

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1482 (Delegate Brooks, *et al.*)
Health and Government Operations

Health - Medical Cannabis Grower, Processor, and Dispensary Licenses - Sale or
Transfer and Forfeiture

This bill authorizes the holder of a medical cannabis grower, processor, or dispensary license to sell or transfer ownership of the license if the licensee was physically and actively engaged in the cultivation, processing, or dispensing of medical cannabis for at least two years prior to selling or transferring ownership of the license. If the licensee sells or transfers a license, the entity buying or obtaining the license must meet the minority business enterprise ownership percentage requirements that were required when the license of the seller or transferor was obtained.

Unless a licensee can demonstrate unforeseen hardship beyond the licensee's control and obtain an extension from the commission, a licensee forfeits its license if its facility is not operational within six months after issuance of the license due to a lack of good faith effort by the licensee to become operational. The commission may extend the timeframe to become operational by six months before requiring forfeiture of the license.

Fiscal Summary

State Effect: No material fiscal or operational impact. The commission can implement the bill's requirements with existing budgeted resources.

Local Effect: None.

Small Business Effect: Potential meaningful impact to the extent that the bill's provisions mean that a licensee forfeits a license or is restricted in any effort to sell or transfer a license, as discussed below.

Analysis

Current Law: 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 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.”

The commission is authorized to set fees to cover its operating costs; these fees were established by regulations promulgated in September 2015. Grower application fees are paid in two stages: Stage One is \$2,000 and Stage Two is \$4,000. There is also an annual license fee of \$125,000. Dispensary application fees are also paid in two stages: Stage One is \$1,000 and Stage Two is \$4,000. There is also an annual license fee of \$40,000. An individual may apply for a grower-dispensary license with the applicable fee structure simply being a combination of grower and dispensary fees. The number of growers is still capped at 15 even if some licenses are combined grower-dispensary licenses. Processor application fees are also paid in two stages: Stage One is \$2,000; and Stage Two is \$4,000. There is also an annual license fee of \$40,000.

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 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.

Statute is silent with regard to a licensee's authority to transfer a license. Under the Code of Maryland Regulations, no interest of 5% or more of a grower, processor, or dispensary license is assignable or transferable unless the commission is notified. The transferee also has to forward its criminal history records information (CHRC) and an audited financial statement to the commission and pays the transfer of license fee, which is \$7,000. The commission may deny transfer of the interest if the CHRC demonstrates an absence of good moral character or the transferee is in arrears for payment of taxes.

Small Business Effect: The bill has a meaningful negative impact on any licensee whose license is forfeited due to the requirement that a licensee be operational within six months of the issuance of the license. A licensee is also negatively impacted if the licensee has to wait to sell a license, or is unable to do so, due to (1) the restriction that a licensee can only sell or transfer a license after being physically and actively engaged in the cultivation, processing, or dispensing of medical cannabis for two years and/or (2) the requirement that the entity buying or obtaining the license meet the minority business enterprise ownership percentage requirements that were required under State law when the license of the seller or transferor was obtained.

Additional Comments: Several bills under consideration during the 2017 legislative session may result in delays, some significant, in the ongoing implementation of the State's medical cannabis program. If enacted in conjunction with this bill, forfeiture may be triggered. Delays also defer the ability to meet the requirement to have actively been engaged in cultivating, processing, or dispensing for two years before any transfer of ownership may be made.

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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