

May 3, 2018

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## ADVISORY BULLETIN: APPLICATION PROCESS

The Bureau of Medical Marihuana Regulation (BMMR) has worked diligently to put systems in place to meet the statutory requirements of the Medical Marihuana Facilities Licensing Act (MMFLA). To protect Michigan patients and ensure the long-term viability of medical marihuana businesses, these statutory requirements have resulted in a time-consuming licensing process.

While applications are handled in the order they were received, those applying for a state operating license can assist in moving their application through the process in an efficient manner by:

- Turning in applications that are as complete as possible.
- Following up as quickly as possible on communications from the bureau regarding any deficiencies or questions.

The process to move an application through to the Medical Marihuana Licensing Board is a lengthy one. When a staff member from BMMR reaches out to applicants for additional information – or to advise of the next steps to take – it is important that applicants respond quickly and accurately so their application is not unnecessarily delayed.

Here is an overview of the application process:

1. Applicant turns in completed application and pays the state application fee.
2. BMMR conducts an initial review of the application, looking for completeness for the applicant, all supplemental applicants, and all supplemental entities – including officers, directors, managerial employees, persons with a direct/indirect ownership interest, spouses, and affiliated businesses.
3. When documents, disclosures or forms are missing, BMMR staff sends out deficiency notices as needed. The applicant and BMMR staff communicate back and forth to help the applicant and the supplemental applicants reply with the information needed to correct the deficiency.
4. Once the initial application is deemed complete BMMR staff moves the applicant and all supplemental applicants into the investigation portion of the process and sends a letter – with unique codes for each applicant or supplemental applicant – to be used for fingerprint criminal history checks.
5. After all required criminal history check results are received, BMMR staff compare the results to the previously submitted criminal history disclosures. If previously unreported criminal history is found for any applicant or supplemental applicant, a deficiency letter is sent asking for explanation.

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6. Once all deficiencies are resolved, BMMR staff requests the background investigation contractor and the Michigan State Police to complete their portion of the investigation. Simultaneously, BMMR staff begin their in-depth investigation into the financial backgrounds. The investigation looks at the following aspects for every officer, director, managerial employee, person with a direct or indirect ownership interest, spouse, and affiliated business:
  - Criminal history
  - Ownership interests
  - Corporate documents
  - Business history
  - Property ownership
  - Capitalization (CPA attested)
  - Bank statements and tax records
  - Attestations
  - Regulatory compliance
  - Litigation history
7. Many applicants have dozens of supplemental applicants and each person is required to go through the complete background investigation. Applicants often turn in over 1,000 pages of bank account statements and tax records. The result is a very lengthy, complex review to properly conduct these investigations. When the background investigation is complete, BMMR staff compares the results to the disclosures in the applications and send out any required deficiency notices, asking for explanation for any discrepancies in the applicant's or supplemental applicants' criminal history, litigation history, tax liens, bankruptcies, possible other businesses, aliases, known addresses, income, credit report, connected associates, and more.
8. Once all deficiencies are corrected, BMMR staff compiles all of the information, conducts a final review of the entire application, and prepares a report summarizing the result of the background investigation. This report, the application documents, and the investigative file are provided to the Medical Marijuana Licensing Board (MMLB) to review. Once the MMLB approves an applicant for pre-qualification status, step one is complete.
9. For applicants who are going through the process in two steps, this is when step two – the facility review – begins. The facility review portion of the application process begins with a preliminary review of the following for accuracy and completeness:
  - Municipal authorization
  - Required operational plans
  - Building and fire code standards (including plan review)

*This advisory bulletin does not constitute legal advice and is subject to change. Licensees are encouraged to seek legal counsel to ensure their operations comply with the Medical Marijuana Facilities Licensing Act and associated Emergency Rules.*

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10. The final departmental step is a BMMR inspection to ensure the building and all operations meet the standards required to be licensed. An applicant with a facility can get this part of the process started much earlier, if applicable. After the inspection, the application is presented to the MMLB for final approval. After the board approves and the regulatory assessment is paid, the license is issued.

As these applications make their way through the licensing process, it is important for applicants to remember that LARA's emergency administrative rules require applicants operating under the temporary operation rule (number 19) to cease operation if they have not been issued a license by June 15, 2018, as any operation after that date is considered unlicensed activity.

While the ultimate licensure decision is made by the Medical Marijuana Licensing Board, LARA does not currently intend to issue cease and desist letters, or refer to law enforcement, any applicant who:

- Turned in their state application with local attestation by February 15, 2018.
- Has a pending application at the state level.
- Is making a good-faith effort to become licensed by LARA.

Members of the Medical Marijuana Licensing Board may choose to consider unlicensed activity as part of the licensing criteria when deliberating on the overall application. Therefore, operation after June 15, 2018 is a business risk by the applicant.

BMMR is diligently working to review applications and inspect facilities to present enough applications to the board by June 15 – across all license types – to ensure continued access for patients through these newly licensed facilities.