

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1648 (Delegate Angel)
Rules and Executive Nominations

Natalie M. LaPrade Medical Cannabis Commission - Diversity

This emergency bill requires that, to the extent practicable, the membership of the Natalie M. LaPrade Medical Cannabis Commission reflect the racial, ethnic, cultural, and gender diversity of the State.

Fiscal Summary

State Effect: The bill does not have a material fiscal or operational impact on the commission.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law/Background: Chapter 403 of 2013 established, Chapters 240 and 256 of 2014 expanded, and Chapter 251 of 2015 and Chapter 474 of 2016 further modified the State's medical cannabis program. The program is led by the 16-member Natalie M. LaPrade Medical Cannabis Commission, each of whom must hold a specific position, have a particular affiliation, or have specified experience or subject matter expertise. For example, current commission membership includes a horticulturist, an addictions specialist, physicians with several areas of specialty, a hospice care nurse, a pharmacist, a representative of the Maryland State's Attorney's Office, adult and minor public patient supporters, and a medical researcher.

The Natalie M. LaPrade Medical Cannabis Commission currently allows for the licensure of growers, processors, and dispensaries and the registration of their agents. The program also establishes a framework to certify physicians, qualifying patients (including veterans), and their caregivers to provide qualifying patients with medical cannabis legally under State law via written certification. Effective June 1, 2017, dentists, podiatrists, nurse practitioners, and nurse midwives are authorized to be “certifying providers” – along with physicians – under the medical cannabis program. Specifically, a qualifying patient who has been provided with a written certification from an authorized certifying health care provider in accordance with a bona fide provider-patient relationship may obtain a 30-day supply of medical cannabis. Medical cannabis is defined in regulation as any product containing usable cannabis or medical cannabis finished product. A 30-day supply is defined as 120 grams of usable cannabis, unless a qualifying patient’s certifying physician determines that this amount is inadequate to meet the medical needs of the patient. Regulations establish posttraumatic stress disorder as one of several debilitating medical conditions.

Statute dictates that medical cannabis may only be obtained from a grower or dispensary licensed by the commission and that the commission may license no more than 15 growers initially. However, beginning June 1, 2018, the commission may issue the number of grower licenses necessary to meet demand for medical cannabis by qualifying patients and caregivers in an affordable, accessible, secure, and efficient manner. Section 13-3306 of the Health-General Article requires the commission to “actively seek to achieve racial, ethnic, and geographic diversity when licensing medical cannabis growers” and to “encourage applicants who qualify as a minority business enterprise.”

There is no established limit on the number of processor licenses in statute or regulation. While there is no statutory limit on the number of dispensary licenses either, regulations establish a limit of 2 dispensary licenses per senatorial district, or up to 94 statewide (not including dispensary licenses issued to licensed growers). There is also no requirement for the commission to seek to achieve racial, ethnic, and geographic diversity when licensing medical cannabis processors, but there is such a statutory requirement for dispensaries. There is no requirement to encourage applicants who qualify as a minority business enterprise for either processor or dispensary licenses.

The commission opened applications for grower, processor, and dispensary licenses in September 2015. The application forms included instructions and a description of the scoring process for evaluating the applications. The commission received 145 grower applications, 124 processor applications, and 811 dispensary license applications. Towson University’s Regional Economic Studies Institute (RESI) was commissioned to review the grower and processor applications through a double-blind review process in which all identifying information was redacted. The scoring system contained six main categories, including additional factors, which stated that, for scoring purposes, the commission may

take into account the geographic location of the growing operation to ensure there is geographic diversity in the award of licenses. In August 2016, the commission announced the 15 growers and 15 processors who were awarded Stage One license pre-approvals. The evaluation procedures to be used in the award of dispensary licenses were adopted by the commission in November 2016. The commission announced 102 dispensaries who were awarded Stage One license pre-approvals in December 2016. This number included 10 pre-approvals issued to applicants who also received grower license pre-approvals. All of the Stage One pre-approvals awarded in 2016 have 365 days from the date of pre-approval notification to complete all necessary steps to obtain final licensure. Should an awardee fail to do so, the commission may not issue a final license.

Geographic diversity became an issue when two companies among the top 15 ranked growers did not receive pre-approval after being replaced by other companies in order to provide geographic representation throughout the State. Although the applications did not require applicants to include information related to location, in June 2016, the commission subsequently asked applicants for the locations of their prospective operations. In July 2016, a subcommittee of the commission unanimously voted to preliminarily approve the top 15 growers based on RESI's scoring, which did not include a consideration of location. Afterward, three members of the subcommittee reversed their vote, which resulted in two lower-ranked firms being moved into the top 15 growers in order to achieve geographic diversity. The two companies that were initially included in the top 15 growers but later removed are suing the commission, claiming that the determination of how geographic diversity was to be considered was unclear to applicants.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Health and Mental Hygiene; Department of Legislative Services

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