



STATE OF ARKANSAS
MEDICAL MARIJUANA COMMISSION

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TO: Potential Applicants
FROM: Arkansas Medical Marijuana Commission
DATE: August 11, 2017
RE: Advisory Memorandum II for Potential Cultivation Facility and Dispensary Applicants

This Advisory Memorandum is intended to address frequently asked questions regarding application submissions. This document should be considered after reviewing the full application posted at mmc.arkansas.gov and Advisory Memorandum I.

In this Advisory Memorandum, cultivation facilities and dispensaries may be referred to in this document as “medical marijuana facility(ies),” the Medical Marijuana Commission may be referred to as “MMC,” the Alcoholic Beverage Control Division may be referred to as “ABC,” the Arkansas Department of Finance and Administration may be referred to as “DFA,” and the Arkansas Medical Marijuana Amendment of 2016 (Amendment 98 to the Arkansas Constitution) may be referred to as “Amendment.”

Q: Where can I find the universal symbol for Arkansas medical marijuana?

A: The universal symbol can be found on the Arkansas Department of Health’s website at: <http://www.healthy.arkansas.gov/Documents/Arkansas%20Medical%20Marijuana%20Symbol.jpg>.

Q: Will there be any price control for wholesale or retail medical marijuana?

A: The Amendment does not contemplate price control of medical marijuana.

Q: I am interested in acting as a distributor/transporter/processor. How can I obtain licensing for this?

A: Act 642 of the 91st General Assembly modified the Amendment by creating licensure for distributors, transporters, and processors. Act 642 gave the MMC power to create rules for licensure. As of today, the MMC has not promulgated these rules. Please continue to monitor mmc.arkansas.gov for updates on these licenses.

Q: What if I am issued a license for a cultivation facility or dispensary and a school/daycare/church subsequently locates within the 3,000’ or 1,500’ distance requirement?

A: Per section (g)(2)(C) of the Amendment, a cultivation facility and dispensary must not be within a certain distance of a public or private school, church or daycare center existing before the date of the cultivation facility application.

Q: I am interested in becoming a pharmacy consultant. Must I seek any additional training and/or accreditation?

A: At this time, there is no additional accreditation required of pharmacy consultants. Pharmacy consultants will be licensed as agents of the dispensary and the dispensary will apply for that agent card in the same manner as all other agent cards. However, please note that Act 1024 of the 91st General Assembly provides the responsibilities of the pharmacy consultant. While the MMC and ABC will not be providing any training or accreditation specific to pharmacy consultants at this time, pharmacy consultants should seek any guidance or instruction to be able to meet the standards set out in Act 1024.

Q: What tracking system should my cultivation facility and/or dispensary use?

A: The state of Arkansas is currently in the process of procuring a seed-to-sale tracking system for use across the entire medical marijuana program. Cultivation facilities and dispensaries will be required to use the selected seed-to-sale tracking system.

Q: When will applicants and applications be available for disclosure under the Arkansas Freedom of Information Act?

A: The MMC will release applications under the Freedom of Information Act (less any applicable redactions) as soon as practically possible after the application closure date of September 18, 2017.

Q: Does real property operated as a juvenile detention facility qualify as a “school,” when there are school operations conducted on the property?

A: Juvenile detention facilities cooperate with local school districts to provide school instruction that the individuals incarcerated would ordinarily receive if not incarcerated. Because schooling is provided in the facility by the local school district and recognized by the Arkansas Department of Education as a non-traditional school, real property operated as a juvenile detention facility will qualify as a school.

Q: How do I provide proof of approval of my use of the real property as a cultivation facility or dispensary in writing?

A: An affidavit from any lien or mortgage holders on the property that they no objection to the proposed use. Additionally, the MMC will accept a notarized statement that the lien or mortgage holder has stated no objection to the use of the real property for a cultivation facility or dispensary when coupled with proof of notification to the lien or mortgage holder regarding the intended use of the real property.

Q: Will individuals serving in an advisory role be required to provide a background check during the application phase?

A: During the application phase, the applicant must provide proof that no “owner, board member, or officer” has been convicted of an excluded felony offense. Only individuals who will have ownership interest or power to participate in operational decision-making will be required to submit a background check during the application phase. Individuals serving in only an advisory capacity will not be required to undergo a background check during the application phase.

However, all applicants should note that any individual who will act as an agent of the cultivation facility or dispensary, in an advisory role or otherwise, will be required to undergo a background check as part of his or her registration as an agent with the ABC. Registration will be required of any agent of the cultivation facility or dispensary who will have access to medical marijuana as part of his or her agency.

Q: Can business entities hold ownership in a cultivation facility or dispensary?

A: Yes, LLCs, corporations, partnership and any other legally recognized entities may hold ownership in the dispensary or cultivation facility. However, because of the relevant constitutional requirements, these entities will be required to provide the MMC with their ownership. Accordingly, even individuals with a derivative ownership interest in a cultivation facility or dispensary must meet the constitutional requirements. The derivative members will be considered when determining whether the requirements for ownership are met.

Q: May assets owned by prospective individual owners be included to meet the minimum asset requirements?

A: Yes. Assets owned by individuals who have ownership in the entity applying for a cultivation facility may be used to meet the asset requirements if the application includes proof that the individual owners have pledged those assets to the entity for the purpose of fulfilling the conditions of a cultivation facility or dispensary license. The application must also include proof of these assets as otherwise required.

Q: I would like specific guidance on my minimum requirements.

A: Please note that the MMC will review and verify the completeness of your application upon submission. The MMC will notify the applicant within ten (10) business days whether the application meets minimum requirements. If an application does not meet minimum qualifications, the applicant may amend the application. However, no applications or amendments will be received after September 18, 2017. Any applicant that tenders an application less than ten (10) business days before the application period ends assumes the risk of not meeting minimum requirements and not having an opportunity to amend the application.

Q: I would like specific guidance on my response to merit criteria.

A: Please review the applications and advisory memorandum issued by the MMC. Applicants will be judged on how they respond to the information requested in the merit criteria.

There are not prescribed or predetermined responses for those criteria. The MMC will not offer specific guidance on how to respond to merit criteria.