



# Frequently Asked Questions

## Bureau of Medical Marihuana Regulation

### Marihuana Facilities Licensing

#### Application and Licensing Questions

##### **When can I apply for my license?**

Beginning December 15, 2017.

##### **What are the different licenses I can apply for?**

You may apply for the following licenses:

- Grower;
- Processor;
- Transporter;
- Provisioning Center;
- Safety Compliance Facility

##### **What will the costs be for a license?**

Section 401(5) of the Medical Marihuana Facilities Licensing Act (MMFLA) requires the setting of application fee amounts for each category and class of license by rule. In addition to fees associated with a state license, a municipality may require a nonrefundable fee of up to \$5,000 to operate within its boundaries.

State License Application Fee: The application fee is non-refundable and offsets the cost for LARA, the Michigan State Police (MSP), and/or contract costs for investigative services for conducting the background investigation of those applying for licenses.

The nonrefundable application fee, which must be submitted before an application will be processed, will likely be in the \$4,000 to \$8,000 range, depending on the number of applications received. *\*\* Estimation is merely advisory and may be subject to further change and/or review by the Department in consultation with the Board\*\**

Annual Regulatory Assessment: The regulatory assessment is due prior to the issuance of each license and may vary depending on the number of licenses anticipated to be issued. The regulatory assessment does not apply to safety compliance facilities.

This assessment offsets operational costs and other statutory mandates including LARA's costs to implement the act. It also offsets the cost of medical-marijuana-related services provided to LARA by the Michigan Attorney General's office, MSP, and the Dept. of Treasury. By statute, the assessment must also provide \$500,000 annually to LARA for licensing substance abuse disorder programs in addition to five percent of the other state departments' costs to the Michigan Department of Health and Human Services for substance abuse-related expenses.

LARA is currently determining the annual regulatory assessment for fiscal year 2018 for each of the five license categories authorized by MMFLA. Grower A licenses are capped, by statute, at \$10,000. Grower B-C, Processor, Transporter, and Provisioning Center licenses will be dependent on the number of total licenses subject to assessment and could be as low as \$10,000 or as high as \$57,000.

The MMFLA also authorizes additional costs including:

- Late renewal fees as established by rule (Sec. 402(11))
- 3% tax on each provisioning center's gross retail receipts (Sec. 601(1))
- Actual costs of investigation and processing that exceed the application fee paid by an applicant (Sec. 401(5))

### **What will the cost be for transportation and will there be limits on charges?**

The MMFLA requires the use of a licensed secured transporter to transfer marijuana. It is unknown at this juncture what the costs will be to utilize a secured transportation to transfer and deliver marijuana products.

### **Does my criminal history prevent me from obtaining a license?**

It depends on whether the following are true:

- The applicant is ineligible if he or she has been convicted of or released from incarceration for a felony under the laws of this state, any other state, or the United States (federal law) within the past 10 years or has been convicted of a controlled substance-related felony within the past 10 years.
- The applicant is ineligible if he or she has been convicted of a misdemeanor involving a controlled substance, theft, dishonesty, or fraud in any state within the past 5 years.
- The applicant is ineligible if he or she has been found responsible for violating a local ordinance in any state involving a controlled substance, dishonesty, theft, or fraud that substantially corresponds to a misdemeanor in that state within the past 5 years.

The Board may take into consideration the following:

- Whether the applicant has been indicted for, charged with, arrested for, or convicted of, pled guilty or nolo contendere to, forfeited bail concerning, or had expunged any relevant criminal offense under the laws of any jurisdiction, either felony or misdemeanor, not including traffic violations, regardless of whether the offense has been expunged, pardoned, or reversed on appeal or otherwise.

### **What prohibits a person from obtaining a license?**

An applicant cannot obtain a license if any of the following is true:

- The applicant is ineligible if he or she has knowingly submitted an application for a license under this act that contains false information.
- The applicant cannot be a member of the Medical Marihuana Licensing Board.
- The applicant is ineligible if he or she fails to demonstrate the ability to maintain adequate premises liability and casualty insurance for its proposed marihuana facility (an insurance policy that covers at a minimum of \$100,000).
- The applicant cannot hold an elective office of a governmental unit of this state, another state, or the federal government; is a member of or employed by a regulatory body of a governmental unit in this state, another state, or the federal government; or is employed by a governmental unit of this state. This subdivision does not apply to an elected officer of or employee of a federally recognized Indian tribe or to an elected precinct delegate.
- The applicant, if an individual, is ineligible if he or she has been a resident of this state for less than a continuous 2-year period immediately preceding the date of filing the application. This requirement does not apply after June 30, 2018.
- The applicant is ineligible if the Board determines he or she failed comply with section 205(1).
- The applicant fails to meet other criteria established by rule.
- The applicant is ineligible if he or she has been convicted of or released from incarceration for a felony under the laws of this state, any other state, or the United States (federal law) within the past 10 years or has been convicted of a controlled substance-related felony within the past 10 years.
- The applicant is ineligible if he or she has been convicted of a misdemeanor involving a controlled substance, theft, dishonesty, or fraud in any state within the past 5 years.
- The applicant is ineligible if he or she has been found responsible for violating a local ordinance in any state involving a controlled substance, dishonesty, theft, or fraud that substantially corresponds to a misdemeanor in that state within the past 5 years.

**What other things may potentially prevent an applicant from getting approved for a license?**

- The Board may take into consideration the following:
- The integrity, moral character, and reputation; personal and business probity; financial ability and experience; and responsibility or means to operate or maintain a marihuana facility of the applicant and of any other person that either:
  - Controls, directly or indirectly, the applicant.
  - Is controlled, directly or indirectly, by the applicant or by a person who controls, directly or indirectly, the applicant.
- The financial ability of the applicant to purchase and maintain adequate liability and casualty insurance.
- The sources and total amount of the applicant's capitalization to operate and maintain the proposed marihuana facility.
- Whether the applicant has filed, or had filed against it, a proceeding for bankruptcy within the past 7 years.

- Whether the applicant has been served with a complaint or other notice filed with any public body regarding payment of any tax required under federal, state, or local law that has been delinquent for 1 or more years.
- Whether the applicant has a history of noncompliance with any regulatory requirements in this state or any other jurisdiction.
- Whether at the time of application the applicant is a defendant in litigation involving its business practices.
- Whether the applicant meets other standards in rules applicable to the license category.
- Whether the applicant has been indicted for, charged with, arrested for, or convicted of, pled guilty or nolo contendere to, forfeited bail concerning, or had expunged any relevant criminal offense under the laws of any jurisdiction, either felony or misdemeanor, not including traffic violations, regardless of whether the offense has been expunged, pardoned, or reversed on appeal or otherwise

### **What is the residency requirement for licensure?**

The applicant, if an individual, must have been a resident of the State of Michigan for a continuous 2-year period immediately preceding the date of filing the application. This requirement does not apply after June 30, 2018.

### **Can a municipality be a licensee?**

An applicant is ineligible to receive a license if the applicant holds an elective office of a governmental unit for the State of Michigan, another state, or a federal government; or is employed by a governmental unit of the State of Michigan. This does not apply to an elected officer of or employee of a federally recognized Indian tribe or to an elected precinct delegate.

### **How many facilities will be issued licenses?**

The Department and the Board cannot limit the number of licenses issued. The number of licenses issued will be based on the local municipality. The local Municipalities may limit the type and number of facilities authorized within its boundaries.

### **Does my municipality have any involvement with my license?**

- Yes, a municipality (city, township or village) has the following involvement:
- Must pass an ordinance which authorizes the type of facility you wish to open;
- May limit the number of each type of facility within the municipality's boundaries;
- Any other ordinances relating to marihuana facilities;
- May adopt zoning regulations relating to facilities within its jurisdiction;
- The municipality must receive notice from you that you have applied for any one of the five licenses;
- May establish an annual fee to be paid by you; the fee can be as much as \$5,000.00;
- Must approve your request to have your license transferred, sold or purchased.

### **Can a person apply for a license prior to a municipality adopting the ordinance?**

A municipality may adopt an ordinance to authorize 1 or more types of marihuana facilities within its boundaries and to limit the number of each type of marihuana facility. The

applicant is required to provide notification to the local municipality that they have applied for a license. The municipality has 90 days to provide the following information:

- A copy of the local ordinance that authorizes the facility;
- A copy of any zoning regulations that apply to proposed marihuana facility
- A description of any violation of local ordinance or zoning regulations by application related to activities licensed under the MMMA or MMFL.

The Department advises applicants to contact their local municipality prior to application submission to determine if the municipality has an ordinance and what are their conditions to operate within their boundaries.

**Will the Department issue provisional licenses?**

The MMFLA does not address provisional licenses.

**Can the Department clarify the objective standards and subjective standards required for licensure?**

The Department and the Board are working diligently to establish a review process for applications and information will be forthcoming.

**Will my license expire and how often will I have to renew my license?**

Yes, a license will be issued for 1-year period and will need to be renewed annually.

**Can you clarify to what extent the “character” of the applicant is considered?**

The Department and the Board are working diligently to establish a review process for applications and information will be forthcoming.

**Can the Department provide clarification on what will be included in the background check?**

The Department is currently working the background check process for applications and information will be forthcoming.

**Where can I find more information on each type of license?**

Details on each license category can be found in Part 5 of the Michigan Medical Marihuana Facilities Licensing Act, 2016 PA 281. See <http://legislature.mi.gov/doc.aspx?mcl-281-2016-PART-5-LICENSEES>

## **Regulatory Questions**

**Will co-location of facilities be allowed?**

Please refer to Advisory Bulletin issued September 21, 2017. See  
[http://www.michigan.gov/documents/lara/BMMR\\_Advisory\\_Bulletin\\_Co-Location\\_601340\\_7.pdf](http://www.michigan.gov/documents/lara/BMMR_Advisory_Bulletin_Co-Location_601340_7.pdf)

**Will the Department allow for licensing stacking?**

Please refer to Advisory Bulletin issued September 28, 2017. See  
[http://www.michigan.gov/documents/lara/BMMR\\_Advisory\\_Bulletin\\_Stacking\\_602035\\_7.pdf](http://www.michigan.gov/documents/lara/BMMR_Advisory_Bulletin_Stacking_602035_7.pdf)

### **What are the capitalization requirements?**

The Department is currently working on the capitalization requirements for applications and information will be forthcoming.

### **What will be the financial requirement for licensure?**

The Department is currently working the financial requirements for applications and information will be forthcoming.

### **What is used to determine business probity?**

The Department is currently working on licensing requirements application process and information will be forthcoming.

### **Who are the rules being created by?**

The Department in consultation with the Board. Section 206 of the Medical Marihuana Facilities Licensing Act (MMFLA), requires the Department, in consultation with the Medical Marihuana Licensing Board, to promulgate rules to implement, administer, and enforce the MMFLA. This section also requires that the rules ensure the safety, security, and integrity of the operation of marihuana facilities, by including specific regulations

## **Board Questions**

### **What does the Medical Marihuana Licensing Board (“the board”) do?**

The Medical Marihuana Licensing Board is comprised of 5 members, appointed by the Governor (with input from the Senate Majority Leader and the Speaker of the House), to administer the Medical Marihuana Facilities Licensing Act. This includes reviewing applications, issuing licenses, revoking/suspending licenses, renewing licenses, and investigating individuals who are applying for licensure or complaints received about someone who holds a license.

### **Will an application be submitted to the board anonymously to reduce bias?**

The Department of Licensing and Regulatory Affairs (LARA) is currently reviewing the application process to determine what identifying information connected with the application will be available.

### **Will there be a point system when evaluation a licensing application?**

The Department and the Board are working diligently to establish a review process for applications and information will be forthcoming.

### **How can people get information from the board and Department?**

The Department’s website has information available on the Medical Marihuana Facilities Licensing Act and a person can sign up for updates at:

[www.michigan.gov/medicalmarijuana](http://www.michigan.gov/medicalmarijuana). In addition, a person may contact the Bureau of Medical Marihuana Regulation (BMMR) by phone at 517-284-8599 or by email at: [LARA-MedicalMarijuana@michigan.gov](mailto:LARA-MedicalMarijuana@michigan.gov).

## **Grower & Processor Questions**

**How is your plant count determined as it affects your growing limits as a Class A, B, C Grower Licenses?**

The MMFLA defines a plant as any living organism that produces its own food through photosynthesis and has observable root formation or is in growth material.

A licensee's plant limit is based on the type of license issued. Any plant that meets this definition is counted toward the licensee's plant count.

**Will there be regulations on extract production?**

The Department is currently working on rules and regulations to establish requirements for industry products and information will be forthcoming.

## **Provisioning Center Questions**

**Will provisioning centers be held accountable for educating patients who buy from their store?**

The MMFLA does not address patient education specifically. The Department is currently working on guidance for facility procedures and further information is forthcoming. For additional information on the patient/caregiver model review the Medical Marihuana Act of 2008.

## **Statewide Marihuana Monitoring System**

**How are tags produced for seed-to-sale tracking?**

There are two types of tags in METRC's seed-to-sale tracking system – plant tags and package tags. An order for new tags is placed in METRC by the licensee. METRC then will ship the tags to the physical location of the facility. Licensees do not need any specialized equipment, as the tags are produced by METRC and then shipped.

Further information on the tag ordering process will be presented during the roadshows that the department and METRC will be hosting in November.

**Am I responsible for any of the costs associated with ordering tags?**

The State of Michigan will cover the cost of new tags. Licensees will be responsible for paying the shipping and handling costs. If a tag has been damaged and needs to be replaced, the licensee will be responsible for the cost of replacement tags.

**Can I sell or transfer unused tags to another facility?**

All tags are associated with the facility that ordered those tags. A facility may not transfer its tag inventory to another facility, even if the facilities have common ownership.

## **Additional Questions**

### **Will the Department be reorganized again?**

The Bureau of Medical Marihuana Regulation (BMMR) was created by the LARA Director within the LARA in April 2017 to cover all aspects of medical marihuana regulation. The new Bureau combines the existing oversight functions of the state's patient and caregiver registry with the newly established statutory requirements for medical marihuana facility licensing. The Bureau's centralized services will enhance patient protections and make regulations more efficient for Michigan patients and the future commercial entities. Any future reorganization of the Department is under the purview of the LARA Director. The reorganization of an entire State Department is an executive function under the discretion of the Governor.

### **Will the Department issue guidance for townships?**

Presently, the Department is working diligently to develop the application process and rules will be forthcoming. There will also likely be guidance to municipalities on the submittal of the ordinance documents as described in the MMFLA. If a local municipality would like to provide the Department with a copy of their resolution and ordinance they can email it to BMMR at [LARA-MedicalMarihuana@michigan.gov](mailto:LARA-MedicalMarihuana@michigan.gov)

Townships can get additional assistance from the Michigan Township Association at, <https://www.michigantownships.org/>

### **Can the Department clarify sales of up to 1% interest in a license?**

The MMFLA states that each license is exclusive to the licensee. If a licensee would like to transfer, sale, or purchase a license they will need to apply for and receive approval of the Board prior to completion of transaction. The act stipulates that this applies to the transfer or sale of more than 1% of the license. The attempted sale or transfer of 1% or more of the license without board approval is grounds for suspension or revocation of the license.

### **What is the impact on caregiver center applicants in the pipeline in Detroit?**

The Department does not currently license caregiver centers. However, the Department will begin taking license applications for future provisioning centers on December 15, 2017. The Medical Marihuana Facilities Licensing Act specifies that a municipality (village, township or city) may adopt an ordinance that authorized 1 or more types of marihuana facilities for a marihuana facility to operate.

### **How will the growing of marihuana interact with current agricultural practices?**

The Department is researching this area and will likely provide future guidance.

### **Will the process include input from medical professionals?**

The MMFLA created a Marihuana Advisory Panel within the Department that may make recommendations to the Board. The MMFLA provides that governor will appoint specific members to the panel, one of which is a physician licensed under article 15 of the Public Health Code.

### **What banks will do business with medical marihuana businesses?**

The Department, in consultation with the Board, is researching this issue but it is an unknown at this juncture whether banks that are federally regulated financial institutions will establish business relationships with the future state licensed medical marihuana facilities

**Will the Department create a networking system for patients and caregivers?**

The MMFLA provides legal framework for the licensing of medical marihuana facilities. For further information on patient or caregivers please refer to the Medical Marihuana Act of 2008. (

**Can the Department be more transparent and forthcoming?**

Transparency is very important to the Department and we strive to continuously improve in this area. The Department will provide the public with information regarding the implementation of the MMLFA as the information becomes available. However, there is certain information that the Department cannot release because the decision-making process is ongoing. To assist in transparency, the Department began releasing advisory bulletins to provide the public with general information regarding commonly asked topics. Board meetings are open for public commentary and are livestreamed as well through the website at [www.michigan.gov/medicalmarijuana](http://www.michigan.gov/medicalmarijuana).

**Will the Department continue to hold workgroup sessions?**

Given the overwhelming response from the public interested in work groups the Department is in the process of evaluating the need for additional work group sessions.

**Can the Department consider a work group for marketing and advertising?**

The Department is still evaluating the need for additional work group sessions and the possibility for other additional work group topics.

**As a landlord, can I transfer the lease to owners who switch licenses?**

The MMFLA does not prohibit the transfer of rental agreements or leases by landlords. However, a licensee must identify a facility location at the time of applying for licensure and applying does not guarantee the applicant will be approved licensure.

**How will determinations on eligible employees be made?**

The MMFLA does not require the licensing of individual employees working in a licensed facility. However, the law requires the holder of the license to conduct a background check on the prospective employees. If the background check indicates a pending charge or conviction with the past 10 years for a controlled substance-related felony, a licensee shall not hire the prospective employee without written permission of the board.

**Why is testing required?**

Section 206 of the MMFLA requires that rules be promulgated to establish testing standards, procedures, and requirements for marihuana sold through provisioning centers. In addition, Section 504 of the MMFLA allows provisioning centers to sell marihuana only after it has been tested. The Department is currently working on rules related to testing requirements and information is forthcoming.

**What will happen if I've paid my municipality for a local license, but I'm denied by the State of Michigan? Can I get my fees back from the municipality?**

Under Section 205 of the MMFLA, a facility cannot operate unless a municipality has adopted an ordinance. The municipality also may establish an annual, nonrefundable fee not to exceed \$5,000.00 on a licensee.

The approval or authorization of a municipality does not automatically guarantee that the business will be licensed by the State of Michigan. The business must be licensed by the state to sell medical marihuana. If the business is not granted a state license, it will not be able to operate. Any fees paid to the municipality would only be refundable if the municipality allows refunds.

For more information visit: [www.michigan.gov/medicalmarijuana](http://www.michigan.gov/medicalmarijuana)

*DISCLAIMER: The answers provided are not meant to be a substitute for legal advice.*