



STATE OF ARKANSAS
MEDICAL MARIJUANA COMMISSION

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TO: Potential Applicants
FROM: Arkansas Medical Marijuana Commission
DATE: June 27, 2017
RE: Advisory Memorandum I 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.

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: Is a dispensary required to cultivate medical marijuana?

A: A dispensary is not required to engage in cultivation operations, however every dispensary is authorized under the Amendment to undertake limited cultivation activities as explained in the ABC and MMC Rules.

Q: How will the scoring process differ for cultivating versus non-cultivating dispensaries?

A: Cultivating and non-cultivating dispensaries will be judged based upon the same merit criteria. A dispensary applicant that does not intend to cultivate should clearly state that it does not anticipate cultivating in its application. The non-cultivating dispensary applicant should indicate in its responses whether certain provisions of the merit criteria are not applicable to its operation. All dispensary applicants will be scored on the information provided in the applications. Non-cultivating dispensaries will not lose nor gain points based on its election to not cultivate.

Q: How should the application be physically assembled?

A: The MMC does not have specific binding requirements. Please ensure that the application can be clearly read and all exhibits are easily identifiable.

Q: How do I meet the Arkansan ownership requirements?

A: Applicants must demonstrate that 60% of the ownership interest in the medical marijuana facility is held by resident(s) of the state of Arkansas that has been a resident for at least 7 consecutive years.

Q: How can I demonstrate my credit worthiness?

A: Credit worthiness can be demonstrated by providing a current copy of your credit report and score from one or more of the three major credit bureaus: Equifax, TransUnion, and Experian.

Q: How can I demonstrate good standing with the DFA?

A: Every prospective owner will need to confirm his/her/its good standing with the DFA on all tax accounts (including, but not limited to, individual income tax, corporate income tax, sales tax, withholding wage, motor vehicle, miscellaneous tax, etc.), but will not be required to provide written proof at the time of the application. After submission of the application, the MMC will provide to the DFA a list of prospective owners. The DFA will either approve or refuse to approve the list of owners for good standing.

Q: How can I demonstrate proof of assets?

A: You will need to provide the MMC with documentation that proves that the prospective owners have assets required of the license. Examples of adequate forms of proof of financial accounts include letters of credit, stock certificates, bank statements, bonds, certificates of deposit. Any indebtedness against those assets should also be provided. Real property assets may be proved by providing a mortgage, a current appraisal, and copies (if any) of debt instruments (including mortgages, liens, etc.) against the property.

Q: How should I calculate the distance requirement?

A: Per Act 1100 of the 91st General Assembly, the distance between a medical marijuana facility should be measured from the primary entrance of the medical marijuana facility to the nearest property boundary of a public or private school, church, or daycare center. All dispensaries (regardless of whether the dispensary elects to grow or not grow) must be one thousand and five hundred feet (1,500') from a public or private school, church, or daycare center. Cultivation facilities must be three thousand feet (3,000') from a public or private school, church, or daycare center.

Q: How can I demonstrate that my proposed location meets the distance requirements?

A: The applicant will be responsible for providing proof of the distance requirement. If a proposed location for a cultivation facility appears from any point to be situated between two thousand four hundred feet (2,400') and three thousand feet (3,000') of a church, public or private school, or a daycare property line, the permit applicant is encouraged to submit to the division a survey of the location performed by a licensed surveyor as proof the proposed facility meets the distance requirements. If a proposed location for a dispensary appears from any point to be situated between nine hundred feet (900') and one thousand five hundred feet (1,500') of a church, public or private school, or a daycare property line, the permit applicant is encouraged to

submit to the division a survey of the location performed by a licensed surveyor as proof the proposed facility meets the distance requirements.

Q: What qualifies as a school, church, or daycare center?

A: A definition for “school” is provided in the MMC Rules in Section III(10). Daycares and churches follow the common definition. However, chapels that do not operate as standalone place of worship (for example, chapels located within a hospital) are not churches for the purposes of medical marijuana facility distance requirements.

Q: Will the MMC consider granting a waiver for any of the minimum requirements, including residency and felony convictions?

A: No. The MMC adopted its minimum requirements from the Amendment. Because these provisions are required by the Constitution, the MMC cannot waive or make any exceptions to those requirements.

Q: Will the MMC consider granting a waiver for distance requirements from a school, daycare, or church?

A: No. The MMC adopted the distance requirements for dispensaries and cultivation facilities from the Amendment. Because these provisions are required by the Constitution, the MMC cannot waive or make any exceptions to these requirements. The MMC will be unable to waive this requirement, even if the neighboring school, daycare, or church consents to the location of the medical marijuana facility.

Q: Have any counties or cities passed ordinances to exclude medical marijuana facilities?

A: Applicants will be responsible for researching local city and county ordinances for medical marijuana. Applicants should be aware that per the Amendment, cities and counties may pass ordinances to either refuse medical marijuana facilities from locating in the city or county or to create zoning restrictions beyond the constitutional requirements.

Q: What is needed to provide the surety bond for the proof of financial assets on the application?

A: If a surety bond is being used to present proof of financial assets, the requirements must be shown for the entity on whose behalf an individual is applying if an entity will own and operate the dispensary or cultivation facility. The surety bond must be presented at the time of application.

Q: Can an owner have interest in more than one medical marijuana facility?

A: Per the Amendment, an owner can have interest in one (1) dispensary and one (1) cultivation facility only.

Q: Is the MMC aware of any banks that will work with cultivation facilities or dispensaries?

A: The MMC does not comment on the business operations of third parties and does not maintain lists of any such services that may be offered by third parties.