number of cannabis plants in
25 production after the effective date of the Cannabis Regulation

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1 Act is measured over a period of three consecutive months; and

2 (2) the average number of cannabis plants in
3 production as of the effective date of the Cannabis Regulation
4 Act is measured over a period of three consecutive months
5 immediately preceding the effective date of the Cannabis
6 Regulation Act.

7 ~~[N.]~~ M. A person who is a member of the New Mexico
8 senate or the New Mexico house of representatives on the
9 effective date of the Cannabis Regulation Act shall not apply
10 for or be granted a license to engage in any commercial
11 cannabis activity prior to July 1, 2026.

12 N. The director shall suspend or revoke the license
13 or permit and may fine the licensee in an amount not to exceed
14 one thousand dollars (\$1,000), or both, when the director finds
15 that a licensee or the licensee's agent has made any material
16 false statement or concealed any material facts in the
17 licensee's application for the license or permit granted
18 pursuant to the Cannabis Regulation Act or any rule promulgated
19 in accordance with that act. A person aggrieved by an action
20 taken by the division pursuant to this subsection may request
21 and receive a hearing according to the procedures provided in
22 Section 12 of this 2023 act before the disciplinary action
23 becomes effective."

24 SECTION 5. Section 26-2C-8 NMSA 1978 (being Laws 2021
25 (1st S.S.), Chapter 4, Section 8) is amended to read:

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1 "26-2C-8. LICENSEES--DISCIPLINARY ACTIONS--SANCTIONS--
2 CIVIL PENALTY.--

3 A. A violation of the provisions of the Cannabis
4 Regulation Act by a licensee is grounds for disciplinary
5 action.

6 B. The division may:

7 (1) impose an intermediate sanction
8 established by rule;

9 (2) impose a directed plan of correction;

10 (3) assess a civil monetary penalty
11 established by rule; provided that a civil monetary penalty
12 shall not exceed ten thousand dollars (\$10,000) per violation;
13 and provided further that penalties and interest recovered
14 pursuant to the Cannabis Regulation Act on behalf of the state
15 shall be remitted to the state treasurer for deposit in the
16 current school fund; or

17 (4) suspend or revoke the license.

18 C. The division shall promulgate rules specifying
19 the criteria for imposition of sanctions and civil monetary
20 penalties.

21 D. The provisions of this section do not apply to
22 occupational health and safety rules promulgated pursuant to
23 Section [~~3 of the Cannabis Regulation Act~~] 26-2C-3 NMSA 1978.

24 ~~[E. A person aggrieved by an action taken by the~~
25 ~~division pursuant to this section may request and receive a~~

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1 ~~hearing with the superintendent for the purpose of reviewing~~
2 ~~the action in accordance with the Uniform Licensing Act.]"~~

3 SECTION 6. Section 26-2C-9 NMSA 1978 (being Laws 2021
4 (1st S.S.), Chapter 4, Section 9) is amended to read:

5 "26-2C-9. APPLICATION AND LICENSING FEES.--

6 A. Every application for the issuance or renewal of
7 the following licenses shall be accompanied by a license fee in
8 the following specified amounts:

9 (1) a cannabis courier license, up to one
10 thousand five hundred dollars (\$1,500) per year and an
11 additional fee of up to one thousand dollars (\$1,000) per year
12 for each additional licensed premises of the licensee;

13 (2) a cannabis testing laboratory license, up
14 to two thousand five hundred dollars (\$2,500) per year and an
15 additional fee of up to one thousand dollars (\$1,000) per year
16 for each additional licensed premises of the licensee;

17 (3) a cannabis manufacturer license, two
18 thousand five hundred dollars (\$2,500) per year and an
19 additional fee of one thousand dollars (\$1,000) per year for
20 each additional licensed premises of the licensee;

21 (4) a cannabis producer license, two thousand
22 five hundred dollars (\$2,500) per year and an additional fee of
23 one thousand dollars (\$1,000) per year for each additional
24 licensed premises of the licensee;

25 (5) a cannabis retailer license, two thousand

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1 five hundred dollars (\$2,500) per year and an additional fee of
2 one thousand dollars (\$1,000) per year for each additional
3 licensed premises of the licensee;

4 (6) a cannabis research laboratory license,
5 two thousand five hundred dollars (\$2,500) per year and an
6 additional fee of one thousand dollars (\$1,000) per year for
7 each additional licensed premises of the licensee;

8 (7) a vertically integrated cannabis
9 establishment license, seven thousand five hundred dollars
10 (\$7,500) per year and an additional fee of one thousand dollars
11 (\$1,000) per year for each licensed premises of the licensee;

12 (8) a cannabis nursery license, two thousand
13 five hundred dollars (\$2,500) per year and an additional fee of
14 one thousand dollars (\$1,000) per year for each additional
15 licensed premises of the licensee;

16 [~~(8)~~] (9) a cannabis producer microbusiness
17 license, up to one thousand dollars (\$1,000) per year;

18 [~~(9)~~] (10) an integrated cannabis
19 microbusiness license, up to two thousand five hundred dollars
20 (\$2,500) per year and an additional fee of five hundred dollars
21 (\$500) per year for each licensed premises of the licensee; and

22 [~~(10)~~] (11) a cannabis consumption area, up to
23 two thousand five hundred dollars (\$2,500) per year.

24 B. Except for cannabis producer microbusinesses and
25 integrated cannabis microbusinesses, a licensee cultivating

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1 cannabis plants shall be assessed an additional annual fee no
2 greater than fifty dollars (\$50.00) per mature cannabis plant
3 at the time of licensing or renewal.

4 C. A licensee may increase the number of mature
5 plants licensed at the time of renewal and one other time per
6 year in increments of five hundred mature plants. Fees may be
7 prorated for the remainder of the licensing year.

8 D. ~~[The initial application fee and the annual~~
9 ~~renewal fee for a vertically integrated cannabis establishment~~
10 ~~license shall not exceed one hundred twenty-five thousand~~
11 ~~dollars (\$125,000) for a license for both medical cannabis~~
12 ~~activity and commercial cannabis activity.]~~ The initial
13 application fee and the annual renewal fee for a license or
14 renewal of a license that authorizes only medical cannabis
15 activity shall be one-half the fee applicable to a license
16 authorizing both medical cannabis activity and commercial
17 cannabis activity.

18 E. If a cannabis producer microbusiness or an
19 integrated cannabis microbusiness enters into a business
20 arrangement with another licensee with the purpose or having
21 the effect of evading the limitations of the licensee's
22 license, such licensee shall not be eligible for the lower fee
23 prescribed in Subsection A of this section and shall pay the
24 per-plant fee prescribed in Subsection B of this section.

25 F. The division shall collect all renewal fees,

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1 including the renewal fees for all licensed premises, at the
2 time of renewal of a license.

3 G. The fee for the issuance of a cannabis server
4 permit shall not exceed thirty-five dollars (\$35.00).

5 H. The division shall deposit all fees collected
6 pursuant to the Cannabis Regulation Act in the cannabis
7 regulation fund."

8 SECTION 7. Section 26-2C-12 NMSA 1978 (being Laws 2021
9 (1st S.S.), Chapter 4, Section 12) is amended to read:

10 "26-2C-12. LOCAL CONTROL.--

11 A. A local jurisdiction may:

12 (1) adopt time, place and manner rules that do
13 not conflict with the Cannabis Regulation Act or the Dee
14 Johnson Clean Indoor Air Act, including rules that reasonably
15 limit density of licenses and operating times consistent with
16 neighborhood uses; and

17 (2) allow for the smoking, vaporizing and
18 ingesting of cannabis products within an indoor or outdoor
19 cannabis consumption area if:

20 (a) unless licensed pursuant to the Lynn
21 and Erin Compassionate Use Act, access to the cannabis
22 consumption area is restricted to persons twenty-one years of
23 age and older; and

24 (b) the cannabis establishment or
25 integrated cannabis microbusiness is located at a minimum

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1 distance from a school or daycare center as determined by the
2 local jurisdiction, but which minimum distance shall not be set
3 at any more than three hundred feet from a school or daycare
4 center that was in existence at the time the establishment or
5 microbusiness was licensed.

6 B. A local jurisdiction shall not:

7 (1) prevent transportation of cannabis
8 products on public roads by a licensee that transports cannabis
9 products in compliance with the Cannabis Regulation Act;

10 (2) completely prohibit the operation of a
11 licensee;

12 (3) prohibit or limit signage attached to or
13 located on licensed premises that identifies the premises as a
14 cannabis establishment;

15 (4) require a licensed premises ~~[or a cannabis~~
16 ~~consumption area]~~ to be any more than three hundred feet from a
17 school or daycare center that was in existence at the time the
18 cannabis establishment or integrated cannabis microbusiness was
19 licensed;

20 (5) require an existing licensee at a licensed
21 premises to relocate; or

22 (6) prohibit a person from producing homegrown
23 cannabis as provided for in the Cannabis Regulation Act."

24 SECTION 8. Section 26-2C-17 NMSA 1978 (being Laws 2021
25 (1st S.S.), Chapter 4, Section 17) is amended to read:

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1 "26-2C-17. CANNABIS PRODUCTS--PACKAGING AND LABELING--
2 DIVISION RULEMAKING.--

3 A. Cannabis or cannabis extract included in a
4 cannabis product that is manufactured in compliance with
5 applicable law is not considered to be an adulterant under
6 state law.

7 B. The division shall promulgate rules consistent
8 with industry standards for cannabis products that establish
9 labeling and packaging requirements, including that:

10 (1) packages shall be resealable, child-
11 resistant, and, when possible, compostable and recyclable or
12 made from recycled materials;

13 (2) packages and labels shall not be designed
14 to be appealing to a child; and

15 (3) labels shall include:

16 (a) for a package containing only
17 cannabis leaf or flower, the net weight of cannabis in the
18 package;

19 (b) identification of the licensee or
20 licensees that produced or manufactured the cannabis product,
21 the date on which the cannabis was harvested, the type of
22 cannabis product and the date on which the cannabis product was
23 manufactured and packaged;

24 (c) potency and pesticide use;

25 (d) a list of pharmacologically active

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1 ingredients;

2 (e) for cannabis products containing
3 non-cannabis ingredients, a list of all ingredients and a
4 disclosure of nutritional information for the product or
5 cannabis extract disclosed in the same manner required under
6 federal law for nutritional labeling for food for human
7 consumption;

8 (f) a warning if nuts or other known
9 allergens are used in the item or in its manufacture;

10 (g) a logo designed by the division that
11 is distinctive in design, color, size and location such that
12 the logo notifies a reasonable person that the package contains
13 cannabis;

14 (h) a warning of possible adverse
15 effects of consumption and the New Mexico poison and drug
16 information center phone number;

17 (i) an expiration date; and

18 (j) other information as required by
19 rules promulgated pursuant to the Cannabis Regulation Act."

20 SECTION 9. Section 26-2C-28 NMSA 1978 (being Laws 2021
21 (1st S.S.), Chapter 4, Section 28) is amended to read:

22 "26-2C-28. UNLICENSED SALES OF CANNABIS--PENALTIES.--

23 A. As used in this section, "traffic" means the:

24 (1) distribution, sale, barter or giving away
25 of cannabis products; or

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1 (2) possession with intent to distribute,
2 sell, barter or give away cannabis products.

3 B. Unless otherwise provided in the Cannabis
4 Regulation Act or the Lynn and Erin Compassionate Use Act, it
5 is unlawful for a person without a license to intentionally
6 traffic cannabis products.

7 C. A person under eighteen years of age who
8 violates Subsection B of this section shall be subject to:

9 (1) attendance at a four-hour evidence-based
10 drug education and legal rights program at no cost to the
11 person; or

12 (2) four hours of community service.

13 D. Except as otherwise provided in Section [~~14 of~~
14 ~~the Cannabis Regulation Act~~] 26-2C-14 NMSA 1978, a person
15 eighteen years of age or older who violates Subsection B of
16 this section is guilty of a misdemeanor and shall be sentenced
17 pursuant to the provisions of Section 31-19-1 NMSA 1978.

18 E. A person eighteen years of age or older who
19 violates Subsection B of this section and who conducts
20 unlicensed cannabis product sales from a building, room or
21 other area open to the public in a manner that would lead a
22 reasonable person to believe that the area is a cannabis
23 establishment licensed pursuant to the Cannabis Regulation Act
24 is guilty of a fourth degree felony and shall be sentenced
25 pursuant to the provisions of Section 31-18-15 NMSA 1978.

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1 F. Cannabis and cannabis products seized by the
2 division or by a law enforcement agency as evidence of
3 unlicensed activities in violation of Subsection B of this
4 section shall be retained and disposed of pursuant to the
5 Forfeiture Act."

6 SECTION 10. Section 26-2C-31 NMSA 1978 (being Laws 2021
7 (1st S.S.), Chapter 4, Section 31) is amended to read:

8 "26-2C-31. UNLICENSED MANUFACTURING OF CANNABIS EXTRACT--
9 UNLAWFUL SYNTHESIS OF TETRAHYDROCANNABINOL--PENALTY.--

10 A. It is unlawful for a person to manufacture
11 cannabis extract without a license issued pursuant to the
12 Cannabis Regulation Act unless the person produces and
13 manufactures cannabis extract from homegrown cannabis using
14 nonvolatile solvents, alcohol or carbon dioxide or no solvents.
15 The use of any other solvent or process is expressly prohibited
16 unless it is approved by the division.

17 B. It is unlawful to synthesize any
18 tetrahydrocannabinol without prior approval from the division
19 and sufficient scientific evidence showing that synthesized
20 tetrahydrocannabinol will not cause a significant threat to
21 public health and safety.

22 C. A person who violates this section is guilty of
23 a fourth degree felony and shall be sentenced pursuant to the
24 provisions of Section 31-18-15 NMSA 1978."

25 SECTION 11. A new section of the Cannabis Regulation Act
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1 is enacted to read:

2 "[NEW MATERIAL] INVESTIGATIVE AUTHORITY AND POWERS.--

3 A. To enforce the provisions of the Cannabis
4 Regulation Act, the division is authorized to examine and
5 require the production of pertinent records, books, information
6 or evidence; and require the presence of any person and require
7 that person to testify under oath concerning the subject matter
8 of the inquiry and to make a permanent record of the
9 proceedings.

10 B. The division is vested with the power to issue
11 subpoenas. In no case shall a subpoena be made returnable less
12 than five days from the date of service.

13 C. Any subpoena issued by the division shall state
14 with reasonable certainty the nature of the evidence required
15 to be produced, the time and place of the hearing, the nature
16 of the inquiry or investigation and the consequences of failure
17 to obey the subpoena and shall bear the seal of the department
18 and be attested to by the director.

19 D. After service of a subpoena upon a person, if
20 the person neglects or refuses to appear or produce records or
21 other evidence in response to the subpoena or neglects or
22 refuses to give testimony, as required, the division may invoke
23 the aid of the New Mexico district courts in the enforcement of
24 the subpoena. In appropriate cases, the court shall issue its
25 order requiring the person to appear and testify or produce the

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1 person's books or records and may, upon failure of the person
2 to comply with the order, punish the person for contempt.

3 E. The division may exchange identification records
4 and information with law enforcement agencies for official use.
5 Identification records received from the United States
6 department of justice, including identification records based
7 on fingerprints, shall be used only to effectuate the licensing
8 purposes and provisions of the Cannabis Regulation Act. The
9 department shall not disseminate such information except to
10 other law enforcement agencies for official use only."

11 SECTION 12. A new section of the Cannabis Regulation Act
12 is enacted to read:

13 "[NEW MATERIAL] ADMINISTRATIVE PROCEEDINGS--COMPLAINTS--
14 INVESTIGATION--ORDER TO SHOW CAUSE--SERVICE--HEARINGS--
15 PROCEDURES--APPEAL.--

16 A. Administrative hearings held pursuant to the
17 provisions of the Cannabis Regulation Act shall be conducted by
18 a hearing officer appointed by the director and shall be held
19 in the county in which the licensed premises is located, in the
20 county where the principal business address is listed on the
21 license or virtually with the consent of the licensee. All
22 hearings are open to the public.

23 B. After a complaint has been filed and
24 investigated, the director may issue a signed order for the
25 person to appear at a hearing. The director shall appoint a

1 hearing officer no later than ten days prior to the date set
2 for the hearing at which the licensee shall appear to explain
3 why the licensee's license or permit should not be suspended or
4 revoked or why the licensee should not be fined, or both.

5 C. The hearing officer may:

- 6 (1) administer oaths;
7 (2) compel the attendance of witnesses and the
8 production of documents, records and physical exhibits in any
9 hearing held under the provisions of the Cannabis Regulation
10 Act by the issuance and service of subpoenas and subpoenas
11 duces tecum;
12 (3) rule on offers of proof and receive
13 relevant evidence;
14 (4) take, allow or cause depositions to be
15 taken;
16 (5) regulate the course of the hearing;
17 (6) hold conferences for the settlement or
18 simplification of the issues by consent of the parties;
19 (7) dispose of procedural requests or similar
20 matters; and
21 (8) reopen the hearing for the taking of
22 additional evidence at any time prior to the taking of an
23 appeal.

24 D. The director shall send a copy of the complaint
25 and a copy of the order to show cause to the licensee by

1 certified mail at least fourteen days before the date set for
2 the hearing on the order to show cause.

3 E. If the licensee fails to appear without good
4 cause at the time and place designated in the order to show
5 cause for the hearing, the hearing officer shall order the
6 nonappearance of the licensee to be entered in the record of
7 hearing and shall order the license or permit suspended or
8 revoked or the licensee fined, or both, on all the grounds
9 alleged in the complaint and shall cause the record of hearing
10 to show the particulars in detail.

11 F. If the licensee admits guilt on all grounds set
12 out in the complaint, the hearing officer shall order the
13 suspension or revocation of the license or permit or the
14 licensee fined, or both, and cause a record of hearing to be
15 made showing the facts and particulars of the director's order
16 of suspension or revocation of the license or permit or fine of
17 the licensee, or both. In such a case, there shall be no
18 review or appeal of the proceedings.

19 G. If the licensee appears at the hearing and does
20 not testify or denies guilt of any of the grounds set out in
21 the charge, the hearing shall proceed as follows:

22 (1) the hearing officer shall administer oaths
23 to all witnesses, the department shall cause all testimony and
24 evidence in support of the grounds alleged in the complaint to
25 be presented in the presence of the licensee and the hearing

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1 officer shall allow the licensee or the licensee's attorney to
2 cross-examine all witnesses;

3 (2) the licensee shall be allowed to present
4 testimony and evidence the licensee may have in denial or in
5 mitigation of the grounds set out in the charge;

6 (3) the department shall have the right to
7 cross-examine the licensee or any witness testifying in the
8 licensee's favor;

9 (4) the department shall present any evidence
10 or testimony in rebuttal of that produced by the licensee;

11 (5) the hearing officer shall make a finding
12 on each ground alleged and a finding of the guilt or innocence
13 of the licensee on each ground;

14 (6) if the licensee is found guilty on any
15 ground alleged and proved, the director shall make an order of
16 suspension or revocation of the license or permit or fine of
17 the licensee, or both; and

18 (7) the rules of evidence shall not be
19 required to be observed, but the order of suspension or
20 revocation or fine, or both, shall be based upon substantial,
21 competent and relevant evidence and testimony appearing in the
22 record of hearing.

23 H. If a license is revoked, the licensee shall not
24 be issued or be the transferee of a license within two years of
25 the date of revocation.

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1 I. The director may compromise a penalty for a
2 violation of the Cannabis Regulation Act or of a rule or order
3 of the division when the director deems it is in the best
4 interest of the state.

5 J. A licensee aggrieved or adversely affected by an
6 order of suspension, revocation or fine shall have the right to
7 appeal to the district court pursuant to the provisions of
8 Section 39-3-1.1 NMSA 1978.

9 K. No appeal shall have the effect of suspending
10 the operation of the order of suspension, revocation or fine,
11 but the hearing officer may suspend the operation of the order
12 of suspension, revocation or fine pending an appeal for good
13 cause shown and upon such terms and conditions as the hearing
14 officer may find are just in the hearing officer's discretion.
15 The court shall tax costs against the losing party.

16 L. No admission of guilt, admission against
17 interest or transcript of testimony made or given in a hearing
18 pursuant to this section shall be received or used in criminal
19 proceedings in which the licensee is a defendant; provided,
20 however, if the licensee commits perjury in a hearing, the
21 evidence shall be admissible in a perjury trial if otherwise
22 competent and relevant."

23 SECTION 13. A new section of the Cannabis Regulation Act
24 is enacted to read:

25 "[NEW MATERIAL] SEIZURE AND DESTRUCTION OF CANNABIS AND
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1 CANNABIS PRODUCT.--

2 A. The division may issue an administrative hold on
3 the movement of cannabis or cannabis product to prevent the
4 destruction of evidence, diversion or other threat to public
5 safety pending an investigation of an alleged violation of the
6 Cannabis Regulation Act or rules promulgated pursuant to that
7 act.

8 B. An administrative hold issued pursuant to this
9 section may be lifted only by order of the division or by
10 agreement between the division and the licensee subject to the
11 hold.

12 C. The division may embargo medical or retail
13 cannabis when the division finds objective and reasonable
14 grounds to believe there exists an imminent threat to public
15 health, safety or welfare.

16 D. The division may order the destruction of
17 cannabis or cannabis products subject to an embargo after
18 notice and opportunity for a hearing before the division. A
19 hearing held pursuant to this section shall be held in
20 accordance with hearing procedures set forth in the Cannabis
21 Regulation Act.

22 E. If cannabis or cannabis products are ordered
23 destroyed pursuant to this section, the licensee is responsible
24 for completing the destruction in coordination with the
25 division and in accordance with rules promulgated pursuant to

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1 this section.

2 F. The licensee is responsible for all expenses
3 related to the embargo and destruction of cannabis or cannabis
4 products ordered pursuant to this section."

5 SECTION 14. A new section of the Cannabis Regulation Act
6 is enacted to read:

7 "[NEW MATERIAL] SUMMARY SUSPENSION.--

8 A. As used in this section, "full investigation"
9 means a reasonable ascertainment of the underlying facts on
10 which the division action is based.

11 B. When the division has objective and reasonable
12 grounds to believe and finds, upon a full investigation, that
13 the licensee is conducting itself in a way to pose an imminent
14 threat to public health, safety or welfare or the licensee has
15 been guilty of deliberate and willful violation of either the
16 Cannabis Regulation Act or rules promulgated pursuant to that
17 act, the division may summarily suspend the license pending a
18 final decision to be determined by the proceedings for
19 suspension or revocation that shall be instituted and
20 determined promptly.

21 C. When issuing an order for summary suspension,
22 the division shall incorporate its findings of licensee conduct
23 that poses an imminent threat to public health, safety or
24 welfare or deliberate and willful violations by the licensee.

25 D. A license may be summarily suspended by the

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1 division without notice pending any prosecution, investigation
2 or public hearing pursuant to the Cannabis Regulation Act or
3 rules promulgated pursuant to that act."

4 SECTION 15. A new section of the Cannabis Regulation Act
5 is enacted to read:

6 "[NEW MATERIAL] AUTHORITY OF DIVISION.--The division has
7 the authority over all matters relating to the issuance,
8 denial, suspension or revocation of licenses under the Cannabis
9 Regulation Act. The division may request the department of
10 public safety to provide investigatory and enforcement support
11 as deemed necessary."

12 SECTION 16. Section 53-8-48 NMSA 1978 (being Laws 1975,
13 Chapter 217, Section 48, as amended) is amended to read:

14 "53-8-48. DISTRIBUTION OF ASSETS.--

15 A. Except as provided in Subsection B of this
16 section, the assets of a corporation in the process of
17 dissolution shall be applied and distributed as follows:

18 [~~A.~~] (1) all liabilities and obligations of
19 the corporation shall be paid and discharged, or adequate
20 provision shall be made therefor;

21 [~~B.~~] (2) assets held by the corporation upon
22 condition requiring return, transfer or conveyance, which
23 condition occurs by reason of the dissolution, shall be
24 returned, transferred or conveyed in accordance with such
25 requirements;

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1 [~~E.~~] (3) assets received and held by the
2 corporation subject to limitations permitting their use only
3 for charitable, religious, eleemosynary, benevolent,
4 educational or similar purposes, but not held upon a condition
5 requiring return, transfer or conveyance by reason of the
6 dissolution, shall be transferred or conveyed to one or more
7 nonprofit domestic or foreign corporations, nonprofit societies
8 or nonprofit organizations engaged in activities substantially
9 similar to those of the dissolving corporation, pursuant to a
10 plan of distribution adopted as provided in the Nonprofit
11 Corporation Act;

12 [~~D.~~] (4) other assets, if any, shall be
13 distributed in accordance with the provisions of the articles
14 of incorporation or the bylaws, but in no event may any member,
15 former member, director, former director, officer or former
16 officer receive directly or indirectly any distribution or
17 portion of a distribution of any assets; and

18 [~~E.~~] (5) any remaining assets may be
19 distributed to such persons, nonprofit societies, nonprofit
20 organizations or nonprofit domestic or foreign corporations
21 whether for profit or nonprofit as may be specified in a plan
22 of distribution adopted as provided in the Nonprofit
23 Corporation Act.

24 B. A nonprofit corporation that was incorporated in
25 order to qualify for a license as a licensed nonprofit producer

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1 pursuant to department of health rules under the Lynn and Erin
2 Compassionate Use Act may dissolve itself and incorporate as a
3 for-profit corporation pursuant to the Business Corporation
4 Act. The assets of the nonprofit corporation shall be applied
5 and distributed as follows if the corporation did not have a
6 federal tax exemption as a nonprofit corporation:

7 (1) all liabilities and obligations of the
8 corporation shall be paid and discharged or adequate provision
9 shall be made for payment and discharge;

10 (2) assets held by the corporation on
11 condition requiring return, transfer or conveyance, which
12 condition occurs by reason of the dissolution, shall be
13 returned, transferred or conveyed in accordance with the
14 requirements;

15 (3) assets received and held by the
16 corporation subject to limitations permitting their use only
17 for eleemosynary, religious, benevolent, educational or similar
18 purposes, but not held on a condition requiring return,
19 transfer or conveyance by reason of the dissolution, shall be
20 transferred or conveyed to one or more nonprofit domestic
21 corporations, nonprofit societies or nonprofit organizations
22 engaged in activities substantially similar to those of the
23 dissolving corporation, pursuant to a plan of distribution
24 adopted as provided in the Nonprofit Corporation Act;

25 (4) any remaining assets shall be distributed

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1 to the new for-profit corporation according to a plan of
2 distribution adopted as provided in the Nonprofit Corporation
3 Act; and

4 (5) in no event shall any member, former
5 member, director, former director, officer or former officer
6 receive directly or indirectly any distribution or portion of a
7 distribution of any assets of the nonprofit corporation."

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