

Guidance on Licensure for an Equitable Maryland Cannabis Ecosystem

(Based on existing licensure from recreational states and current MMCC rules and regulations)

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Introduction:

The purpose of this document is to suggest three(3) new license types for the Maryland cannabis ecosystem. These license types shall be reserved for the first 3 years for social equity applicants. The three new license types are; Retail Non-Store Front, Micro Businesses, and Distribution. These three(3) license types mimic the current ecosystem of the legacy market and will help transition legacy operators into the legal market decreasing the likelihood of having illegal cannabis businesses doing business in plain sight alongside legal businesses. We plan on learning from the mistakes of existing states as they have launched and made information public and start Maryland's social equity program the right way the first time. This document is based on regulations written and currently used by existing recreational states and counties along with MMCC Comar license guidance. This document is suggestion and open to conversation.

Definitions: In this subtitle, the following terms have the meanings indicated.

- (1) "Ancillary business agent" means an owner, a member, an employee, a volunteer, an officer, or a director of an ancillary business that is registered with the Commission to transport, deliver, or dispose of medical cannabis or green waste.
- (2) Caregiver.
 - (a) "Caregiver" means an individual 21 years old or older designated by a patient who has agreed to assist with a qualifying patient's medical use of medical cannabis.
 - (b) "Caregiver" means, for a qualifying patient younger than 18 years old:
 - (i) A parent or legal guardian; and
 - (ii) Not more than two additional adults designated by the parent or legal guardian.
- (3) "Certifying provider" has the meaning stated in Health-General Article, §13-3301(d), Annotated Code of Maryland.
- (4) "Contractor" means any individual or entity who holds a contract for goods or services, including a prime contractor, subcontractor, or independent contractor.
- (5) "Control" means the authority to direct:
 - (a) The management of a business through independent and unilateral decisions that guide the business; or
 - (b) The operation of the technical aspects of the business.
- (6) "Criminal history record information" has the meaning provided by Criminal Procedure Article, §10-201(d)(3), Annotated Code of Maryland.
- (7) "Disadvantaged equity applicant" means an applicant who:
 - (a) Is a member of any of the following minority groups:
 - (i) African American — an individual having origin in any of the black racial groups of Africa;
 - (ii) American Indian/Native American — an individual having origins in any of the original peoples of North America and who is a documented member of a North American tribe, band, or otherwise has a special relationship with the United States or a state through treaty, agreement, or some other form of recognition. This includes an individual who claims to be an American Indian/Native American and who is regarded as such by the American Indian/Native American community of which the individual claims to be a part, but does not include an individual of Eskimo or Aleutian origin;
 - (iii) Asian — an individual having origins in the Far East, Southeast Asia, or the Indian subcontinent, and who is regarded as such by the community of which the individual claims to be a part;
 - (iv) Hispanic — an individual of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race, and who is regarded as such by the community of which the individual claims to be a part; or
 - (v) Women — a woman, regardless of race or ethnicity; and
 - (vi) LGBTQ+ — Any identity under the LGBTQ+ community
 - (b) Meets the following requirements:
 - (i) Has a personal net worth that does not exceed \$1,713,333, as adjusted annually for inflation according to the Consumer Price Index; or
 - (ii) Is a disadvantaged owner of a certified minority business enterprise as defined in State Finance and Procurement

Article, §14-301(d), Annotated Code of Maryland.

(8) "Dispensary agent" means an owner, a member, an employee, a volunteer, an officer or a director of a licensed dispensary.

(9) Diversity Plan.

(a) "Diversity plan" means a detailed written plan, including objectives, timetables, and evaluation metrics that describes the steps an applicant will take to ensure that a business will promote the meaningful inclusion of diverse groups.

(b) "Diversity plan" includes the following information:

(i) The diversity status of each owner, investor, employee, and contractor;

(ii) Strategies for obtaining a diverse group of owners, investors, employees, including executive and managerial positions, and contractors;

(iii) Internal numerical diversity goals adopted by the applicant;

(iv) A plan for diversity-related outreach or events the applicant will conduct to support its diversity goals in ownership, investment, management, employment, and contracting;

(v) Proposed timelines and benchmarks for achieving the diversity goals outlined in the plan; and

(vi) Any other information that demonstrates the applicant's commitment to ownership, investment, management, employment, and contracting diversity.

(10) "Drive-through dispensing" means a method of dispensing medical cannabis through a window or other opening in the exterior wall of a dispensary that enables a registered dispensary agent to provide services to a qualifying patient or registered caregiver who drives a vehicle to the dispensary without a:

(a) Registered dispensary agent leaving the dispensary service area; or

(b) Qualifying patient or registered caregiver leaving their vehicle.

(11) "Economically disadvantaged area" means a geographic area, identified by the Commission, which meets three or more of the following criteria:

(a) A median income that is 80 percent or less of the average median household income in the State;

(b) An unemployment rate that is at least 150 percent of the unemployment rate in the State;

(c) A health uninsured rate that is at least 150 percent of the health uninsured rate in the State;

(d) A food stamp or Supplemental Nutrition Assistance Plan rate that is at least 150 percent of the food stamp or Supplemental Nutrition Assistance Plan rate in the State; and

(e) A poverty rate that is at least 150 percent of the poverty rate in the State.

(12) Edible Cannabis Product.

(a) "Edible cannabis product" means a medical cannabis product intended for human consumption by oral ingestion, in whole or in part.

(b) "Edible cannabis product" includes medical cannabis products that dissolve or disintegrate in the mouth.

(c) "Edible cannabis product" does not include any:

(i) Medical cannabis concentrate;

(ii) Medical cannabis-infused product, including an oil, a wax, an ointment, a salve, a tincture, a capsule, a suppository, a dermal patch, or a cartridge; or

(iii) Other dosage form that is recognized by the United States Pharmacopeia, the National Formulary, or the Food and Drug Administration and is approved by the Commission.

(13) "Fund" means any funding, grant or assistance set aside for social equity applicants..

(14) "Green waste" means unauthorized, misbranded, contaminated, unused, surplus, returned, or out-of-date medical cannabis or product containing medical cannabis.

(15) "Independent testing laboratory" means a facility, entity, or site that offers or performs tests of medical cannabis and products containing medical cannabis:

(a) Accredited as operating to ISO standard 17025 by an accreditation body:

(i) Operating in accordance with the International Organization for Standardization (ISO) standard ISO/IEC 17011; and

(ii) That is a signatory to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Arrangement (MRA); and

(iii) That is independent from all other persons involved in the Maryland cannabis industry; and

(b) Registered with the Commission.

(16) "Inspector" means any member of the Commission or any State employee or contractor designated by the Commission to carry out an inspection under this subtitle.

(17) "Law enforcement agency" means a governmental police force, sheriff's office, security force, or law enforcement organization of the State, a county, or a municipal corporation that by statute, ordinance, or common law is authorized to enforce the general criminal laws of the State.

(18) "Licensed dispensary" means an entity licensed by the Commission that acquires, possesses, repackages, processes, transfers, transports, sells, distributes, or dispenses, products containing medical cannabis, related supplies, related products including tinctures, aerosols, oils, or ointments, or educational materials for use by a qualifying patient or caregiver.

(19) "Licensed grower" means an entity that cultivates, manufactures, packages or distributes medical cannabis to

licensed processors, licensed dispensaries or registered independent testing laboratories.

(20) "Licensed premises" means the locations at which a licensed grower, licensed processor, or licensed dispensary operates.

(21) "Licensed processor" means an entity licensed by the Commission that:

(a) Transforms the medical cannabis into another product or extract; and

(b) Packages and labels medical cannabis.

(22) "Management agreement" means an agreement between a licensee and a third party under which the third party receives control of the business in exchange for a fee, financial interest, or a percentage of the licensee's revenue.

(23) Medical Cannabis.

(a) "Medical cannabis" means all parts of any plant of the genus cannabis, whether growing or not, including:

(i) The seeds of the plant;

(ii) The resin extracted from any part of the plant; and

(iii) Any compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin including tetrahydrocannabinol (THC) and all other naturally produced cannabinol derivatives, whether produced directly or indirectly by extraction.

(b) "Medical cannabis" does not include:

(i) Hemp, as defined in Agriculture Article, §14-101, Annotated Code of Maryland;

(ii) Mature stalks of the plant or fiber produced from the mature stalks;

(iii) Oil or cake made from the seeds of the plant;

(iv) Any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, fiber, oil, or cake; or

(v) The sterilized seed of the plant that is incapable of germination.

(24) "Medical cannabis concentrate" means a product derived from medical cannabis that is kief, hashish, bubble hash, oil, wax, or other product, produced by extracting cannabinoids from the plant through the use of:

(a) Solvents;

(b) Carbon dioxide; or

(c) Heat, screens, presses or steam distillation.

(25) "Medical cannabis finished product" means any usable cannabis, medical cannabis concentrate, edible cannabis product, product containing a medical cannabis concentrate, or any other type of medical cannabis-infused product intended to be packaged and labeled for release to a qualifying patient without further processing.

(26) Medical Cannabis — Infused Product.

(a) "Medical cannabis — infused product" means oil, wax, ointment, salve, tincture, capsule, suppository, dermal patch, cartridge or other product containing medical cannabis concentrate or usable cannabis that has been processed so that the dried leaves and flowers are integrated into other material.

(b) "Medical cannabis — infused product" does not include an edible cannabis product as that term is defined in this section.

(27) "Medical cannabis grower agent" means an owner, an employee, a volunteer, an officer, or a director of a licensed grower.

(28) "Owner" means a person or entity with an ownership interest.

(29) "Ownership interest" means an equity interest in a licensed grower, processor, or dispensary, including in its shares or stock.

(36) Personal Net Worth.

(a) "Personal net worth" means the net value of the assets of an individual remaining after total liabilities are deducted, including the individual's share of assets held jointly or as community property with the individual's spouse.

(b) "Personal net worth" does not include:

(i) The individual's ownership interest in the applicant or a certified minority business enterprise;

(ii) The individual's equity in his or her primary place of residence; or

(iii) The cash value of any qualified retirement savings plans or individual retirement accounts.

(30) "Principal officer" means a board member, president, vice president, secretary, treasurer, partner, officer, or managing member, or any other person with a profit sharing, financial interest, or revenue sharing arrangement, including a person with the authority to control a licensed medical cannabis grower, processor, or dispensary.

(31) "Processing" means the manufacture of usable medical cannabis into a medical cannabis concentrate, or manufacture of a medical cannabis-infused product.

(32) "Qualifying patient" means an individual who:

(a) Lives in the State and:

(i) Has been provided with a written certification by a certifying provider in accordance with a bona fide provider-patient relationship; and

(ii) If younger than 18 years old, has a caregiver; or

(b) Is physically in the State and:

(i) Has been provided with a written certification by a certifying provider in accordance with a bona fide provider-patient relationship;

(ii) Is admitted to a Joint Commission accredited medical facility;

- (iii) Will be dispensed medical cannabis at the medical facility during an inpatient stay;
- (iv) Will complete the treatment with medical cannabis prior to release; and
- (v) If younger than 18 years old, has a caregiver.
- (33) "Registered dispensary agent" means a dispensary agent who is registered by the Commission in accordance with COMAR 10.62.26.
- (34) "Registered grower agent" means a medical cannabis grower agent who is registered by the Commission in accordance with COMAR 10.62.09.
- (35) "Registered processor agent" means a medical cannabis processor agent who is registered by the Commission in accordance with COMAR 10.62.20.
- (36) "Secure medical cannabis transport vehicle" means a vehicle owned or leased by a licensee or an ancillary business as defined in COMAR 10.62.18.01B(1) for the purpose of transporting medical cannabis that:
 - (a) Meets the criteria specified in COMAR 10.62.18;
 - (b) Is equipped with:
 - (i) A secure area within the body or compartment of the vehicle containing solid or locking metal partitions, cages, or high strength shatterproof acrylic; or
 - (ii) Locked and secure storage containers anchored to the inside of the vehicle;
 - (c) Conceals medical cannabis, products containing medical cannabis, or locked and secure storage containers so they are not visible or identifiable from outside of the vehicle; and
 - (d) Is registered with the Commission.
- (37) "Shipment identification number" means a unique identification number created by the shipping licensee to track a shipment of products containing cannabis.
- (38) "Variety" means the name of a cultivar or varietal of medical cannabis used by a licensed grower to consistently identify and control medical cannabis from batch to batch.
- (39) "Written certification" means a certification that is issued by a certifying provider for a qualifying patient with whom the provider has a bona fide provider-patient relationship.
- (40) "30-day supply" means:
 - (a) 120 grams of usable cannabis unless the provider determines this amount would be inadequate to meet the medical needs of the qualifying patient; or
 - (b) In the case of a medical cannabis-infused product, 36 grams of Δ^9 -Tetrahydrocannabinol (THC) unless the provider determines this amount would be inadequate to meet the medical needs of the qualifying patient.

License Types & Limits:

Microbusiness:

A Microbusiness is a colocated Tier 1 marijuana cultivator, and/or marijuana product manufacturer limited to purchase 2,500 pounds of marijuana from other cannabis businesses in one (1) year. A Microbusiness licensee shall not be a person or entity having direct or indirect control for any other cannabis business except for a social consumption lounge if that license is ever introduced. A majority of the Microbusiness' executives or members must have been residents of Maryland for no less than 12 months prior to application. Microbusiness may apply for a delivery endorsement which would allow the licensee to deliver marijuana or marijuana products produced at the licensed location directly to consumers in compliance with established regulatory requirements for retail sale as it relates to delivery.

Delivery-Only Licensee:

A Delivery-Only licensee may deliver marijuana or marijuana products directly to consumers at a residential address. A Delivery-Only Licensee shall not have a retail location accessible to the public. Residential deliveries of marijuana or marijuana products are limited to municipalities that: 1) are listed on the commission-issued license as the Delivery-Only Licensee's place of business; 2) that allow for the operation of Marijuana Retailers whether one (1) or more retailers

are operational or not; and 3) municipalities that opt-in to residential delivery. The Commission shall maintain a database of municipalities that have opted-in to residential delivery. Deliveries may only take place between the hours of 7:00 a.m. and 11:00 p.m., unless otherwise allowed or limited by municipal by-law or ordinance. Municipalities may broaden the time for delivery. It is the responsibility of the licensee to know the rules of the municipality where the licensee delivers. A Delivery-Only Licensee shall be limited on an exclusive basis to businesses controlled by and with majority ownership comprised of Economic Empowerment Priority Applicants or Social Equity Program Participants for a period of twenty-four (24) months from the date the first Delivery-Only Licensee receives a notice to commence operations. A Delivery-Only license shall not be limited to the number of distribution locations.

Distribution:

Distribution licensee holders can transport medical or recreational cannabis and cannabis products between cultivation, manufacturing, processing, laboratories, or other distribution licensee holders. Distribution licensee holders can also transport finished medical or recreational cannabis and cannabis products to retail premises. Distribution licensee holders can also provide storage services of cannabis and cannabis products to other licensees. Distribution licenses are limited on an exclusive basis to businesses controlled by and with majority ownership comprised of Economic Empowerment Priority Applicants or Social Equity Program Participants, Microbusinesses, and Delivery Only Licenses for a period of 24 months from the date the first Distribution company receives a notice to commence operations.

Limits:

All license types have limits on the number of licenses an individual or entity can possess. Additional restrictions may apply to certain license types. The grid below will be helpful when determining what license type to choose when applying, and to understand the limits on license types.

| License Type | Limit | Further Limitations |
|-----------------------|--|--|
| Micro Business | No Person or Entity Having Direct or Indirect Control shall be granted more than (3) three licenses. | Licenses shall be limited on an exclusive basis to businesses controlled by and with majority ownership comprised of Economic Empowerment Priority Applicants or Social Equity Program Participants for a period of twenty-four (24) months from the date the first Delivery-Only Licensee receives a notice to commence operations. |
| Delivery Only License | | |
| Distribution | | |

Application, License, and License Change Fees

Social equity licenses will only be subject to paying 50% of all applicable annual license fees. Applicants and licensees shall be charged fees for various activities, some of which include the following:

1. An application fee when applying for a license
2. A license fee when approved for a provisional license
3. The annual license fee when renewing a license.
4. The annual license fee when transferring or selling license ownership.
5. No fee will apply when requesting a change of location, name, ownership of facility or renovating an existing structure.

Adult Use License Fees:

| License Type | Application Fee | Annual Fee |
|-----------------------|-----------------|------------------------------------|
| Micro Business | \$1000 | 50% of all applicable license fees |
| Delivery Only License | \$1500 | \$5000 |
| Distribution | \$1500 | \$5000 |

Unless otherwise specified below, all fees are non-refundable and cannot be waived.

In addition to the fees above, there are additional fees for background checks and for the Metrc program. Certain fees are waived for Economic Empowerment applicants and Social Equity Program participants:

- Application fees;
- Annual license fees are reduced 50%;
- Monthly Metrc program fees, but not fees for plant tags.

Certain fees are not waived for Economic Empowerment applicants:

- Background checks for individuals associated with a license application;
- Fingerprinting for individuals associated with a license application;
- Application fees for registered agents;
- Metrc Tags;

Diversity Plan

Applicants for licensure under the social equity program must submit a diversity plan as part of its management and operations profile. Diversity plans shall be designed to promote equity among minorities, women, veterans, people with disabilities, and LGBTQ+ individuals, in the operation of the social equity holders license. The plan shall outline the goals, programs, and measurements the social equity license holder will pursue once provisionally licensed. All goals should be measurable and quantifiable.

Additional Requirements for Certain License Types

Applicants applying for certain license types may need to supply additional documentation, plans, policies, or procedures specific to the requested license type. This information is required in addition to the application requirements mandated for all applicants. Social equity applicants for licensure shall include the following plans, policies, and procedures in the management and operations profile section:

1. Plan to provide reduced cost or free Marijuana to patients with documented verified financial hardship;
2. A plan to comply with delivery regulations, if applicable;
3. Operational plan for the cultivation of marijuana in compliance with state regulations, including pesticide use; and
4. A list of all products that applicant plans to produce, to include but not limited to:
 - a. Description of types, flavors, and quantity of packaged items;

- b. Methods of production;
 - c. Safety plan for the manufacture and production, as well as transportation of products in compliance with state regulations
 - d. Sample of any unique identifying mark that will appear on the product.
5. Disposal plan for unsold, damaged, or returned cannabis products.

Pre-Certification Application

The Pre-Certification Application will require applicants to submit limited information that demonstrates a propensity to successfully operate a recreational cannabis business. The applicant will have to disclose information pertaining to proposed ownership and control, background information, and operating policies and procedures commonly required for all license types. The application fee will be required unless waived under the regulations. However, in the pre-certification application, applicants will not be prompted or required to submit the following information:

- 1. Disclosure of location and property interest;
- 2. Certification of Host Community Agreement;
- 3. Community Outreach Meeting documentation;
- 4. Proof of a bond or escrow;
- 5. Information about capital resources; and
- 6. Plan to remain compliant with local ordinances.

Once a Pre-Certification Application is submitted, it will be reviewed for compliance with the commission's regulations. Background check and fingerprinting is not required at this stage of the application. If approved by the commission, the applicant will be considered pre-certified.